



Town and Country Planning Act 1990

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

OUTLINE PLANNING PERMISSION

Application Number: 2023/60/91406/W

To: Alison Dumville,
Robert Halstead Chartered Surveyors
Office G of H
Bridge Mills
Huddersfield Road
Holmfirth HD9 3TW

For: E Cran

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:-

OUTLINE APPLICATION FOR ERECTION OF RESIDENTIAL DEVELOPMENT

At: LAND SOUTH OF, 98, BURN ROAD, BIRCHENCLIFFE, HUDDERSFIELD,
HD2 2EG

In accordance with the plan(s) and applications submitted to the Council on 12-May-2023, subject to the condition(s) specified hereunder:-

1. The development hereby permitted shall be begun before the expiration of two years from the date of the last of the reserved matters to be approved.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. Application for approval of any reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. Development shall not commence until details of the following reserved matters have been submitted to and approved in writing by the Local Planning Authority: - Access, Scale, Layout, Appearance and Landscaping.

Reason: Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. The residential development hereby approved shall not exceed a maximum of three dwellings that are no more than 2 storeys in height.

Reason: For the avoidance of doubt as to what is authorised by this permission to ensure that the development conforms to the approved outline planning permission as well as the impact upon residential amenity of neighbouring occupiers and visual amenity of the wider locality to accord with Policy LP24 of the Kirklees Local Plan, policies within Chapter 12 of the National Planning Policy Framework, Principles 6 and 15 of the Housebuilders Design Guide SPD.

5. Prior to the development being brought into use, the approved vehicle parking areas shall be surfaced and drained in accordance with the Communities and Local Government; and Environment Agencies 'Guidance on permeable surfacing of front gardens (parking areas)' published 13th May 2009 (ISBN 9781409804864) as amended or superseded; and thereafter retained through the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory layout and to accord with Policies LP24 and LP28 of the Kirklees Local Plan and policies within Chapter 14 of the National Planning Policy Framework.

6. No development shall take place within the site outlined in red on the hereby approved (22135) 1_Location Plan until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological recording. This recording must be carried out by an appropriately qualified and experienced archaeological organisation or consultant, in accordance with a written scheme of investigation which has been submitted to, and approved in writing by, the Local Planning Authority.

Reason: This is a pre-commencement condition to ensure that an appropriate level of archaeological investigation has been carried out at the site which has potential for prehistoric remains to be present on the site. This is in accordance with Policy LP35 of the Kirklees Local Plan and Paragraph 200 of the National Planning Policy Framework.

7. Before development commences, the sightlines of 2.4m x 43m to the Burn Road access and 2.4 x 43 west and 2.4 x 33 east to the byway HUD/396/40 accesses as shown on plan number (22135)2 titled 'Scheme as proposed' shall be cleared of all obstructions to visibility exceeding 1 m in height and these shall be retained free of any such obstruction for the lifetime of the development.

Reason: In the interests of highway safety and to achieve a satisfactory layout, to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), (or any order revoking and re-enacting that order any gates or barriers for or over a vehicular access or egress shall be set back a minimum of 6m from the carriageway edge of both Burn Road and byway HUD/396/40 and shall be hung as to only open inwards. So long as such gates or barriers are in position, they shall be retained to only open inwards.

Reason: In the interests of highway safety and to avoid the need for vehicles to wait in the Highway. This is to accord with Policy LP21 of the Kirklees Local Plan and Chapter 9 of the National Planning Policy Framework.

9. No development shall take place until an Ecological Design Strategy (EDS) to ensure that a biodiversity net gain has been submitted to an agreed in writing by the Local Planning Authority. It shall include the following:

- a) Purpose and conservation objectives for the proposed works.
- a) Review of site potential and constraints.
- b) Detailed design(s) and/or working method(s) to achieve stated objectives.
- c) Extent and location/area of proposed works on appropriate scale maps and plans.
- d) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
- e) Persons responsible for implementing the works.
- f) Details of initial aftercare and long-term maintenance.
- g) Details for monitoring and remedial measures
- h) Details for disposal of any wastes arising from the works.
- i) A lighting design strategy for biodiversity.

The EDS shall be implemented in accordance with the approved details and all features shall be retained in that matter thereafter.

