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

PLANNING PERMISSION FOR DEVELOPMENT

Application Number: 2024/70/93227/E

To: Nigel Jacques,
nj-ARCHITECTS
10, Castle Yard
Ilkley
LS29 9DT

For: Stephen Owens, Owens 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 CONDITION 2 (PLANS) ON PREVIOUS PERMISSION 2020/94345 (APP/Z4718/W/21/3289729) FOR ERECTION OF 5 DWELLINGS

At: LAND AT, ST LUKE'S, BIERLEY MARSH, EAST BIERLEY, BD4 6PL

In accordance with the plan(s) and applications submitted to the Council on 02-Dec-2024 [together with those plans and application(s) submitted to the Council on 21-Dec-2020 and incorporated into planning permission 2020/94345 granted on 20-July-2022 and subject to the condition(s) specified hereunder:-

1. The development hereby permitted shall begin by 20th July 2025.
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 accordance with the following approved plans:

Location Plan - 19.157.101; Proposed Site Layout - 19.157.104G; North and West Facing Elevations - 19.157.105; South and East Facing Elevations - 19.157.106; Ground and First Floor Plans - 19.157.107; Front and Rear Elevations - 19.157.108; Section A - 19.157.109; Section B - 19.157.110; House Type B Floor Plan - 19.157.111; House Type B Elevations - 19.157.112; House Type B Elevations - 19.157.113; Sections - H20017-260 P4; Drainage Layout H20017-200 P4.

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, LP 07, LP 21, LP 22, LP 24, LP 30, LP 33 ,LP 35, LP 52 and LP 61 of the Kirklees Local Plan and advice within the National Planning Policy Framework.

3. Prior to the commencement of development, an ecological design strategy addressing mitigation and enhancement shall be submitted to and approved in writing by the Local Planning Authority. The ecological design strategy shall include the following:

a) Purpose and conservation objectives for the proposed works.
b) Review of site potential and constraints.
c) Detailed design(s) and/or working method(s) to achieve stated objectives.
d) Extent and location/area of proposed works on appropriate scale maps and plans.
e) Type and source of materials to be used where appropriate, e.g. native species of local provenance.
f) Timetable for implementation demonstrating that works are aligned with the proposed phasing of development.
g) Persons responsible for implementing the works.
h) Details of initial aftercare and long-term maintenance.
i) Details for monitoring and remedial measures.
j) Details for disposal of any wastes arising from works.

The ecological design strategy shall be implemented in accordance with the approved details and timetable and all features shall be retained thereafter.

Reason: This is a pre-commencement condition and is required in the interests of mitigating ecological harm and providing enhancement on site following the development and to accord with Local Development Framework policies LP30, and the National Planning Policy Framework.

4. Prior to the commencement of development, a conditions survey of that part of Bierley Marsh within the application boundary as shown on plan 19.157.101 shall be submitted to and approved in writing by the Local Planning Authority. On completion of the development, a second condition survey of the same part of Bierley Marsh shall be carried out to identify defects attributable to the construction traffic associated with the development, the findings of which shall be submitted to and approved in writing by the Local Planning Authority. Any damage that is identified to have occurred between the period of the two surveys shall thereafter be remedied prior to any dwelling being first occupied.
Reason: This is a pre-commencement condition and is required in the interests of maintaining Bierley Marsh following the development and to accord with Local plan policies LP21, and the National Planning Policy Framework.

5. The re-surfacing of the part of Bierley Marsh within the application boundary as shown on plan 19.157.101, shall be surfaced in accordance with the details submitted in plan MCB/24/018/0701 Rev B as amended on 12.05.2025. The approved scheme shall thereafter be implemented in its entirety and completed prior to any dwelling being first occupied.
Reason: To ensure the site has safe and sufficient access in the interests of highway safety to accord with Local plan policies LP21, and the National Planning Policy Framework.

