



Planning (Listed Buildings and Conservation Areas) Act 1990

REFUSAL OF LISTED BUILDING CONSENT

Application Number: 2023/65/91971/W

To: Mannan Iqbal,
Unite Designs
6a, Greenhead Road
Huddersfield
HD1 4EN

For: F Rasool

The KIRKLEES COUNCIL hereby give notice that LISTED BUILDING CONSENT has been refused for the execution of the works referred to:-

LISTED BUILDING CONSENT FOR CHANGE OF USE, ALTERATIONS, PART DEMOLITION OF BOUNDARY WALL AND ERECTION OF TWO STOREY SIDE EXTENSION TO CONVERT FROM HOT FOOD TAKEAWAY TO RESIDENTIAL (WITHIN A CONSERVATION AREA)

At: 114A, FITZWILLIAM STREET, HUDDERSFIELD, HD1 5PH

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 consent for the development are:

The proposed development, owing to the scale and siting of the proposed extension, and by its resulting in the loss or obscuring of original architectural features in the side elevation, would undermine the character and significance of the Listed Building. The degree of harm caused is deemed less than substantial within the meaning of the National Planning Policy Framework (NPPF), but it is considered that no public benefit has been demonstrated that would outweigh the harm caused in this instance. The proposals therefore do not accord with Policy LP35 of the Kirklees Local Plan, Chapter 16 (paragraphs 205 and 208) of the NPPF and would be incompatible with the Council's duties under the Planning (Listed Building and Conservation Areas) Act.

Plans and specifications schedule:-

Plan Type	Reference	Version	Date Received
Application form			03-Jul-2023
Location / site plan and existing floorplans	UD-520-01		03-Jul-2023
Proposed site plan and floorplans	UD-520-01		03-Jul-2023
Existing elevations	UD-520-02		03-Jul-2023
Proposed elevations	UD-520-02		03-Jul-2023
Heritage Statement			03-Jul-2023
Climate Change Statement			03-Jul-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 advised the applicant during the application process that the proposal was unacceptable. The applicant did not submit any amended plans, the proposal was therefore assessed on the basis of the originally submitted plans.

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 speeder 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.

If this application has been publicised by notice(s) in the vicinity of the site, please would you now remove the notice(s) and dispose of it/them responsibly to avoid harm to the appearance of the local area.

If the applicant is aggrieved by the decision of the Local Planning Authority to refuse listed building consent for the proposed works, or to grant consent subject to conditions, he/she may, by notice served within six months of the date of issue of this notice, appeal to the Secretary of State for the Environment in accordance with Sections 20-21 of the Planning (Listed Buildings and Conservation Areas) Act 1990. 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 has power to allow a longer period for the giving of a notice of appeal and he will exercise his power in cases where he is satisfied that the applicant has deferred the giving of notice because negotiations with the Local Authority in regard to the proposed works are in progress.

Please note, only the applicant possesses the right of appeal.

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: 01-Feb-2024

Signed:



David Shepherd
Strategic Director Growth and Regeneration

Application Plans

The decision notice indicates which plan/s relate to the decision.

Plans can be viewed on [the Planning and Building Control web site](#)

If a paper copy of the decided plan is required please email:

dc.admin@kirklees.gov.uk

or telephone (01484) 414746 with the application number.

There may be a charge for this service.

Address to which all communications should be sent:

Kirklees Council
Planning and Development Service
PO Box 1720
Huddersfield
HD1 9EL
