



Town and Country Planning Act 1990

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

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2023/62/93004/W

To: David Bottomore,
DB Architects
31, Moor View
Meltham
Holmfirth
HD9 5RT

For: B M PACKAGING

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:-

DEMOLITION OF EXISTING OFFICE BUILDING AND ERECTION OF NEW
CLASS E (LIGHT INDUSTRIAL) BUILDING

At: B M PACKAGING, CROSLAND ROAD INDUSTRIAL ESTATE, CROSLAND
FACTORY LANE, NETHERTON, HOLMFIRTH, HD4 7DQ

In accordance with the plan(s) and applications submitted to the Council on 29-Nov-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 specification 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, LP21, LP22, LP24, LP30, LP51, LP52, LP53 and LP57 of the Kirklees Local Plan and Chapters 2, 4, 12, 13, 14 and 15 of the National Planning Policy Framework.

3. The building, as outlined in red on the submitted Block Plan (Dwg No. 2316-02) operate solely for purposes within Class E(g)(iii) of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.

Reason: To secure appropriate levels of amenity and protect the vitality of local centres in accordance with Policies LP13, LP24 and LP52 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. The external walls and roofing materials of the replacement building shall be constructed from metal profiled sheeting. These materials shall thereafter be retained.

Reason: In the interests of visual amenity and to accord with Policies LP2 & LP24 of the Kirklees Local Plan and policies within Chapter 12 of the National Planning Policy Framework.

5. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

6. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 5, groundworks (other than those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

7. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 6, further groundworks shall not commence until a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

8. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 7. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (except for site investigation works) shall cease immediately and the Local Planning Authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

9. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Verification Report by a suitably competent person shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures have been completed for (that part of) the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Verification Report in respect of those remediation measures has been approved in writing by the Local Planning Authority. Where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

10. The premises, shall not be open for business including deliveries to or dispatches from the premises, outside the hours of:

- 0730 to 1800 Monday to Friday and
- 0730 to 1600 Saturdays
- No activities shall take place on Sundays or Bank Holidays

Reason: To ensure that the proposed use(s) does not give rise to the loss of amenity to nearby residential properties, by reason of noise or disturbance at unsociable hours, 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.

11. Prior to the first use of the building hereby approved, one bat box shall be incorporated; the box shall be long-lasting Schwegler 'woodcrete' type or similar and shall be located away from sources of light, at least 5 metres above ground. Once installed, the bat box shall thereafter be retained.

Reason: To enhance the biodiversity of the site in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

12. A woodcrete or long-lasting nest box suitable for starlings or sparrows shall be erected on the exterior of the approved building. The box shall be installed at least 3 metres above the ground and not located above windows or doors. The box shall thereafter be retained.

Reason: In the interests of enhancing the biodiversity value of the site, in accordance with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

13. Demolition of the existing office building at the site shall avoid the nesting bird season (March – September). Should demolition take place within March - September a scheme shall be submitted to the Local Planning Authority which sets out measures undertaken checks and mitigation measures in relation to nesting birds. The demolition of the building shall be undertaken in accordance with the submitted scheme which shall be retained for the entirety of the demolition phase of the development.

Reason: In the interests of biodiversity and to accord with Policy LP30 of the Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.

14. No above ground development shall commence (excluding the demolition of existing structures) until;

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

15. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework.

NOTE: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2021. Reports must be prepared in accordance with the following guidance:

- *Land Contamination Risk Management (LCRM)*
- *BS 10175:2011+ A2:2017 Investigation of Potentially Contaminated Sites. Code of Practice*
- *Development on Land Affected by Contamination - Technical Guidance for Developers, Landowners & Consultants - (v11.2) June 2020* by the Yorkshire and Lincolnshire Pollution Advisory Group.

The conditions relate to Planning Control only. Approval under the Building Regulations may also be required, and the applicant should contact their Building Control Provider for further information. Any other necessary consent must be obtained from the appropriate authority. If the applicant commences work without discharging conditions, they will be at risk of enforcement action and invalidating the permission if the planning condition is a pre commencement condition.

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.

NOTE: Due to its location, a bat roost may be present on site. Bats are a European protected species under regulation 41 of the Conservation of Habitats and Species Regulations 2010. It is an offence for anyone intentionally to kill, injure or handle a bat, disturb a roosting bat, or sell or offer a bat for sale without a licence. It is also an offence to damage, destroy or obstruct access to any place used by bats for shelter, whether they are present or not. If bats are discovered on site development shall cease and the applicant is advised to contact Natural England for advice.

NOTE: Ground Investigations and Groundworks

Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, the piling of foundations, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

NOTE: Requirement for Incidental Coal Agreements

If any future development has the potential to encounter coal seams which require excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal Agreement will be required from the Coal Authority. Further information regarding Incidental Coal Agreements can be found at: www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements

NOTE: Shallow Coal Seams

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

Plans and Specifications Schedule: -

Plan Type	Reference	Version	Date Received
Plans, Elevations and Views as Existing and Proposed	2316-01	-	10.11.23
Block Plan	2316-02	-	29.11.23
Climate Change Statement	-	-	31.10.23
Bat Survey Report by Middleton Bell Ecology	-	-	29.10.24
Coal Mining Risk Assessment by The Coal Authority	71009812382001	-	22.11.24

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.

In conjunction with the consultation responses from KC Lead Local Flood Authority, further information was submitted with regard to drained areas and surface water drainage.

In response to the consultation response from KC Ecology, a bat survey report was submitted.

In response to the first consultation from The Coal Authority, a Coal Mining Risk Assessment report was submitted.

The planning agent provided confirmation of agreement to the pre-commencement conditions as recommended by KC Environmental Health via email.

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

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.

It is recommended that information outlining how former mining activities may affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), is submitted alongside any subsequent application for Building Regulations approval (if relevant).

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

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: 28-Nov-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 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 2023/62/93004/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