Reason: This is a pre-commencement condition to ensure a scheme that provides ecological enhancement and habitat creation that provides a net biodiversity gain in line with Policy LP30 of the Kirklees Local Plan, Principle 9 of the Housebuilders Design Guide SPD and Chapter 15 of the National Planning Policy Framework.

10. No works shall take place between 1st of March and 31st of August inclusive, unless a competent ecologist has undertaken a careful, detailed check of the site for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site and the timescale such works will take place. The written confirmation shall be submitted to the Local Planning Authority and works only undertaken upon issuing of the approval of the written confirmation by the Local Planning Authority.

Reason: To prevent significant ecological harm in respect of direct impacts to birds, their eggs, nests and young and to accord with policy LP30 and the requirements of Chapter 15 of the National Planning Policy Framework.

11. No development shall commence until a scheme has been submitted to, and approved in writing by, the Local Planning Authority which details intrusive site investigations and any remedial and/or measures necessary to ensure land stability have been carried out by a competent person, to adequately assess the ground conditions on the site and establish the risks posed to the development by past coal mining activity (mine entry). The submitted scheme shall include a proposed layout plan which identifies the location of any on-site mine entry (if found to be present), including appropriate zones of influence of all mine entries, and the definition of suitable 'no-build' zones. any remedial and/or measures necessary to ensure land stability shall be completed prior to the development being brought into use and retained thereafter.

Reason: This is a pre-commencement condition for the undertaking of remedial measures, prior to the commencement of development, which is considered to be necessary to ensure the safety and stability of the development, in accordance with Paragraphs 189 and 190 of the National Planning Policy Framework and Policy LP53 of the Kirklees Local Plan.

12. 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

13. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition (12) 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework

14. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition (13) 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

15. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition (14). 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: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

16. 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 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.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

17. Prior to materials being imported to the site, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material must be submitted to and approved in writing the Local Planning Authority. The testing to demonstrate suitability must then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved strategy, a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time until a Verification Report has been 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. 189 and 190 of the National Planning Policy Framework.

NOTE: 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: Noisy construction related activities shall not take place outside the hours of:
07.30 to 18.30 hours Mondays to Fridays
08.00 to 13.00 hours, Saturdays
With no noisy activities on Sundays or Public Holidays

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.

NOTE: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer (Kirklees Street Scene: 01484 221000) regarding obtaining this permission and approval of the construction specification. Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

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. Following discussions with the applicant's agent and Conservation & Design Officers it was agreed that the proposals be amended to remove 1 of the dwellings from the scheme, this is in the interests of protecting views towards the adjacent heritage asset Middle Burn Farm. Further discussions were also had in respect of the need for the archaeological condition proposed by the WYAAS. Following several conversations with the applicant's agent and Officers at WYAAS it was agreed that this condition is necessary and shall remain.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
(22135) 1_Location Plan	-	A	18th September 2023
(22135)2_Scheme as Proposed	-	B	18th September 2023
Tree Survey – Supporting Information	230220a	-	15th May 2023
Arboricultural Method Statement – Supporting Information	230219 MS	-	15th May 2023
Arboricultural Impact Assessment – Supporting Information	230219 AIA	-	15th May 2023
Planning Statement – Supporting Information	-	-	13th October 2023
Heritage Statement – Supporting Information	-	-	13th October 2023
Climate Change Statement – Supporting Information	-	-	15th May 2023
Phase 1 Desk Study Report & Coal Mining Risk Assessment – Supporting Information	632004DS	-	24th May 2023
Ecological Impact Assessment Report – Supporting Information	KSE 012 01	01	17th May 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 preapplication advice service available, complied with the Kirklees Development Management Charter 2015 and otherwise actively engaged with the applicant in dealing with the application.

Following discussions with the applicant's agent and Conservation & Design Officers it was agreed that the proposals be amended to remove 1 of the dwellings from the scheme, this is in the interests of protecting views towards the adjacent heritage asset Middle Burn Farm. Further discussions were also had in respect of the need for the archaeological condition proposed by the WYAAS. Following several conversations with the applicant's agent and Officers at WYAAS it was agreed that this condition is necessary and shall remain.

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

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

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.

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](#). Alternatively the forms and supporting guidance for submitting an application can be found online at [Kirklees Council Planning Website](#).
- 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 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 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.

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: 26-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 Planning Services website at [Kirklees Council Planning](https://www.kirklees.gov.uk/planning), and by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2023/60/91406/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
