



**Town and Country Planning Act 1990**

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

**PLANNING PERMISSION FOR DEVELOPMENT**

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**Application Number: 2024/62/90513/E**

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**To:** Pam Butler,  
Atkins  
Chadwick House  
Birchwood Park  
Warrington WA3 6AE

**For:** ANTHONY RIVERO, NETWORK RAIL (INFRASTRUCTURE) LTD

**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:-**

**CONSTRUCTION OF TEMPORARY ACCESS ROAD TO PROVIDE VEHICLE ACCESS TO A TEMPORARY PARKING AREA FOR RESIDENTS OF BROOKS YARD FOR THE DURATION OF THE WORKS TO UPGRADE THE ADJACENT TRANSPENNINE RAILWAY, ALONG WITH REMOVAL OF THE TEMPORARY ACCESS ROAD AND REINSTATEMENT OF THE GRASSED AREA ONCE RAILWAY WORKS ARE COMPLETED**

**At:** FEARNLEY STREET/FALL LANE/BROOKS YARD, WESTTOWN, DEWSBURY

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**In accordance with the plan(s) and applications submitted to the Council on 07-Mar-2024, subject to the condition(s) specified hereunder:-**

1. This permission hereby granted shall expire on 20 June 2026. On expiry of this period the site shall be restored in accordance with a scheme of work which shall be submitted to the Local Planning Authority not later than six months before the expiry date of this permission. The scheme shall include:

- a) Details of existing and proposed levels including cross sections through all regrading works and sloping grassed areas (final finished gradients to not exceed 12% or maximum of 1 in 8 to facilitate mowing/maintenance)
- b) Detailed specification for full landscape reinstatement, top soiling (including top soil depths) and grass seed mix

- c) The timescale for the implementation and completion of the works to reinstate the area of open space.
- d) Maintenance for 12 months post reinstatement to ensure establishment of the grass sward

The scheme of works shall not be implemented until the Local Planning Authority has given its written approval and the works comprising the approved scheme shall be completed within a period of six months from the date the approved use expires. Thereafter the 12 months post reinstatement period shall be implemented in accordance with the approved details.

**Reason:** The proposal is for a temporary access road, parking and staircase in association with the Transpennine Route Upgrade, and to ensure the site is restored to its original condition to an acceptable standard in the interests of amenity, highway safety and biodiversity and to accord with Policies LP21, LP24 and LP30 of the Kirklees Local Plan.

2. The development hereby permitted shall be carried out in complete accordance with the plans and specifications 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:** To ensure the satisfactory appearance of the development on completion and to accord with Policies LP1, LP2, LP21, LP22, LP24, LP28, LP30, LP32P, LP33, LP52 and LP53 of the Kirklees Local Plan, as well as Chapters 2, 9, 12, 14 and 15 of the National Planning Policy Framework.

3. 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 Bank/Public Holidays.

**Reason:** To safeguard the amenities of the occupiers of nearby properties in accordance with Policy LP52 of the Local Plan and Chapter 15 of the National Planning Policy Framework.

4. Means of access to and from the site shall be in accordance with the preliminary access design as shown on the approved plan Drawing No.7722-30 Rev P0 and delivered prior to closure of the Books Yard/Fall Lane access and thereafter retained and maintained until completion of the Transpennine Route Upgrade works in this area as granted by the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 which require severance of the existing residents access, or as otherwise agreed in writing by the Local Planning Authority.

**Reason -** To ensure the free and safe use of the highway, in the interest of highway safety and amenity and to accord with Policies LP21 and LP22 of the Kirklees Local Plan.

5. Prior to commencement of development, the following details associated with the proposed temporary access road, as shown on the preliminary site layout plan Drawing No. 7722-30 Rev P0, shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- Vertical alignment of the access road
- Junction visibility splays, and their treatment at the access road/Fall Lane junction
- Stage 1 Road Safety Audit (RSA) based on an Approved RSA Brief
- Designers Responses and Agreed RSA Action, covering all aspects of these works.

