



**Town and Country Planning Act 1990**

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

**REFUSAL OF PERMISSION FOR DEVELOPMENT**

---

**Application Number: 2023/62/92635/E**

---

**To:** Benjamin Hellowell  
AHJ Architects  
The Courtyard  
12a, Commercial Road  
Skelmanthorpe  
Huddersfield  
HD8 9AA

**For:** R Khalid

**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:-**

CHANGE OF USE FROM CLOTHES SHOP TO CAFE WITH HOT FOOD  
TAKEOUT

**At:** 31, WHARF STREET, SAVILE TOWN, DEWSBURY, WF12 9AT

---

**In accordance with the plan(s) and applications submitted to the Council on 05-Sep-2023. The reasons for the Council's decision to refuse permission for the development are:**

1. The provision of a hot-food takeaway in the proposed location would have a detrimental impact in an area of Kirklees with an identified poor health need. The application has a combined score of 26 which would significantly exceed the recognised acceptable limits set out in the Council's Public Health Toolkit. As such, the proposal would fail to accord with the aims of Policy LP47 (j) of the Kirklees Local Plan, HFT1 of the Hot Food Take Away SPD and Chapter 8 of the National Planning Policy Framework.

2. The applicant has failed to demonstrate, through submission of adequate noise and odour impact assessments that the living conditions of neighbouring occupants would not be significantly detrimentally affected by the proposal. Without such information, neighbouring properties could be subjected to a poor standard of amenity. As a result, the Local Planning Authority is unable to undertake a full and proper assessment of the development against Policies LP16(b), LP24 and LP52 of the Kirklees Local Plan, HFT4 of the Council's Hot Food Takeaway Supplementary Planning Document and Chapter 12 and 15 of the National Planning Policy Framework.

3. The applicant has failed to demonstrate that waste storage or facilities for the disposal of customer's litter can be accommodated within the application such that this can be adequately screened in a manner and location that does not detract from the street scene or the character of the area; or that does not cause odour nuisance to neighbouring occupiers. Therefore, the proposal would be harmful to visual and residential amenity contrary to Policies LP16, LP21, LP24 and LP52 of the Kirklees Local Plan and the aims of HFT5 the Council's Hot Food Takeaway Supplementary Planning Document.

4. In accordance with LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework, Local Planning Authorities must apply a sequential approach to Main Town Centre uses that are not located within an existing centre. It is concluded that the application has failed to demonstrate that the proposal would not harm the viability and vitality of nearby Town Centres. Therefore, the proposal would be contrary to Policies LP2 and LP13 of the Kirklees Local Plan and Chapter 7 of the National Planning Policy Framework.

5. The applicant has failed to demonstrate how grease, fats and oils are to be controlled at the proposed site. Given the failure to submit details of a scheme to prevent fats, oils, and grease entering the drainage network serving commercial food preparation and dish-washing areas, the proposal is contrary to Policy LP44 of the Kirklees Local Plan.

#### **Plans and specifications schedule:**

<b>Plan Type</b>	<b>Reference</b>	<b>Revision</b>	<b>Date Received</b>
Location Plan	2422-D-20-001	-	05/09/2023
Site Plan	2422-D-20-002	-	05/09/2023
Hot Food Takeaways SPD - Statement	-	-	26/01//2024
Sequential Test	-	-	26/01//2024
Flood Risk Assessment	-	-	14/11/2023

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.

No amendments to the scheme were sought on this occasion as the principle of development could not be supported.

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](mailto:dc.admin@kirklees.gov.uk) so that we can work on continually improving our customer service. Thank you.

Dated: 12-Aug-2024

Signed:



David Shepherd  
Executive Director for Place

#### 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 2023/62/92635/E.

If a paper copy of the decision notice or decided plans are required, please email [dc.admin@kirklees.gov.uk](mailto: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](mailto:dc.admin@kirklees.gov.uk)

**Write to:** Kirklees Council  
Planning and Development Service  
PO Box 1720  
Huddersfield  
HD1 9EL

---