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

**PLANNING PERMISSION FOR DEVELOPMENT**

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**Application Number: 2024/70/91931/E**

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**To:** Daniel Russell,
Kingscrown Land & Commercial Ltd
Suites 11-15, Prudential Buildings
61, St Petersgate
Stockport
SK1 1DH

**For:** Kingscrown Developments 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:-**

VARIATION OF CONDITION 17 (CLASS E USE) ON PREVIOUS PERMISSION 2021/91887 FOR DEMOLITION OF GARAGES AND ERECTION OF (CLASS E) COMMERCIAL, BUSINESS AND SERVICE BUILDING

**At:** FORMER GARAGES, SMITHIES MOOR LANE, BIRSTALL, BATLEY, WF17 9AN

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**In accordance with the plan(s) and applications submitted to the Council on 09-Jul-2024 [together with those plans and application(s) submitted to the Council on 19-May-2021 and incorporated into planning permission 2021/91887 granted on 10-Feb-2023] and subject to the condition(s) specified hereunder:-**

1. The development hereby permitted shall be begun prior to 9th Feb 2026.
**Reason**: Pursuant to the requirements of 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 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**: 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, LP20, LP21, LP22, LP24, LP30, LP33, LP47, LP51, LP52, LP53 and LP59 of the Kirklees Local Plan, and Chapters 2, 4, 8, 9, 12, 13 and 15 of the National Planning Policy Framework.

3. The external walls of the development hereby approved shall be finished in Brick and Timber Cladding and the roofing materials shall be finished in 'Grey Aluminium Insulated Sheet Roofing' as demonstrated on the approved plan "14837 04A" and thereafter retained.
**Reason**: In the interests of visual amenity and to comply with Policy LP24 of the Kirklees Local Plan and Chapter 12 of the National Planning Policy Framework.

4. Other than demolition, no development shall commence until:
a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past 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 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 191 of the National Planning Policy Framework.

5. Prior to the occupation of the development, 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 191 of the National Planning Policy Framework.

6. 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 191 of the National Planning Policy Framework. This is a pre-commencement condition to protect future occupants of the development from any potential land contamination and ensure that this is investigated at an appropriate time.

7. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 6 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 191 of the National Planning Policy Framework. This is a pre-commencement condition to protect future occupants of the development from any potential land contamination and ensure that this is investigated at an appropriate time.

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 7 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 191 of the National Planning Policy Framework. This is a pre-commencement condition to protect future occupants of the development from any potential land contamination and ensure that this is investigated and remediated at an appropriate time.

9. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 8. 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 191 of the National Planning Policy Framework

10. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation 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 the site in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures 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 191 of the National Planning Policy Framework

11. Before construction work commences a noise assessment report by a suitably competent person shall be submitted to and approved in writing by the Local Planning Authority. The report shall include:

a) an assessment of all of the noise emissions from the proposed development
a) details of existing background and predicted future noise levels at the boundary of noise sensitive premises on Smithies Moor Lane
b) a written scheme of how the occupants of the above-mentioned noise sensitive premises will be protected from noise from the proposed development including details of all necessary noise attenuation

The development shall not be brought into use until all works comprised within the measures specified in the approved report have been carried out in full and such works shall be thereafter retained.
**Reason**: In the interest of residential amenity and to ensure the proposal is in accordance with Policy LP24 of the Kirklees Local Plan and the aims of Chapter 12 of the National Planning Policy Framework

12. The use hereby permitted shall not be open to customers outside the hours of 08:00 to 18:00 Monday to Friday, and 08:00 to 18:00 Saturday. No activities shall take place on Sundays or Bank Holidays. There shall be no deliveries to, or dispatches from the premises outside these hours.
**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.

13. Before the development is brought into use, one electric vehicle recharging point shall be installed. The scheme shall meet at least the following minimum standard for numbers and power output:

- One Standard Electric Vehicle Charging Point providing a continuous supply of at least 16A (3.5kW)

Buildings and parking spaces that are to be provided with charging points shall not be brought into use until the charging points are installed and operational. Charging points installed shall be retained thereafter.
**Reason**: In the interest of supporting and encouraging low emission vehicles, in the interest of air quality enhancement, to comply with the aims and objectives of Policies LP20, LP24 and LP47 of the Kirklees Local Plan and Chapters 2, 9 and 15 of the National Planning Policy Framework.

14. Prior to the development being brought into use, the sightlines of 2.4m x 43m along Smithies Moor Lane shall be submitted to and approved in writing by the Local Planning Authority. These visibility splays shall be cleared of all obstructions to visibility exceeding 1m in height and these shall be retained free of any such obstruction throughout the lifetime of the development.
**Reason**: To ensure adequate visibility in the interests of highway safety and to comply with LP21 and LP22 of the Kirklees Local Plan.

15. Before development commences on the superstructure of the building hereby approved, details of storage and access for collection of wastes from the premises shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided before first occupation and shall be so retained thereafter.
**Reason**: In the interests of amenity and highway safety and to comply with LP21 and LP22 of the Kirklees Local Plan.

