



**Town and Country Planning Act 1990**

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

**REFUSAL OF PERMISSION FOR DEVELOPMENT**

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**Application Number: 2024/70/90173/W**

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**To:** Michael Chow  
Jade3 Architecture  
Studio 12  
Silver Street  
Wakefield  
WF1 1UY

**For:** A Hussain

**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:-**

VARIATION CONDITION 1 (PLANS) ON PREVIOUS PERMISSION 2023/90550 FOR ERECTION OF DWELLING (MODIFIED PROPOSAL) (WITHIN A CONSERVATION AREA)

**At:** LAND OFF, BIRKBY HALL ROAD/STORTHS ROAD, BIRKBY, HUDDERSFIELD, HD2 2XA

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**In accordance with the plan(s) and applications submitted to the Council on 22-Jan-2024. The reasons for the Council's decision to refuse permission for the development are:**

1. The proposed development, due to the increased size, scale and associated increase in bulk and massing would result in a structure which appears clumsy and piecemeal, with a low roof pitch which is at odds with the design of the surrounding buildings, the local character and would harm the heritage significance of the Birkby Conservation Area. To permit the proposals would be contrary to Policy LP24(a) in terms of form, scale and layout and LP35 of the Kirklees Local Plan, the aims of Chapters 12 and 16 of the National Planning Policy Framework and Principles 2 and 15 of the Housebuilders Design Guide Supplementary Planning Document.

Plans and Specifications Schedule: -

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Existing South and West Elevations as Approved	150	-	23.01.24
Proposed South and West Elevations as Built to Regularise the Differences	151	-	23.01.24
Design and Access Statement	-	-	24.01.24

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.

The approved scheme under planning application 2023/90550 is considered, by officers, to be the most suitable design for the context of the site and the maximum size/scale the site can accommodate whilst retaining appropriate standards of visual amenity. As such, amended plans have not been sought with regard to the design of the proposed scheme.

It should be noted however that the case officer did seek an amended plan, to rectify inconsistencies between the appearance of the dwelling on site and on plan. This was specifically with regard to the size and design of the frosted glass window on the western side elevation.

**Development within a Coal Mining Area**

**DEVELOPMENT LOW RISK AREA – STANDING ADVICE**

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

**Dated:** 15-Apr-2024

**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 2024/70/90173/W.

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.

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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

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