



The Coal
Authority



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For the Attention of: Mr V Grayson – Case Officer
Kirklees Council

[By Email: DC.Admin@kirklees.gov.uk]

18 August 2020

Dear Mr Grayson

PLANNING APPLICATION: 2020/60/92350/E

Outline application for residential development (Use Class C3) of up to 181 dwellings, engineering and site works, demolition of existing property, landscaping, drainage and other associated infrastructure; Land South Of, Heybeck Lane, Chidswell, Kirklees

Thank you for your consultation letter of 11 August 2020 seeking the views of The Coal Authority on the above planning application.

The Coal Authority is a non-departmental public body sponsored by the Department of Business, Energy & Industrial Strategy. As a statutory consultee, The Coal Authority has a duty to respond to planning applications and development plans in order to protect the public and the environment in mining areas.

The Coal Authority Response: Material Consideration

I have reviewed the proposals and confirm that parts of the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records indicate the presence of recorded shallow coal mining has taken place within the south eastern corner of the site, and 2no. recorded mine entries (1 x on-site; 1 x off-site) and a thick coal seam outcrops within the site that may have been historically worked at shallow depths by illicit means are present within the northern half of the site.

The planning application is accompanied by a Coal Mining Risk Assessment, December 2019 prepared for the proposed development by Patrick Parsons Limited. This Assessment has been informed by an appropriate range of sources of information (Section 2.2).

Having carried out an in-depth review of the available evidence, the report author concurs with our records and considers that currently, there is a high risk to the redevelopment of this site from surface instability / mine gas hazards due to the presence of both recorded and unrecorded shallow coal workings, and the 2no. recorded mine entries.

In order to establish the exact ground conditions present beneath / within this site, appropriate recommendations have been made that intrusive site investigations in the form of rotary boreholes (to determine the presence / condition of shallow coal seams) and trial trenching (to determine the location / condition of the mine entries) is required. As part of the investigations, we would also expect the depth to rockhead adjacent to these mine entries to be established in order that the applicant's technical consultants can calculate the zone of influence (no build exclusion zone) of all mine entries found present within or within influencing distance from the site in order to inform the layout of the development.

The report author goes on to state that in the event that workings have taken place, consolidation / stabilisation of these workings (drill and grout programme) will be required. In addition should the mine entries be found within the site, these too will also need to be stabilised (grout fill / concrete capping etc).

The applicant is aware that the recommended ground investigations and any subsequent treatment works will require the Coal Authority's written consent (from our Permitting team) prior to commencement of these works as part of the permitting process.

The Coal Authority Recommendation to the LPA

The Coal Authority concurs with the conclusion / recommendations of the Coal Mining Risk Assessment, December 2019 based on the professional opinion of Patrick Parsons Limited that there is currently a high risk to the proposed development from coal mining legacy. In order to mitigate the risk (confirm the exact ground conditions present within this site) and inform the extent of remedial / mitigatory measures that may be required to ensure that the development is safe and stable (NPPF paras. 178-179), intrusive site investigations should be undertaken prior to commencement of development.

Accordingly, the Coal Authority recommends the imposition of the following conditions:

Prior to, or concurrent with the submission of the first reserved matters application:

The submission of a scheme of intrusive site investigations for the mine entries and shallow coal workings, for approval;

* The undertaking of the scheme of intrusive site investigations;

As part of the reserved matters application

* The submission of a report of findings arising from the intrusive site investigations;

- * The submission of a layout plan that identifies appropriate zones of influence of the mine entries affecting this site, and the definition of suitable 'no-build' zones;
- * The submission of a scheme of treatment for the mine entries on site for approval;
- * The submission of a scheme of remedial works for the shallow coal workings for approval; and

A condition should also require prior to the commencement of development:

- * Implementation of those remedial works.

This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

The Coal Authority has **no objection** to the proposed development **subject to the imposition of the conditions to secure the above.**

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

Please note that whilst we recommend that the above planning conditions are applied if planning permission is granted, due to the Covid-19 pandemic, our own staff resources are significantly reduced. Until further notice we are therefore not able to offer any comments in relation to further related applications that may be made for the discharge of conditions.

We would be very grateful if you could refrain from sending the Coal Authority any consultations relating to the discharge of conditions until further notice. We trust that in this difficult time the local planning authority will appropriately consider the information submitted by applicants to assess whether any mining legacy related conditions have been duly complied with.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

Deb Roberts *M.Sc. MRTPI*

Planning and Development Manager

General Information for the Applicant

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

