



Town and Country Planning Act 1990

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

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/91871/W

To: Michael Chow
Jade3 Architecture
Studio 12
Silver Street
Wakefield
WF1 1UY

For: A RASOOL

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:-

CHANGE OF USE FROM RETAIL (EA USE) TO FORM 6 RESIDENTIAL APARTMENTS (C3 USE) ON THE GROUND AND BASEMENT FLOORS WITH EXTERNAL ALTERATIONS (WITHIN A CONSERVATION AREA)

At: 44-48, WESTGATE, HUDDERSFIELD, HD1 1NX

In accordance with the plan(s) and applications submitted to the Council on 23-Aug-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: To ensure compliance with 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 LP1, LP2, LP7, LP11, LP13, LP14, LP15, LP17, LP20, LP21, LP22, LP24, LP35, LP51 and LP52 of the Kirklees Local Plan, Chapters 2, 4, 5, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework and Principles 2, 5, 6, 12, 13, 14, 15, 16, 17, 18 and 19 of the Housebuilders Design Guide SPD.

3. Prior to occupation, a further/addendum report specifying the measures to be taken to protect the development from noise from all significant noise sources that are likely to affect the proposed development including the plant room and mechanical lift shall be submitted to and approved in writing by the Local Planning Authority. The report shall:

- a) Determine the existing noise climate
- b) Predict the noise climate in living rooms (daytime), bedrooms (night-time) and other habitable rooms of the development
- c) Detail the proposed attenuation/design necessary to protect the amenity of the occupants of the new residences (including ventilation if required).

The development shall not be occupied until all works specified in the approved report have been carried out in full and such works shall be thereafter retained.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework. This prior to occupation condition is required to ensure that details relating to noise and how, if required it can be mitigated against, are devised and agreed at an appropriate stage of the development process.

4. Before the development is brought into use written evidence to demonstrate that the airborne sound insulation performance of the party floors/walls/ceiling of the development is of a minimum of 55dB Dntw+Ctr shall be submitted to and approved in writing by the Local Planning Authority. If it cannot be demonstrated that the aforementioned airborne sound insulation performance has been achieved, a scheme incorporating further measures to achieve the sound insulation performance shall be submitted to and approved in writing by the Local Planning Authority. All works comprised within those further measures shall be completed and further written evidence to demonstrate that the aforementioned sound insulation performance level has been achieved shall be submitted to and approved in writing by the Local Planning Authority before the development is first brought into use.

Reason: To protect the amenity of occupiers of the proposed development from noise or disturbance from nearby noise generating premises to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

5. Before the development is brought into use, a MVHR system with Zehnder Nox filters shall be installed within the apartments, in accordance with the details outlined within the approved elevation and floor plans and Brookvent Aircycle 3.1: Heat Recovery Ventilation Brochure, received 24th November 2023. Once installed, the Zehnder Nox filters shall be maintained as per the manufacturers recommendations and be retained thereafter.

Reason: To protect the amenity of occupiers of the proposed development and to ensure that future occupiers of the dwellings are not subject to poor air quality, to accord with the aims of Policies LP24 and LP52 of the Kirklees Local Plan and Chapters 12 and 15 of the National Planning Policy Framework.

6. Notwithstanding the submitted plans and information, no works to replace, modify or install new windows or doors shall be undertaken until full details including profiles, dimensions, colour and depth within the reveals at a scale of 1:20 (elevations) and 1:5 (joinery details) of the windows and doors to be installed, modified and replaced been submitted to and approved in writing by the Local Planning Authority. Thereafter works to replace, modify or install new windows and doors shall be undertaken in complete accordance with the details so approved and be retained thereafter.

Reason: To ensure the satisfactory appearance of the development upon completion and to conserve and enhance the Huddersfield Town Centre Conservation Area, to accord with Policies LP1, LP2 LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework and Principle 2 of the Housebuilders Design Guide SPD.

7. Notwithstanding the submitted plans and information, detailed plans at a scale of 1:20 and technical specification of proposed external vents to both principal elevations on the building which face on to St George's Street (to the west) and Westgate (to the south) shall be submitted and approved in writing by the Local Planning Authority prior to their installation. The development shall then be completed in accordance with the approved details and retained thereafter.

Reason: To ensure the satisfactory appearance of the development upon completion and to conserve and enhance the Huddersfield Town Centre Conservation Area, to accord with Policies LP1, LP2 LP24 and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework and Principle 2 of the Housebuilders Design Guide SPD.

NOTE: No construction related noise shall be audible beyond the site boundary outside the hours of:

- 07.30 to 18.30 hours Mondays to Fridays
- 08.00 to 13.00 hours, Saturdays

With no construction related noise audible beyond the site boundary 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.

Plans and specifications schedule:-

Plan Type	Reference	Web ID	Date Received
Proposed Ground Floor	100	-	23rd June 2023
Existing Basement	101	-	23rd June 2023
Existing Ground	102	-	23rd June 2023
Existing Temple Close Elevation	106	-	23rd June 2023
Proposed Temple Close Elevation	107	A	24th November 2023
Existing St George Street Elevation	108	-	23rd June 2023
Proposed St George Street Elevation (option 1)	109	A	24th November 2023
Existing Westgate Elevation	111	-	23rd June 2023
Proposed Westgate Elevation (Option 1)	113	A	24th November 2023
Proposed Basement	115	C	14th March 2024
Proposed Ground	116	D	14th March 2024
Typical Cross Section Duplex Apartment 1	117	-	3rd July 2023
Typical Cross Section Duplex Apartment 6	118	-	3rd July 2023
Typical Cross Section Duplex Apartment 5 St Georges Street	119	-	3rd July 2023
Typical Cross Section Duplex Apartment 5 Westgate	120	-	3rd July 2023
Typical Cross Section Duplex Apartment 4	121	-	3rd July 2023
Brookvent Aircycle 3.1 Brochure – Supporting Information	-	-	3rd July 2023
Brookvent Aircycle 3.1: Heat Recovery Ventilation Brochure – Supporting Information	-	-	24th November 2023
Design Statement – Supporting Information	2023 enquiry 47	-	4th July 2023
Heritage Statement – Supporting Information	2023 enquiry 47	-	27th June 2023
Residential Noise Assessment – Supporting Information	NP-009759	02	24th August 2023
Climate Change Statement – Supporting Information	-	-	23rd June 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.

Officers requested further information in respect of ventilation from the applicant following on from receipt of Environmental Health comments. Amended plans were also requested for an amended internal layout given Officers concerns in respect to lack of light and outlook. A bedroom in apartment 5 was also included as this had been missed in error within the originally submitted plans. Additional information regarding the impact of the development on the vitality and viability of the town centre was requested and submitted.

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.

Development within a Coal Mining Area

DEVELOPMENT HIGH RISK AREA - INFORMATIVE NOTE

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.

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: 24-Apr-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 www.kirklees.gov.uk/planning, and by clicking on the 'search planning applications and decisions' and by searching for application number 2023/62/91871/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
