

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No: 2019/44/90316/E

Site Address: land off, Wood Row Lane, Shelley, Huddersfield

Description: Discharge condition 3 and 4 on previous permission
2018/90773 for erection of forestry building

Recommending Officer: John Ritchie

DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION

**I hereby authorise the partial approval of this application for the reasons
set out in the officer's report and recommendation annexed below in
respect of the above matter.**

Sarah Longbottom

AUTHORISED OFFICER

Date: 26-Feb-2019

2019/90316 - Officer Report

This application relates to planning permission for the erection of a forestry building at land off Wool Row Lane, Shelley – 2018/90773. The application seeks to discharge conditions as follows:

3. No part of the development hereby approved shall commence until a scheme for the protection of footpath KIR130-20, its access rights and safety of its users has been submitted to and approved by the local planning authority in consultation with the Public Rights of Way team and that this scheme has been completed in accordance with the scheme details and the appropriate legal procedure and retained thereafter.

Reason: *For highway safety reasons and to ensure that PROW KIR130-20 is protected and to accord with Policies R13 and T10 of the Kirklees Unitary Development Plan, Policy PLP21 of the Kirklees Publication Draft Local Plan and the National Planning Policy Framework.*

Assessment

The Public Rights of Way Officer has requested further details.

4. Development shall not commence until a Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the local planning authority.

Reason: *To ensure that the site can be made safe and stable for the proposed development and remove unacceptable risks to human health, in accordance with Policy G6 of the Kirklees Unitary Development Plan, as well as the aims of Chapter 15 of the National Planning Policy Framework. This is a pre-commencement condition in order to ensure that investigatory works are carried out and any required mitigation measures are incorporated into the development at the appropriate stage.*

Assessment

The submitted information has been reviewed by the KC Environmental Health Officer who raises no objections. The Coal Authority considers that the information is insufficient as it fails to investigate a nearby mineshaft.

Decision text

Condition 3 (Footpath protection)

The plans are insufficient for the purpose of the condition. Please supply a plan showing the location and distance from the boundary of the fence. Clarification is required that the posts are not on the path side of the fence and whether any gates are in situ where the path leaves the road and what is proposed for them.

This information can be submitted as part of the current application and a fresh application and fee will not be required. However, in the interests of

satisfactory progress they should be received within the next 21 days from the date of this letter.

Condition 4 (Phase II report)

You have submitted the following:

- Environmental Report reference J4435/18/E/E dated 14th December 2018 by Rogers Geotechnical Services Ltd
- Results of Gas Monitoring reference J4435/18/E/GM dated 28th January 2018 by Rogers Geotechnical Services Ltd
- Report on Rotary Probing reference J4435/18/E/C dated December 2018 by Rogers Geotechnical Services Ltd

The investigation regarding contaminated land and gas monitoring are sufficient for the purposes of condition 4. However, the submitted information does not confirm the investigation and treatment of the recorded mine shaft within the site and the specific risks associated to ground stability and public safety. In such circumstances condition 4 cannot be discharged.

The Coal Authority notes the commentary within Section 7 of the submitted Report, the content of which confirms anecdotal evidence of the shaft being beneath an earth bund. The Report concludes that because of the distance of the shaft from the proposed building it will not adversely affect the development. However, the shaft still clearly poses a risk to public safety as was previously identified by the Coal Authority.

Notwithstanding the above, should the applicant seek to challenge and pursue this issue, then he or she would be required to do so through a Section 73 application, with both an accompanying revised CMRA and revised plans indicating the conjectured position of the shaft (incorporating an allowance of 5m for departure), along with a sterile area (i.e. fenced off) respective of the zone of influence of the shaft.

There may be scope for temporary excavation of the bund to establish the exact location of the mineshaft subject to its reinstatement.

Report Dated: 26 February 2019

