



The Coal  
Authority



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For the Attention of: Emma Thompson – Case Officer  
Kirklees Council

**[By Email: [DC.Admin@kirklees.gov.uk](mailto:DC.Admin@kirklees.gov.uk)]**

26 January 2023

Dear Ms Thompson

**PLANNING APPLICATION: 2022/93563**

**Outline application for erection of residential development; New North Road,  
Heckmondwike, Kirklees, WF16 9DW**

Thank you for your notification of 12 January 2023 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 part 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 that within 20m of the site boundary there are two recorded off-site mine entries (CA shaft ref: 421423-004 and 421423-014). The

Coal Authority hold no treatment details for these mine entries and due to the historic source plans used to plot their current position, these could vary by several metres. The Coal Authority is of the opinion that building over the top of, or in close proximity to, mine entries should be avoided wherever possible, even after they have been capped, in line with our adopted policy:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries> These coal mining features could affect public safety and surface instability for the proposed development.

The planning application is accompanied by a Coal Mining Risk Assessment Report (4162, December 2022) prepared for residential development at the site by Michael D Joyce Associates LLP. The Report has been informed by historical, geological and coal mining information.

Having carried out a review of the available information, the report author concurs with our records and considers that whilst it is unlikely that the mine entries are present within the site, prior to construction, a surface strip is carried out to the footprints of Plots 8 and 9, and the front garden areas of these plots.

As the applicant is seeking outline consent only (with access being considered), the Coal Authority would have no objections to the LPA granting outline consent as the layout is not being considered at this time and based on the area of the site, is likely to be able to accommodate the quantum of development proposed.

Whilst an appropriate assessment and mitigation strategy has been provided, we consider that the above investigations to confirm the absence of the mine entries within the site should be carried out prior to the submission of the reserved matters application. In the event that the mine entries are found within the site, the layout will need to be informed by these features to ensure that adequate separation between buildings and mine entries are incorporated in order to comply with our adopted policy (above). If the mine entries are not found, the worst-case scenario should be adopted that the mine entries are just outside the site boundary. The applicant's geotechnical consultant should be able to calculate the zone of influence (no build zone) of the off-site mine entries based on the ground conditions encountered. The findings of the investigations should also inform the extent of any remedial and / or mitigation measures required to ensure that the development, as a whole, is safe and stable.

The intrusive site investigations should be designed and undertaken by competent persons to ensure that these are appropriate to assess the ground conditions on the

site to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary.

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. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

### Mine Gas

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

### Sustainable Drainage

It should be noted that where SUDs are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

### The Coal Authority Recommendation to the LPA

In light of the above, the Coal Authority recommends the imposition of the following conditions:

1. **Prior to the submission of the reserved matters application** intrusive site investigations, identified by Michael D Joyce Associates LLP (report author of the Coal Mining Risk Assessment Report (4162, December 2022) have been carried out on site to establish the risks posed to the development by past coal mining activity (mine entries).

2. **As part of the reserved matters application** a report is submitted based on the findings of the site investigation works including an appropriate scheme of remedial and mitigation measures, if required. This should include the submission of the proposed layout plan which identifies the exact location and co-ordinates of the recorded mine entries, if found within the site, and the zone of influence (no build exclusion zone) of any mine entry within influencing distance of the site.

3. **No development shall commence until** all remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

4. **Prior to the occupation of the development, or it being taken into beneficial use**, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

*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 183 and 184 of the National Planning Policy Framework.*

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

Yours sincerely

**Deb Roberts** M.Sc. MRTPI  
**Planning & 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.*