KIRKLEES METROPOLITAN COUNCIL

PLANNING SERVICE

UPDATE OF LIST OF PLANNING APPLICATIONS TO BE DECIDED BY

STRATEGIC PLANNING COMMITTEE

20 JUNE 2024

Planning Application 2023/92191 **Item 11 - Page 9**

Erection of residential development for 62 dwellings including grouting remedial works for ground stabilisation to facilitate construction of dwellings with associated hard and soft landscaping

Land at Cliff Hill, Denby Dale, Huddersfield, HD8

Representations

Cllr Tim Bamford made the following further comments:

> *I still have major concerns about this site. We don't have enough detail about the ground conditions as there hasn't been an extensive site investigation. This has led to uncertainty and could lead to vastly more than the quoted quantities of coal being removed. This is still going to be an opencast coal mining operation however you look at it. If it is to be treated as waste it will be classed as hazardous and will have to be treated as such. Either way it is still coal mining and could destabilise the site affecting neighbouring properties.*
>
> *This was the reason for refusal at Heavy Woollen and, in my opinion, nothing has changed except the site being put up for sale without the landowners' knowledge.*

Further to paragraph 8.4 of the committee report, one more representation from a local resident has been received, and a representative of the Upper Dearne Valley Environmental Trust (UDVET) commented that their previous objections still applied. The following is a summary of the further comments made:

- Query why a Phase 1 report (submitted under the previous application) should be referred to / relied on.
- Grouting plan is out-of-date.
- Query if applicant's grout volume figure is incorrect.
- Concerns regarding extraction and vehicle movements are unanswered.
- Applicant's approximate figures are open to abuse, and should not be accepted.
- Applicant hasn't confirmed end use of extracted coal.
- Query how proposals regarding coal extraction comply with council's zero carbon policy.
- Applicant could still extract 12,000 tonnes of coal.
- Extraction would involve 620 HGV movements.

- Grouting would involve 166 HGV movements.
- Other works would also involve HGV movements.
- Grouting volume could double.
- Lack of information regarding on-site storage and treatment of extracted material.
- Query if surface water calculations account for proposed grouting. Grouting would make site impermeable. Increased flood risk.
- Query why grouting is not proposed around attenuation tank, and why limited grouting is proposed beneath estate roads.
- Lack of information regarding noise, dust and vibrations associated with excavation and grouting.
- Pre-commencement surveys of adjacent residential properties should be carried out.
- Site has been advertised for sale.
- Query which amendments have been referred to consultees.
- Proposals too vague and lacking details, as evidenced by 42 recommended conditions.
- Application should be rejected and not rushed through because Kirklees has not met its housebuilding targets.

Further submission information

Further to the information set out in the committee report, the applicant has also provided the following information:

- The 4,400 cubic metre figure (referred to at paragraph 4.2 of the committee report and elsewhere) relates only to the shallow coal seam excavation, and does not include excavation that would be needed to create the on-site attenuation tank.
- At paragraph 4.3 of the committee report, the reference to 3 cubic metres of grout per hole should be 3 *tonnes* of grout per hole. The final figure (of 1,650 tonnes of grout) is correct.
- Pulverised fuel ash (PFA) would be delivered to the site in 20-tonne loads.
- Cement would be delivered to the site on pallets.
- The grouting operation is expected to take at least two months (estimated), based on approximately 50 tonnes being injected per day.
- Based on the 1,650 tonnes of grout that may be used, 83 HGV movements in and 83 HGV movements out would be necessary.

The applicant has also submitted a construction route plan, which reflects the advice provided by officers at paragraph 4.10 of the committee report.

Coal Authority

The Coal Authority's latest comments (dated 13/05/2024) are summarised at paragraph 9.2 of the committee report. Queries have been raised by residents regarding how the Coal Authority were consulted (and by whom), and what information their comments were based on.

On 30/04/2024 the case officer sent the Coal Authority a reconsultation email (specifically referring to site plan rev P17, which is the correct and current proposed layout drawing), and additionally emailed them a link to that same site plan. The Coal Authority's comments of 13/05/2024 were made in response to that reconsultation. That response also states:

> *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.*

Regarding the applicant's grouting plan (drawing P10350), which was provided at appendix H of the applicant's Ground Stabilisation Removal Strategy and was again appended to the applicant's response document of 31/05/2024, it is noted that this shows a since-superseded site layout. The Coal Authority referred to that document in their comments of 20/09/2023, in which they stated "These remedial measures could be ensured by way of condition" (this comment specifically referred to the grouting). In their later comments of 13/05/2024 (made after they had been informed that the proposed site layout had changed), the Coal Authority did not express concern that the grouting plan had not been updated to show that revised site layout.