16. The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Method Statement and Tree Protection Plan, reference (JCA, ref 14957c). These shall be implemented and maintained throughout the construction phase and retained thereafter as required.
**Reason**: To protect trees in the interests of visual amenity and to accord with the requirements of Policy LP33 of the Local Plan and advice within the National Planning Policy Framework.

17. The use of the building hereby permitted shall be for purposes within Class E (d), (e), (f) and (g) of the Town and Country Planning (Use Classes) Order 1987 (as amended) and no other use.
**Reason:** In order to protect the vitality and viability of town and local centres, as the site is located outside of a town or local centre where retail uses and financial professional services would not be appropriate, in accordance with Policy LP13 of the Kirklees Local Plan.

**NOTE**: All contamination reports shall be prepared by a suitably competent person, as defined in Annex 2 of the National Planning Policy Framework 2019. 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

**NOTE**: All noise assessments should be carried out by a competent person. Developers may wish to contact the Association of Noise Consultants http://www.association-of-noiseconsultants.co.uk/ (020 8253 4518) or the Institute of Acoustics http://www.ioa.org.uk (0300 999 9675) for a list of members.

**NOTE:** A Standard Electric Vehicle Charging Point is one which is capable of providing a continuous supply of at least 16A (3.5kW) and up to 32A (7kW). The higher output is more likely to be futureproof

- Standard charging points for single residential properties that meet the requirements specified in the latest version of "Minimum technical specification - Electric Vehicle Homecharge Scheme (EVHS)" by the Office for Low Emission Vehicles will be acceptable. Basically, charging points that provide Mode 3 charging with a continuous output of least 16A (3.5kW) and have Type 2 socket outlet would be acceptable.
- The electrical supply of the final installation should allow the charging equipment to operate at full rated capacity.
- The installation must comply with all applicable electrical requirements in force at the time of installation.

**NOTE**: The Kirklees Cleansing Department guidance document "Waste Storage and Collection Guidance for New Developments" is available from trade.waste@kirklees.gov.uk.

**NOTE**: The granting of planning permission does not authorise the carrying out of works within the highway, for which the written permission of the Council as Highway Authority is required. You are required to consult the Design Engineer, Flint Street, Fartown, Huddersfield (Kirklees Street Care: 01484 221000) with regard to obtaining this permission and approval of the construction specification. 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**: It is the applicant's responsibility to find out whether the work approved by this planning permission requires written approval from the Highways Structures section for works near or abutting highway and any retaining structures. Contact Highways Structures Section on Tel No. 01484-221000 who can advise further on this matter.

**NOTE**: Please note that the granting of planning permission does not override any private rights of ownership and it is your responsibility to ensure you have the legal right to carry out the approved works, as construction and maintenance may involve access to land outside your ownership

**NOTE**: To minimise noise disturbance at nearby premises it is generally recommended that activities relating to the erection, construction, alteration, repair or maintenance of buildings, structures or roads shall not take place outside the hours of:

- 07.30 and 18.30 hours Mondays to Fridays.
- 08.00 and 13.00 hours, Saturdays.
- With no working Sundays or Public Holidays.

In some cases, different site specific hours of operation may be appropriate. Under the Control of Pollution Act 1974, Section 60 Kirklees Environment and Transportation Services can control noise from construction sites by serving a notice. This notice can specify the hours during which work may be carried out.

Plans and specifications schedule:-

| Plan Type | Reference | Version | Date Received |
|---|---|---|---|
| Location Plan | 14,837/OS | A | 05/05/2021 |
| Proposed plans and elevations | 14837 04 | A | 05/05/2021 |
| Existing plans and elevations | 14837 01 | A | 05/05/2021 |
| Planning Statement | | | 05/05/2021 |
| Arboricultural Implications Plan | 14957 b/ChC | | 11/05/2021 |
| Arboricultural Impact Assessment | BS 5837:2012 | | 11/05/2021 |
| Tree protection plan | 14957 c/ChC | | 01/11/2021 |
| Arboricultural Method Statement | BS 5837:2012 | | 01/11/2021 |
| Proposed site plan | 14837 05 | B | 19/01/2022 |
| Coal Mining Risk Assessment | 10005-R-001-V03 | | 19/05/2021 |

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 requested additional information regarding the impact of Class E uses on the vitality and viability of the local centres. Following discussion with the applicant it was agreed that the condition could be varied to include use classes E (d/e/f/g) but use classes E (a/b/c) would fall under a main town centre use so would require additional information.

**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 Telephone: (01484) 221550 for more information.**

**Development within a Coal Mining Area**

**DEVELOPMENT HIGH RISK AREA - INFORMATIVE NOTE**

**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.

**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.

**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 or 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 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 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:** 23-Sep-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 and view existing planning applications and decisions' and by searching for application number 2024/70/91931/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

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