6. Prior to the commencement of development, a Construction Management Plan shall be submitted to, and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
Reason: In the interests of highway safety and in accordance with policy LP21 of the Kirklees Local Plan.

7. Prior to the commencement of development: a. a scheme of intrusive investigations shall be carried out 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, shall be implemented in full in order to ensure that the site is made safe and stable for the development hereby permitted. The results of the site investigation shall be made available to the local planning authority before any development takes place.
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. Prior to the first occupation of the development hereby permitted, 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 development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. 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.

9. Prior to the commencement of any groundworks, other than those required for a site investigation report, a Phase II Intrusive Site Investigation 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. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 9, further groundworks shall not commence until a Remediation Strategy 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.

11. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 10. 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 two 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.

12. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy a Validation Report shall be submitted to the Local Planning Authority. No part of the development hereby permitted shall be first occupied 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 190 of the National Planning Policy Framework.

13. No above ground construction work shall be undertaken until details/samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details.
Reason: To ensure the proposal would have an acceptable visual appearance and to accord with Local plan policies LP24, and the National Planning Policy Framework.

14. No above ground construction work shall be undertaken until details of the boundary treatment of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development hereby permitted shall be carried out in accordance with the approved details and retained thereafter.
Reason: To ensure the proposal would have an acceptable visual appearance and to accord with Local plan policies LP24, and the National Planning Policy Framework.

15. No above ground construction work shall be undertaken until a hard and soft landscaping scheme indicating the type, height, species and location of all new trees and shrubs, and hard surfacing materials has been submitted to and approved in writing by the Local Planning Authority. The landscaping works shall be carried out in accordance with the approved scheme before the dwellings hereby permitted are first occupied. Any trees or plants which within a period of 5 years of planting die, are removed, or become seriously damaged or diseased, shall be replaced with others of similar size and species.
Reason: To ensure the proposal would have an acceptable visual appearance and provide ecological enhancement opportunities on site to accord with Local plan policies LP24, LP30 and LP33 and the National Planning Policy Framework.

16. Prior to the first occupation of the development hereby permitted, details of the bin collection point shall be submitted to and approved in writing by the Local Planning Authority. The collection point shall be made/constructed in accordance with the approved details before the dwellings are first occupied and retained thereafter.
Reason: In the interests of highway safety and visual amenity and in accordance with policy LP21 and LP24 of the Kirklees Local Plan.

17. No removal of or any works to hedgerows, trees and shrubs shall take place between 1st March and 31st August inclusive unless a competent ecologist has inspected the area no more than 24 hours prior to its removal and has provided written confirmation to the Local Planning Authority that no nests or breeding birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on the site.
Reason: To protect nesting birds in vegetation and built structures in accordance with the Wildlife & Countryside Act 1981 (as amended) and BS 42020:2013 and LP30 of the Kirklees local Plan.

18. The development shall be completed in accordance with the advice and directions (recommendations) contained in the Arboricultural Method Statement, reference Iain Tavendale, Land at St Lukes, Bierley Marsh, East Bierley. These shall be implemented and maintained throughout the construction phase.
Reason: To ensure the proposal would have a satisfactory impact on trees and vegetation on site in accordance with LP33 of the Kirklees Local Plan.

19. Details of any additional tree works required during the construction process, that are not identified within the submitted information, shall be submitted to and approved in writing by the Local Planning Authority prior to the works being carried out. The works shall thereafter be carried out in accordance with the approved details.
Reason: To ensure the proposal would have a satisfactory impact on trees and vegetation on site in accordance with LP33 of the Kirklees Local Plan.

20. Prior to the first occupation of the development hereby permitted, the accesses to the site shall be set out and constructed in accordance with the approved plans and retained as such thereafter.
Reason: In the interests of highway safety and in accordance with policy LP21 of the Kirklees Local Plan.

