

**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: 2020/44/93703/E

Site Address: land west of, Oxford Road, Gomersal, Cleckheaton,
BD19 4LA

Description: Discharge conditions 9 and 10 (Remediation Strategy)
on previous permission 2019/90264 for erection of 22
dwellings

Recommending Officer: Nick Hirst

DECISION – Discharge of Conditions – Split Decision

**I hereby authorise the split decision 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: 16-Dec-2020

Application: 2020/44/93703/E

Site: land west of Oxford Road, Gomersal, Cleckheaton, BD19 4LA

Reference: Discharge of conditions 9 and 10 (Remediation Strategy) of previous permission 2019/90264 for erection of 22 dwellings

Assessment

Conditions 9 and 10

9. Development 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: *So as to prevent land, groundwater and surface water contamination and to adequately evaluate historic coal mining legacy, to ensure the site is fit to receive new development in the interest of health and safety, so as to accord with Policy LP52 of Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework. 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 mitigation 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.*

10. Remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved pursuant to condition 9. 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 works on site (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Unless otherwise approved in writing with the local planning authority, 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: *So as to prevent land, groundwater and surface water contamination and to adequately evaluate historic coal mining legacy, to ensure the site is fit to receive new development in the interest of health and safety, so as to accord with Policy LP52 of Kirklees Local Plan and Chapter 15 of the National Planning Policy Framework.*

Condition 9 has been previously discharged. However, the applicant is now seeking approval of a different scheme.

The conditions were requested by KC Environmental Health, who provided the following assessment of the submitted details:

Previously, Remediation Statement & Validation Proposal Sheets by Arc Environmental dated 26 Jun 2020 (ref; 20-006 - Rev 1) were submitted for consultation by this service in support of application no. 2020/90939 pursuant to previous permission 2019/90294 for the erection of 22 dwellings.

To summarise, the proposals detailed that made ground would be removed down to the undisturbed strata at two hotspot locations (TP11 and HP01) and a minimum of 600mm clean cover would be applied. In a consultation response dated 8th September 2020, we recommended that Condition 9 should be discharged. Revised remediation proposals have now been submitted for approval.

Condition 9 – Remediation Strategy

For the purpose of discharge Condition 9, two documents titled Remediation Statement & Validation Proposal Sheets by Arc Environmental dated 20th October 2020 (ref: 20-006-Rev2) (with and without appendices) and email correspondence dated from Arc Environmental dated 8th December 2020 has been received. I have read the information supplied by the applicant.

Due to changes to the site access road, there is a requirement to significantly raise site levels to meet the road gradient. As several thousand cubic metres of clean fill will be required, the revised strategy proposes to retain existing soils where possible. Made ground will be removed down to the undisturbed strata at two hotspot locations (TP11 and HP01). Impacted soils will be placed below hardcover i.e. the driveways of plots 2 to 11 and in the space around the Carlow tank (in front of Plot 1). Where hotspot material is proposed to be buried under hardstanding, 600mm minimum of clean cover will be placed. As the buried material near the Carlow tank will be in a residential garden, it is proposed that a geotextile membrane will be installed at the interface between the hotspot material and the overlying 1 metre of clean cover material. I am satisfied with the information provided.

Additionally, there report details information concerning screening criteria, verification proposals and relevant contingency measures in the event of unexpected contamination. These are also satisfactory.

Overall, I am satisfied with the revised Phase 3 report. The remediation should be implemented in accordance with the submitted strategy. Following this, a Phase 4 report should be submitted for consultation,

as per the requirements for Condition 9, detailing the validation to demonstrate the site is safe for end-use.

Condition 10 - Implementing the Remediation Strategy

At the time of writing, site remediation should not have been undertaken. Until the development has finished, there is still a chance of unexpected contamination to become apparent so the condition should remain until further notice.

Recommendations

For the reasons detailed above I consider that the submitted information is satisfactory for this condition and recommend that Condition 9 should be discharged.

Conditions relating to the next phases of development (Condition 10 and Condition 11) should remain until further notice.

Officers support this assessment and consider that condition 9 may be discharged. Condition 10 is a standing prescriptive condition (unless its trigger is activated) and is to be retained.

The condition also refers to coal legacy as a reason. The Coal Authority, due to the COVID19 pandemic, have reduced their service and are not currently offering advice on the discharge of conditions. Their standing advice is to consult with internal council departments such as Environmental Health and Building Control to address the condition.

When details pursuant to condition 9 were previously submitted, KC Building Control commented that three well-spaced bore holes, to a depth of 30m, have identified that shall mine workings do not appear to be an issue of concern. The proposed alterations to the remediation strategy would not change this assessment.

KC Environmental Health have commented:

From a contaminated land aspect the phase 2 found no evidence of shallow coal workings or intact coal so there is likely to be low/negligible risk from mine gas and same for combustion. So in the P3 no specific remediation relating to coal mining i.e. mine gas or combustibility was required.

KC Environmental Health therefore raise no concerns on the conditions in relation to coal legacy. Finally, planning officers have reviewed the submitted Shallow Coal Mining Assessment, which concludes:

In conclusion, it is felt that the site is not at risk from shallow coal workings, nor future subsidence as a direct result of shallow coalworkings collapsing (i.e. voiding and/or broken ground), and

therefore no remediation or further investigation works are deemed necessary for this site with regard to coal workings.

Based on this conclusion, which is deemed to have a sound methodology, and the comments from KC Building Control and KC Environmental Health, officers support the discharge of condition 9.

Recommendation: Discharged condition 9. Condition 10 should not be discharged.

Proposed Letter Text

Conditions 9 and 10

You have submitted the Remediation Statement & Validation Proposal Sheets document referenced '20-006 – Rev 2' and supporting document 'R19:GOR22:054 Rev. A' to discharge conditions 9 and 10.

I can confirm that the documents are acceptable for the purposes of condition 9 and condition 9 is hereby discharged.

Condition 10 requires the development to be undertaken in accordance with the hereby approved remediation strategy, unless unexpected contamination is identified during development. Condition 10 is an ongoing prescriptive condition and therefore cannot be discharged.