

**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: 2020/44/91398/E

Site Address: Former North Bierley Waste Water Treatment Works,
Oakenshaw, BD12 7ET

Description: Discharge of condition 16 (Phase 2) of previous
permission 2016/92298 for outline application for re-
development of former waste water treatment works
following demolition of existing structures to provide
employment uses (use classes B1(c), B2 and B8)

Recommending Officer: Kate Mansell

DECISION – Discharge of Condition – Approve

**I hereby authorise the approval of this application to discharge
condition 16 (phase 2) for the reasons set out in the officer's report and
recommendation annexed below in respect of the above matter.**

Victor Grayson

AUTHORISED OFFICER

Date: 15-Oct-2020

ASSESSMENT AND DECISION TEXT:

This application relates to the development of the former North Bierley Waste Water Treatment Work in Oakenshaw. The site secured outline planning permission in 2018 in accordance with 2016/92298 for its re-development following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8). This application seeks to discharge Condition 16 of planning permission 2016/92298, in respect of Phase 2.

Condition 16

16. Prior to the submission of reserved matters, the developer shall submit a report detailing intrusive site investigations for the mine entries and shallow coal workings on site for the written approval of the Local Planning Authority Reason: In the interest of health and safety and to ensure any unidentified pollution/risk is dealt with accordingly and to comply with Policies D2 and G6 of the Kirklees Unitary Development Plan, PLP52 and PLP53 of the Publication Draft Local Plan as well as guidance in the National Planning Policy Framework.

A Coal Mining Risk Assessment (CMRA) was previously submitted in support of discharging Condition 16 in respect of Phases 1 and 2 in accordance with 2019/93679. A split decision was issued on 9th March 2020 confirming the following:

'Subject to the recommendations set out in section 6 of the submitted CMRA being adhered to, Condition 16 is discharged with respect to phase 1 only and not phase 2 for the reasons set out above. The applicant can submit further intrusive site investigation information (as set out in the recommendations section of the submitted CMRA and in accordance with the Coal Authority's advice) with respect to phase 2 under this application, on the basis of discussions continuing and satisfactory progress being demonstrated'.

In response to this previous application, the Coal Authority advised that the report concluded that further intrusive site investigations were necessary to locate the second mine entry recorded in the defined Phase 2 of the site. On that basis, they did not recommend that the LPA discharge Condition 16 insofar as it relates to Phase 2 at that time albeit they had no objection to the discharge of Condition 16 for the Phase 1 element. Consequently, that decision required further intrusive site investigation information to be submitted in respect of Phase 2.

As part of this application, which was submitted prior to the Reserved Matters (2020/91488), the applicant provided the following:

Mine Entry Investigation and Preliminary Treatment Strategy prepared by Curtins (Report Ref: 065646-CUR-00-XX-RP-GE-005 Revision: V02 Issue Date: 9 March 2020) received 14th May 2020.

This document provides the outstanding information required to discharge the condition in respect of Phase 2. It is relevant to note that this Phase 2 differs from the Phase 2 within the Phasing Strategy for the wider site and refers specifically to Phase 2 as detailed at Appendix A of the MEIPTS report. The MEIPTS report confirms that it has been produced in support of a discharge of reserved matters planning application for the site (Condition 16) relating to the Phase 2 development boundary highlighted on Drawing Ref: 1856 PL 103B, (Appendix A). Condition 16 has previously been discharged in relation to the Phase 1 boundary, with discharge supported by Curtins document reference B065646-CUR-00-XX-RP-GE-001 V03, Feb 2020. This report is to be read in conjunction with Curtins document reference B065646-CUR-00-XX-RPGE-001 V03, Feb 2020. It includes Appendix A, which clearly indicates the parcels of land that relate to Phases 1 and 2.

The report includes a detailed assessment of previous mine entry investigation works as well as the further coal mining investigation works which are to take place at the site in order to further consider the coal mining legacy of the site. The report confirms that due to the high risk of the two mine entries present on the site and the use of this area as external car parking, treatment of the mine shafts will be required. It confirms that further investigation of the Valley Pit shaft will be required and this will include the following:

1. Investigation to assess condition
2. Drill and grout and consider installation of reinforced cap
3. Install reinforced cap

As a consequence of the Covid Pandemic, the Coal Authority advised the Local Authority in April 2020 that they had postponed their service in relation to considering discharge of condition consultations as they are not formally required to provide consultations at that stage. As a result, they have not been consulted on this submission. However, the CA did provide guidance to LPAs when considering such discharge of planning conditions, including whether the report is prepared and signed off by a competent person(s), whether it is written in a clear and credible way and whether there is sufficient evidence to support its conclusions and recommendations.

The report has been prepared by Curtins and authored by a Geo-Environmental Engineer. It appears to clearly identify the mining risks associated with this site with regard to Phase 2 and puts forward a clear methodology to mitigate it. There are no grounds to consider that it has not been signed off by a competent person(s) and for that reason, the report is considered to be acceptable and Condition 16 pursuant to Phase 2 is discharged in full on that basis.

Recommendation:

Condition 16 of 2016/92298 pursuant to Phase 2 is discharged subject to advice that the development must be implemented in accordance with the investigations and recommendations set out in the Mine Entry Investigation

and Preliminary Treatment Strategy (MEIPTS) prepared by Curtins (Report Ref: 065646-CUR-00-XX-RP-GE-005 Revision: V02 Issue Date: 9th March 2020) received 14th May 2020. Phase 2 in the context of this discharge of condition approval relates to the development boundary highlighted on Drawing Ref: 1856 PL 103B, (Appendix A) of the MEIPTS.