Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/91886/W

To: Philip Fletcher
302, New Road
Staincross
Barnsley
S75 6GP

For: M & Y Investments Ltd

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:-

ERECTION OF DRINKS AND CONFECTIONARY CABIN (WITHIN A CONSERVATION AREA)

At: LAND AT, COMMON ROAD, BIRKBY, HUDDERSFIELD, HD1 5EU

In accordance with the plan(s) and applications submitted to the Council on 30-Jun-2023. The reasons for the Council's decision to refuse permission for the development are:

1.The proposed introduction of a cabin in this openly visible and prominent location would result in an unsympathetic, incongruous and overly dominant form of development within the Birkby Conservation Area and would disrupt views towards adjacent Grade II Listed Buildings found to the east of the site. No convincing justification has been provided for the proposed development and therefore the proposals are considered to harm the visual amenity of the area and cause less than substantial harm to both the significance of the Birkby Conservation Area and setting of the adjacent Grade II Listed Buildings (9 Bay Hall and 23 & 25 Miln Road). There are considered to be no public benefits that outweigh such harm. The proposal would therefore be contrary to Policies LP1, LP2, LP24a and LP35 of the Kirklees Local Plan, Chapters 12 and 16 of the National Planning Policy Framework and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

2. The proposals have not demonstrated that the scheme could provide sufficient off-street parking for the existing and future uses, taking into account the existing authorised use of this car park to serve other development. This would result in an intensification and potential displacement of on-street parking within the immediate area. This would have a detrimental impact upon highway safety and be contrary to Policies LP21 and LP22 of the Kirklees Local Plan, Policies contained within Chapter 9 of the National Planning Policy Framework and the Kirklees Highways Design Guide SPD.

3.The proposed hours of use of the cabin would cause material harm to the amenities of nearby residential occupiers by undue noise and disturbance from comings and goings at unsocial hours. This is contrary to Policies LP24b and LP52 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Site Location Plan & Block/Site Plan	-	-	29th June 2023
Cabin Elevations & Details	-	-	29th June 2023
Climate Change Statement – Supporting Information	-	-	29th June 2023
Heritage Statement – Supporting Information	-	-	30th 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. No amendments have been sought in this instance as the proposals are deemed to be wholly unacceptable upon submission. The comments of the applicant's agent regarding the restrictions on hours of use were given due consideration but could not be accepted.

Development within a Coal Mining Area

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at:
www.gov.uk/government/organisations/the-coal-authority

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 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 Kirklees Planning Website, by clicking on the 'search and view existing planning applications and decisions' and by searching for application number 2023/62/91886/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