It is, in any case, noted that if planning permission is granted and the development went ahead, the developer would drill and grout with reference to the latest locations of the new dwellings and roads.

Regarding the proposed attenuation tank, the Coal Authority (in both their responses) raised no concerns regarding the absence of grouting proposals beneath or around it. In their response of 20/09/2023 the Coal Authority accepted that the applicant's proposed remedial strategy would "effectively nullify" the zone of influence of the nearest mine entry. The applicant has additionally advised that no grouting is proposed beneath or around the attenuation tank as it would be located to the north / northwest of the coal seam.

Residents have queried whether the removal of any coal from the application site would require a permit from the Coal Authority. The Coal Authority's response of 13/05/2024 confirms:

> *The applicant should note that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property.*

The same response adds:

> *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.*

The Coal Authority's responses do not stipulate what can or can't be done with any coal removed from the application site.

Mine gas

The escape of mine gas has been raised as a concern by residents. Excavation and grouting can indeed change gas pathways, and if this development went ahead, gas monitoring would be necessary (as per KC Environmental Health's comments of 23/02/2024). The Remediation Strategy that would be secured under recommended condition 23 would need to include gas monitoring proposals, and remediation measures (to be implemented if gas is detected). This is the normal approach for dealing with mine gas risk.

Conditions

During drafting of the recommended conditions, it became apparent that some of the conditions listed in the previous committee report could be merged. It was also ascertained that some of the conditions listed in the previous committee report had not in fact been recommended by consultees. These are the reasons why 37 conditions are now recommended (whereas the previous committee report and committee update listed a total of 43 conditions).

The fact that 37 conditions are recommended does not indicate that the applicant's submissions are lacking, nor does it indicate that the proposals have not been appropriately assessed at application stage. This number of conditions is not unusual for a development of this size and nature. It is also noted that many of the recommended conditions are compliance conditions that do not require the submission of further details to the council.

The conditions are recommended subject to authority to amend and add to them being delegated to the Head of Planning and Development. The applicant has made comments on the conditions listed in the latest committee report. Should the Strategic Planning Committee resolve to grant planning permission for the proposed development, prior to the issuing of planning permission, officers will review the applicant's comments. Minor changes to the wording of the conditions (that do not materially change their requirements) may be necessary.

Sale of site

The council has been informed that the application site has recently been advertised for sale. This is not a material consideration relevant to the council's determination of the current planning application.

Planning Application 2022/91477 Item 12 - Page 73

Hybrid Planning Application for the erection of an industrial unit for B2 /B8 use, with ancillary office space and associated access, parking, groundworks and landscaping in conjunction with an outline application for mixed use development use class E(b), B2 and B8, with ancillary office space and associated works

Land off Lindley Moor Road, Lindley, Huddersfield, HD3 3SX

Noise assessment update

The proposal's potential to cause noise pollution is considered in paragraphs 10.68 and 10.69 of the main report. In paragraph 10.69 it was noted that an updated Noise Impact Assessment had been received, but not assessed at the time of the report, following the original intended occupier of unit P having been lost. This was because the original noise report used noise generation levels specific to the previous intended occupier whereas the new report included general noise levels attributed to a commercial development.

K.C. Environmental Health have reviewed the updated document. In conclusion, the different noise levels result in similar conclusions that does not affect the assessment previously undertaken. In summary, subject to appropriate mitigation which may be secured via condition, no undue noise pollution would be caused.

Planning Application 2023/93449 Item 13 - Page 117

Deepen and extend Windy Ridge Quarry; increase the number of HGV movements permitted; excavate former landfill to recover recyclable materials (retrospective); temporarily store soils on part of the previously restored quarry area (retrospective); form new access; restore the site by infill with construction, demolition and excavation wastes; and recycle imported construction demolition and excavation wastes

Windy Ridge Quarry, Cartworth Moor Road, Cartworth Moor, Holmfirth, HD9 2RL

Amended Recommendation

RECOMMENDATION: Approve

DELEGATE approval of the application and the issuing of the decision notice to the Head of Planning and Development in order to complete the list of conditions including those contained within this report and to secure a S106 agreement to cover the following matters:

To restrict HGV movements to no more than 16 (8 in and 8 out) and no working or winning to commence into the:

- The extension area south of the existing operational quarry as shown on drawing 10193A/02C, and
- No mineral extraction to extend beyond the approved depth of 323 AOD level as shown on drawing 8973/05, pursuant to planning permission 2012/93305, until;

1. An annual highway maintenance fee of £50,000 (to be split between Kirklees and Barnsley Council) to mitigate against the potential damage and deterioration of the highway infrastructure as shown on HGV routing drawing 10193/S106 Traffic Route/CJB/120324 is received.

