Town and Country Planning Act 1990

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

REFUSAL OF PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/92127/E

To: R Jones,
SC1 Property Ltd
Flockton Chapel, 11, Barnsley Road
Flockton
Huddersfield
WF4 4DP

For: C Nicol

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:-

ALTERATIONS TO CONVERT CHURCH TO 2 DWELLINGS, FORMATION OF RESIDENTS CAR PARK, EXTERNAL AMENITY SPACES AND ASSOCIATED WORKS (LISTED BUILDING)

At: CHURCH OF THE HOLY INNOCENTS, VICARAGE ROAD, DEWSBURY, WF12 9PD

In accordance with the plan(s) and applications submitted to the Council on 21-Jul-2023. The reasons for the Council's decision to refuse permission for the development are:

1. The applicant has failed to demonstrate that the proposed works would not have a harmful impact on the listed building and has not demonstrated public benefits which outweigh the harm caused by the internal and external alterations of the listed building including but not exclusively, the subdivision of the nave, formation of a car park and felling of mature trees. The proposals do not meet the requirements of Paragraph 202 of the National Planning Policy Framework, which requires less than substantial harm to the significance of a designated heritage asset to be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. This is also contrary to the general thrust of Policy LP35 of the Kirklees Local Plan insofar as this requires development proposals to preserve or enhance the significance of designated heritage assets; which this proposals does not. The internal and external alterations will not preserve the building or features of architectural and historic interest which it possesses, as required by Section 16(2) of the Planning Listed Building and Conservation Area) Act 1990.

2. The applicant has failed to demonstrate the appropriateness of the development when considering the change of use and external alterations to the church grounds which would result in the loss of urban green space and contrary to policies LP1, LP2, LP21, LP22, LP24, LP30, LP33, LP35, LP48, LP61 of the Kirklees Local Plan. To allow the development would have a significant impact on land designated as urban greenspace in the Kirklees Local Plan for which no assessment or replacement has been demonstrated resulting in a negative impact to the character of the listed church and wider area contrary to Policy LP61 of the Kirklees Local Plan and the National Planning Policy Framework.

3. The development proposed would result in a detrimental impact on ecology and protected trees for which no supporting information has been submitted. The development does not include mitigation strategies for the loss of designated urban green space, biodiversity net gain or tree replacements resulting in an unacceptable loss to protected trees as well as biodiversity contrary to Policies LP61, LP30 and LP33 of the Kirklees Local Plan and National Planning Policy Framework.

Plans and specifications schedule: -

Plan Type	Reference	Version	Date Received
Existing site / block layout	22-111-A01	1	18/07/2023
Existing floor plan – ground floor	22-111-A02	1	18/07/2023
Existing floor plan – 1st floor to roof	22-111-A03	1	18/07/2023
Existing elevations	22-111-A04	1	18/07/2023
Existing elevations	22-111-A05	1	18/07/2023
Plan general – sht1	22-111-A06	1	18/07/2023
Plan general – sht2	22-111-A07	1	18/07/2023
Plan general – sht3	22-111-A08	1	18/07/2023
Plan general – sht4	22-111-A09	1	18/07/2023
Plan general – sht5	22-111-A10	1	18/07/2023
Plan general – prop demo st1	22-111-A11	1	18/07/2023
Proposed site / block layout	22-111-A12	1	18/07/2023
Proposed floor plans – ground floor	22-111-A13	1	18/07/2023
Plan general – 1st floor to roof	22-111-A14	1	18/07/2023
Proposed elevations – sht1	22-111-A15	1	18/07/2023
Proposed elevations – sht2	22-111-A16	1	18/07/2023
Plan general – prop sec 1	22-111-A17	1	18/07/2023
Plan general – prop sec 2	22-111-A18	1	18/07/2023

Location plan	LP	1	18/07/2023
Conservation and heritage statement	CHS	1	21/07/2023
Climate Change statement	CCS	1	21/07/2023

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 Planning 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. Negotiations have taken place over the impact of the proposals on the character and significance of the listed building. These discussions have not led to the submission of additional information, therefore given the harm to the listed building has not been evidenced the proposal will result in less than substantial harm which cannot be supported.

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.

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: 23-Nov-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 2023/62/92127/E .

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