

**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:	2020/44/91808/E
Site Address:	Former North Bierley Waste Water Treatment Works, Oakenshaw, BD12 7ET
Description:	Discharge of conditions 16 and 25 of previous outline permission 2016/92298 for redevelopment of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8)
Recommending Officer:	Nick Hirst

DECISION – Discharge of Conditions – Approve

I hereby authorise the approval of this application 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: 01-Jun-2022

Application: 2020/44/91808/E

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

Proposal: Discharge of conditions 16 and 25 of previous outline permission 2016/92298 for redevelopment of former waste water treatment works following demolition of existing structures to provide employment uses (use classes B1(c), B2 and B8)

Assessment

Condition 16 (Coal Mining Investigation)

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.*

This condition was imposed on the request of the Coal Authority. The applicant has submitted a 'Mine Entry Investigation and Preliminary Treatment Strategy' which relates to phase 2 of the development (as defined on plan ref. 1856 PL 103B (Appendix A)). The CA have objected to the discharge of the condition based on the information submitted.

Notwithstanding the CA's position condition 16 has been previously discharged with the same information submitted (application ref: 2020/91398). For a period during the Covid-19 pandemic the Coal Authority issued the following advice:

As you are aware the Coal Authority is a Statutory Consultee in the planning process when the grant of planning permission is being considered. However, we are not formally required to provide consultation responses when the discharge of planning conditions is under consideration.

Whilst we would normally be willing to offer advice on any consultation from a Local Planning Authority, due to the Covid-19 pandemic, our staff resources are significantly reduced. We are therefore obliged to postpone comment in relation to the discharge of planning conditions until further notice. We trust that in this difficult time LPAs will appropriately consider the information submitted by applicants to assess whether any mining legacy related conditions have been duly complied with

The following assessment was made by the council as part of 2020/91398, during the period the CA were not offering advice:

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-RPGE001 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*
- 1. Drill and grout and consider installation of reinforced cap*
- 2. 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 GeoEnvironmental 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

While the CA's comments and concerns are noted, it must be noted that the condition has already been discharged. Given it has previously been discharged based on best practice and information available at the time, it would now be unreasonable for the council to not issue a further approval. Accordingly, officers recommend that the condition be discharged.

Condition 25 (SUDS and Drainage adoption)

25. Before occupation of the approved development, a scheme for the maintenance, management and adoption of all SUDS features shall be submitted to and approved in writing by the Local Planning Authority. The maintenance and management scheme shall thereafter be implemented and adhered to at all times following occupation of the buildings on site.

Reason: *In the interests of achieving satisfactory and sustainable drainage of the site and to mitigate flood risk. This is to accord with Policy BE1(i) of the Kirklees Unitary Development Plan, PLP 29 of the Publication Draft Local Plan and part 14 of the National Planning Policy*

This condition was requested by the LLFA who have reviewed the submitted information and offered the following initial assessment:

Kirklees Flood Management and Drainage as the Lead Local Flood Authority (LLFA) OBJECT to this application on the following grounds

No drainage design details are provided to set any of the management and maintenance plan into context

No asset list is provided to outline exactly what will need to be maintained, when and how it is suitable to maintain it given the site design.

Without an approved design and plan for the site no maintenance plan can be provided other than a generic outline of maintenance intentions (as has been provided)

To overcome our objection the site designers will need to provide the following

A drainage design drawing highlighting the features of the system that need to be maintained including a list of what is proposed to be adopted and when;

Outline the features that might be more susceptible to blockage or require higher maintenance frequency (gullies at low points/bottom of slopes / trash screens)

Map out the access and maintenance arrangements for the site (how will users enter basins/ponds, where will maintenance be performed from, will there need to be a safe working area created or is this already provided)

The form, type and frequency of maintenance for all features throughout the system;

Allowance for bedding in and settlement, remediating any breakages or issues, clearance while the site is being built out and higher sediment load is expected.

This feedback was provided to the applicant, who amended their proposal. The amended proposal was shared with the LLFA, and officers confirmed that this Discharge of Condition application relates only to phase 1 of the site, not all of it. The LLFA then commented:

Documents reviewed by the LLFA:

PRP Environmental: • Document Ref: 62954 – Maintenance and Action Schedule for SW Drainage, dated June 2020

Drainage Summary:

It is noted that the PRP Maintenance Schedule only applies to the area of Unit 1 which drains surface water unattenuated to the site wide drainage where storage for attenuated flows is provided outside the Unit 1 area. The LLFA accepts the submitted Maintenance Schedule for Unit 1 as suitable and therefore Condition 25 can be discharged.

Officers support the assessment by the LLFA and recommend that the details submitted pursuant to condition 25 be approved.

Recommendation: Approve details.

Report Dated: 30/05/2022

Proposed Letter Text

Condition 16 (Coal Mining Investigation)

You have submitted the Mine Entry Investigation and Preliminary Treatment Strategy, ref. '065646-CUR-00-XX-RP-GE-005' revision V02 to discharge condition 16, in so far as it relates to phase 2 of the development. 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 aforementioned document.

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. The report is considered to be acceptable and Condition 16 pursuant to Phase 2 is discharged in full.

Condition 25 (SUDS and Drainage adoption)

You have submitted the following documents to discharge condition 25:

- Plan ref. 'P21025-PRP-EX-00-DR-C-0101 Rev. P01'
- Plan ref. 'P21025-PRP-EX-00-DR-C-0102 Rev. C02'
- Plan ref. 'P21025-PRP-EX-00-DR-C-0101 Rev. C04'
- Plan ref. '065646 CUR 00 ZZ DR C 92002 Rev. P02'
- Document 'Maintenance and Action Schedule for Surface Water Drainage at Interchange 26, Bradford
- Drainage calculations 100yr +40cc package

I can confirm that the submitted details are acceptable for this phase of the development, which is identified within the hereby approved plans. Be aware

that condition 25 has the following ongoing requirement which must be adhered to, to ensure ongoing compliance with the condition:

The maintenance and management scheme shall thereafter be implemented and adhered to at all times following occupation of the buildings on site.