2. The reconstruction of the unsealed "maintained in character" only section of Cartworth Moor Road. An initial joint inspection with site operator/council representatives shall be carried out to assesses any defects/works required to verges, provisions for drainage run offs and passing places, with details to be submitted to and approved in writing by the MPA. Thereafter the approved works shall be completed (at the cost of the applicant/site operator) in accordance with an agreed timescale. Subsequently, six monthly joint inspections with site operator/council representative shall be carried out and any defects observed shall be rectified at the cost of the applicant within an agreed timescale by the MPA.

3. Reinstatement of bridleway in accordance with details to be submitted and approved by the MPA and carried out within an agreed timescale, at the cost of the applicant/site operator).

In the circumstances where the S106 agreement has not been completed within 3 months of the date of the Committee's resolution then the Head of Planning and Development shall consider whether permission should be refused on the grounds that the proposals are unacceptable in the absence of the benefits that would have been secured; if so, the Head of Planning and Development is authorised to determine the application and impose appropriate reasons for refusal under Delegated Powers.

<u>Three further representations received</u>

Cllr Paul Davies, makes the following comments,

"*this is on behalf of the ward Cllrs and also the numerous residents who have been and continue to be impacted by the operation of this quarry.*

Since the current owners assumed operation we have received well over 100 complaints and objections to consistent and egregious breaches of planning restrictions. The complaints have been varied with some involving the police and other partner agencies, however the main planning related themes have been environmental damage including to private water supplies, hours of operation and a huge excess of vehicle movements. This last factor in particular has impacting residents living near to the site, prevented others from enjoying the area and caused the road from the quarry along Cartworth Moor Road and White Gate Road to be extensively damaged. These roads are frequently covered in so much mud and other quarry waste that they are not safely usable for pedestrians, cyclists or cars.

The extant planning consent allowed for 16 vehicle movements per day (a maximum imposed by officers at the time of that application and below the level applied for). This level of activity may be sustainable given the road conditions but the operator regularly has several times this number which is unsustainable on the rural roads and prevents others from enjoying what is a local destination for walkers and cyclists. I am confused as to why Highways, having restricted the vehicle movements in this way previously and, having seen the damage being done by excess movements, are now minded to support an expansion of the operation at this site.

Part of the problem results from a section of unsurfaced road between White Gate Road and Cartworth Moor Road which causes mud to be dragged onto the surfaced sections at each end making the roads dangerous. If the expansion is supported by committee, we request that a condition should be added to compel the operator to adhere to the allowed number of vehicle movements (and this subject to meaningful enforcement by camera feed, submission of site working records or similar), a condition to insist on installation of a wheel wash at the entrance to the quarry site and a condition to enforce further Highways contribution towards installation of a hard surface to the unmade section of highway, to mitigate some of the unreasonable impact on amenity for residents and other users."

Response: The officer report sets out the reasoning for the recommendation and addresses the above concerns, including for a condition to be imposed requiring a wheel wash facility. With respect to highway contributions, the annual highway amount of £50,000 has been assessed by the Councils Highway maintenance team to be reasonable, proportionate to the works. The justification for this is the cost of getting machinery and labour to site for 1 week on an annual basis for patching up the road. A judgment has been made that the amount of money to be secured is fair and reasonable to mitigate any harm caused by the extra quarry activity proposed in the application.

A further two local representations received raise concerns in relation to the breach of current conditions by the site operator (increase in HGV movement and operating outside the permitted hours) and claims that Kirklees Council has not sufficiently monitored the current operations being carried out by the site operator.

Response: The Council enforcement team has advised that the site has been and continues to be monitored.

Other concerns raised relate to the potential detrimental effect on local business from the increased number of HGV movement, noise and dust with a number of questions posed, primarily asking who is responsible for and liable to reimburse their cost towards cleaning the dust and costs towards connecting to mains water supply. The officer report addresses the matters of dust, noise, potential impact on private water supplies and safe working methods.

<u>Additional condition</u>

The following additional condition is recommended:

- HGV vehicle movements shall be restricted to 16 (8 in and 8 out) until the approved new access road has been completed and made operational in accordance with details having been submitted to and approved in writing by the MPA. Thereafter the HGV movements shall be restricted to no more than 30 (15 in and 15 out).

Pre-application 2024/20252 **Item 14 - Page 155**

Demolition and mixed use development

New Mills, Brougham Road, Marsden, HD7 6AZ

Public consultation

Further to section 7.0 of the committee report, the pre-applicant team have organised a public consultation event, to be held at Marsden Mechanics Hall on 19/06/2024, 2pm to 6pm. The pre-applicant team have also set up a website regarding the emerging proposals (newmillsmarsden.co.uk), inviting comments.