21. Prior to the first occupation of the development hereby permitted the parking areas shown on the approved plans shall be laid out on site and retained thereafter for that purpose and clear of any obstructions.
Reason: In the interests of highway safety and to ensure a suitable site layout in accordance with policy LP21 and LP22 of the Kirklees Local Plan.

22. Notwithstanding the provisions of Article 3 and Part 1 and Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification), no development as specified in Classes A, B, D or E of Part 1 and Class A of Part 2 of Schedule 2 of that Order shall be carried out, other than those expressly authorised by this permission.
Reason: In the interests of visual amenity and to retain a satisfactory layout in accordance with policy LP24 of the Kirklees local plan.

NOTE: The granting of planning permission does not override any private legal rights or consents that may be required. It is the responsibility of the applicant / developer to ensure that all appropriate consents are in place prior to any development commencing; during the period of construction existing access for neighbouring properties is maintained; and no damage is caused to the access driveway or surrounding properties.

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 the works may be carried out.

Plans and specifications schedule: -

Plan Type	Reference	Revision	Date Received
Location Plan	19.157.101 Location Plan.pdf		**21/12/2020**
Proposed site plan	Proposed Site Layout - 19.157.104G	**G**	**30/05/2025**
Proposed elevations	North and West Facing Elevations - 19.157.105		**21/12/2020**
Proposed plans	South and East Facing Elevations - 19.157.106		**21/12/2020**
Ground and First Floor Plans	Ground and First Floor Plans - 19.157.107		**21/12/2020**
Front and rear elevations	Front and Rear Elevations - 19.157.108		**21/12/2020**
Section Plan	Section A - 19.157.109		**21/12/2020**
Section Plan	Section B - 19.157.110		**21/12/2020**
House B Floor Plan	House Type B Floor Plan - 19.157.111		**21/12/2020**
House B Elevations	House Type B Elevations - 19.157.112		**21/12/2020**
House B Elevations	House Type B Elevations - 19.157.113		**21/12/2020**
Sections	Sections - H20017-260 P4		**21/12/2020**
Drainage Layout	H20017-200 P4.		**21/12/2020**
Access surfacing Details	MCB/24/018/0701	Amendment B	**12/05/2025**
Tree protection Plan	PL-09		**21/12/2020**
Tree Survey	SURVEY DETAILS FOR TREES AT ST LUKES SITE, EAST BIERLEY MARSH. 13th February 2020		**21/12/2020**
Arboricultural Method Statement	Authored by Iain Tavendale		**21/12/2020**
Coal Mining Risk Assessment	H 19166B CMRA		**21/12/2020**
Preliminary Ecological Appraisal			**21/12/2020**
Geoenvironmental Assessment Part 1,2 &3	H19166B	December 2019	**21.12.2020**
Drainage Layout		P4	**21.12.2020**
Standard Details	HD-SD-07-17A		**12/03/2025**

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.

Amended plans were requested during the course of the application following comments from KC Highways. This resulted in a new site plan being provided and details of surfacing of the proposed scheme being provided.

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.

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

The proposed development lies within an area that has been defined by the Mining Remediation 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 Mining Remediation 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 a suitable engineering design which takes account of all relevant safety and environmental risk factors, including mine gas and mine-water. Your attention is drawn to the Mining Remediation Authority Policy in relation to new development and mine entries available at:
Building on or within the influencing distance of mine entries - GOV.UK

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires a Mining Remediation 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. Application forms for Mining Remediation Authority permission and further guidance can be obtained from The Mining Remediation Authority's website at: http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property
What is a permit and how to get one? - GOV.UK (www.gov.uk)

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

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. Further information regarding Incidental Coal Agreements can be found here - https://www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements

If any coal mining features are unexpectedly encountered during development, this should be reported immediately to the Mining Remediation Authority on 0800 288 4242. Further information is available on the Mining Remediation Authority website at: Mining Remediation Authority - GOV.UK

Where 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: 09-Jun-2025

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 2024/70/93227/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