**Town and Country Planning Act 1990**

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

**PLANNING PERMISSION FOR DEVELOPMENT**

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**Application Number: 2023/62/91532/W**

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**To:** **ADA Group**
**The Wenta Business Centre**
**1, Electric Avenue**
**Innova Park**
**Enfield**
EN3 7XU

**For:** H KURT

**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:-**

**FAN GRILLE OPENING TO THE SIDE ELEVATION IN ASSOCIATION WITH UPGRADED INTERNAL EXTRACTION SYSTEM (LISTED BUILDING WITHIN THE CONSERVATION AREA)**

**At:** ISTANBUL RESTAURANT, 74-76, JOHN WILLIAM STREET, HUDDERSFIELD, HD1 1EH

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**In accordance with the plan(s) and applications submitted to the Council on 24-May-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 to accord with Policies LP01, LP02, LP21, LP22, LP24 and LP35 of the Kirklees Local Plan, and Policies within Chapters 2, 12, 14, 15 and 16 of the National Planning Policy Framework

3. Before any food cooking commences the kitchen extract system shall be installed and operational, in accordance with the submitted plans and specifications. The kitchen extract system shall thereafter be retained and operated at all times during the preparation and cooking of food and maintained in accordance with the submitted details.
**Reason**: To ensure the proposed development does not cause harmful odour pollution within either a public area or at neighbouring premises in the interest of amenity, to comply with the aims and objectives of Policies LP24 and LP52 of the Kirklees Local Plan and policies within Chapters 12 and 15 of the National Planning Policy Framework.

**FOOTNOTE:** Further conditions are set out in the associated Listed Building Consent application 2023/91533.

**FOOTNOTE:** Solid fuel appliances come under building regulations control, whether used for heating or cooking and would require a building regulations application either through Building Control or via an approved inspector or via a competent persons notification. The agent and applicant are strongly advised to discharge their lawful duties by ensuring that Building Regulations are complied with: https://buildingcontrol.planningportal.co.uk/

**FOOTNOTE:** Applicants are reminded that there should be a scheme to prevent fats, oils, and grease entering the drainage network when serving commercial food preparation and dish-washing areas. This can be achieved by grease traps to avoid clogging pipework. This is controlled by legislation and Building Regulations in relation to drainage, wastewater, food safety and environmental matters and action can be taken by the relevant water company with regard to recovery of costs incurred.

**FOOTNOTE:** Whilst the grant of planning permission is given, the applicant should be aware that Planning Permission does not override legal covenants on properties or Private Rights of Way as these private matters fall outside the remit of the Local Planning Authority. Applicants are reminded that they ensure that the relevant land ownership should be respected and that that the works carried out is lawful.

**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.

**FOOTNOTE:** The site is located within the swift nesting area and there is an increased potential for impact to this protected species. It is advised to have works carried out outside of the breeding season early May to late July to avoid impacts. All wild birds (except game birds) are a protected species in the Wildlife and Countryside Act 1981 (as amended). If swifts or other bird nesting or signs of laying are discovered on site, development shall cease without those being disturbed and the applicant is advised to contact Natural England or a suitably qualified ecologist for advice.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| Location Plan. | Ref: TQRQM23139161031990 | Unamended | 24/05/2023 |
| Block Plan. | Ref: JW-1905-BP. | Unamended | 24/05/2023 |
| Existing and Proposed Side Elevation Plans. | Ref: JW-1905-EPSE. | Unamended | 24/05/2023 |
| Existing and Proposed Rear Elevation Plans. | Ref: JW-1905-EPRE. | Unamended | 24/05/2023 |
| Existing and Proposed Ground Floor Plans. | Ref: JW-1905-EPP. | Unamended | 24/05/2023 |
| Design and Access and Heritage Statement | Design and Access and Heritage Statement by ADA Group. Ref: ADA/AB/230522. May 2023 | Unamended | 24/05/2023 |
| Supp Info – General | PurifiedAir Maintenance Contract - Istanbul Restaurant | Unamended | 27/06/2023 |
| Supp Info – General | Purified Air Servicing & Maintenance | Unamended | 27/06/2023 |
| Supp Info – General | Anti Vibration Isolators. SuperLite - JM Aerofoil Accessories. | Unamended | 24/05/2023 |
| Supp Info – General | Helios RSD Silencers | Unamended | 24/05/2023 |
| Supp Info – General | Helios Centrifugal Fans-Specifications | Unamended | 24/05/2023 |
| Supp Info – General | Odour Control Equipment Selection. Specification for EMAQ/DEFRA Report by Purified Air Limited. Dated: 20/05/2023 | Unamended | 24/05/2023 |
| Supp Info – General | Brochure ESP Technical Sheet by Purified Air Limited. Kitchen Extract Systems. | Unamended | 24/05/2023 |
| Supp Info – | Servicing & Maintenance | Unamended | 24/05/2023 |

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| General | Brochure Extract by Purified Air Ltd | | |
| Supp Info – General | Purified Air Ltd Brochure "The Commercial Kitchen Filtration Experts" | Unamended | 24/05/2023 |
| Supp Info – General | Sitesafe Carbon Filter Specifications by Purified Air Ltd | Unamended | 24/05/2023 |

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 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 requested the applicant submit further details concerning Environmental Health following the initial consultee response.

**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 working**s** 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

**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:** **17-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 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 2023/62/91532/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.

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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

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