Thereafter the access road shall be implemented in accordance with the approved details and thereafter retained and maintained until completion of the Transpennine Route Upgrade works in this area as granted by the Network Rail (Huddersfield to Westtown (Dewsbury) Improvements) Order 2022 which require severance of the existing residents access, or as otherwise agreed in writing by the Local Planning Authority.

**Reason-** This is a pre-commencement condition to ensure the free and safe use of the highway, in the interest of highway safety and amenity and to accord with Policies LP21 and LP22 of the Kirklees Local Plan.

6. If contamination, the presence of coal and/or evidence of coal workings is encountered during the development, all works 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 in the affected area shall not recommence until either (a) a Remediation Strategy by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority or (b) the Local Planning Authority has confirmed in writing that remediation measures are not required. The Remediation Strategy shall include a timetable for the implementation and completion of the approved remediation measures. Thereafter remediation of the site shall be carried out and completed in accordance with the approved Remediation Strategy. Following completion of any measures identified in the approved Remediation Strategy a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as that part of the site has been remediated in accordance with the approved Remediation Strategy and a Verification Report in respect of those works has been 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. Prior to materials being imported to the site, a strategy detailing the intended placement, the source, characterisation and the suitability of any imported material must be submitted to and approved in writing the Local Planning Authority. The testing to demonstrate suitability must then be carried out in accordance with the approved strategy. Following importation and placement of the materials as described in the approved strategy, a Verification Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time until a Verification Report has been 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.

8. In order to avoid impacts to nesting birds, vegetation clearance works should be undertaken outside the period 1st March to 31st August. If this timeframe cannot be avoided, a close inspection of the vegetation should be undertaken immediately, by a qualified ecologist, prior to the commencement of work. All active nests will need to be retained until the young have fledged.

**Reason.** To protect nesting and breeding birds during construction by avoiding direct impacts to protected species, and to accord with Kirklees Local Plan Policy LP30.

**NOTE:** The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Local Highway Authority is required. You are required to consult the Local Highway Authority Design Engineer (Kirklees Street Scene: 01484 221000) at the earliest opportunity in the development process to obtain approval of the design details, agree the mechanism for delivery, and obtain the necessary permissions / permits to enable the delivery of the site access(es).

This process will involve entering into a Section 38 or 278 agreement of the Highways Act 1980 or other appropriate agreement to enable delivery of the works. The applicant is advised to make early contact with the Local Highway Authority Design Engineer, to ensure that the delivery of the works does not delay occupation of the development.

Please also note that the construction of vehicle crossings within the highway is deemed to be major works for the purposes of the New Roads and Street Works Act 1991 (Section 84 and 85). Interference with the highway without such permission is an offence which could lead to prosecution.

**NOTE:** The discharge of the above condition does not constitute Technical Approval of the access road under Section 38 or 278 (or other relevant section) of the Highways Act 1980, or other appropriate legislation, for which separate approval is required from the Local Highway Authority.

**NOTE** - All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework. 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** 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.

Plans and specifications schedule:-

<b>Plan Type</b>	<b>Reference</b>	<b>Version</b>	<b>Date Received</b>
Location Plan	151667-TSA-00-TRU-REP-W-EN-001479	P01	07.03.24
Temporary Access Road and Services Protection Design	7722-26	C0	07.03.24
Location and Design of Haki Staircase	7722-30	P0	07.03.24
Planning Supporting Statement	151667-TSA-00-TRU-REP-W-EN-001472		07.03.23
Climate Change Statement	n/a		07.03.24

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 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. Officers engaged with the applicant to clarify the extent of the de-vegetation works and request details of the proposed reinstatement of the land.

#### **Development within a Coal Mining Area**

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)

### **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 speedier installation at a later date.

**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.

**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](http://www.planningportal.gov.uk). Alternatively the forms and supporting guidance for submitting an application can be found online at [www.kirklees.gov.uk/planning](http://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.

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

Dated: 21-Jun-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 Planning Services website at [www.kirklees.gov.uk/planning](http://www.kirklees.gov.uk/planning), and by clicking on the 'search planning applications and decisions' and by searching for application number 2024/62/90513/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.

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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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