



The Coal  
Authority

200 Lichfield Lane  
Mansfield  
Nottinghamshire  
NG18 4RG

T: 01623 637 119 (Planning Enquiries)

E: [planningconsultation@coal.gov.uk](mailto:planningconsultation@coal.gov.uk)

W: [www.gov.uk/coalauthority](http://www.gov.uk/coalauthority)

**For the attention of: Mr N. Hirst – Case Officer**

Kirklees Council

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

24 October 2024

Dear Mr Hirst

**Re: Planning application 2023/62/91116/E**

**Erection of 77 dwellings, with access from Darley Road and associated works at Land off Primrose Lane, Hightown, Liversedge – FURTHER RECONSULTATION**

Thank you for your notification of 18 October 2024 seeking the further views of the Coal Authority on the above planning application.

**The Coal Authority response: MATERIAL CONSIDERATION**

As you are aware, the application site falls within the Development High Risk Area. Our records indicate that five mine entries are present within the site. Mine shafts 419424-004, 419424-005 and 419424-006 are recorded to have been capped and are located within a fenced compound in the northern part of the site. We hold no details of any past treatment of shaft 419424-020 located close to the aforementioned capped shafts, nor do we hold any treatment details for shaft 419424-014 which is located towards the southern end of the site.

In addition, our information indicates that the site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth. Such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

You will recall from our previous consultation response letter of 17 June 2024 that we maintained our objection to the proposal. This was on the basis that the supporting information submitted by the applicant did not satisfactorily demonstrate that the

proposed layout of development had been suitably informed by the mine shafts and their associated zones of influence recorded to be present within the site. We were particular concerned with shaft 419424-020 which could result in built development at Plots 6, 7 and 10 being sited within the zone of influence of this shaft.

### **Wardell Armstrong Technical Note - 19 September 2024**

We note that the applicant has now submitted a Technical Note (19 September 2024, prepared by Wardell Armstrong) in support of their application. We wish to point out that that this document was previously submitted to us for comment under our chargeable pre-application advice service, following on from an initial meeting between ourselves and the applicant's project team.

The note confirms that additional investigations, site preparatory works and watching briefs, are to be carried out in order to further assess the risk posed by possible shallow coal mining legacy and to inform any necessary remedial works required to ensure the stability of the development.

The note confirms that mine shaft 419424-014 has been located within the southern part of the site and that this feature is to be appropriately treated. It clarifies that built development at the affected plots (nos.54 and 55) has been rearranged to accommodate the associated residual risk posed by this feature (see Mine Shaft Zone of Influence Drawing included in Appendix A).

Despite previous requests, you will note that it is evident from the Technical Note that no further intrusive works have been undertaken to refine and reduce the zones of influence associated with the four recorded shafts present within the northern part of the site.

The note confirms that further consideration has been given to the presence of these shafts through revisions to the alignment of the proposed diversion of the Yorkshire Water main, which will now run adjacent to the north eastern site boundary. However, it is evident from the detail shown on the Mine Shaft Zone Drawing that proposed built development at Plots 6, 7 and 10 remain within the potential zone of influence of shaft 419424-020.

In our pre-application advice response to the applicant regarding the Technical Note we reiterated our adopted policy in relation to mine entries and new development. As approval of the application will fix the position of built development we highlighted that the positional uncertainty associated with shaft 419424-020 should be addressed and removed through the undertaking of further investigations prior to the approval of a detailed site layout for the affected part of the site.

### **Subsequent pre-application advice correspondence with Wardell Armstrong**

Following the issuing of the aforementioned pre-application advice response, the Coal Authority was again requested to provide advice on additional information submitted by Wardell Armstrong on behalf of the applicant in an attempt to address our concerns regarding the risks posed by the mine shafts.

Unfortunately, it does not appear that this correspondence has been submitted for the attention of the LPA and we suggest that you request the submission of a copy of this correspondence for completeness of the planning file. A summary of the pertinent matters raised is nevertheless bulleted for your information below;

- With respect to the implications posed by shaft 419424-020, Wardell Armstrong suggested that the imposition of a condition to effectively remove plots from the approved layout until it can be confirmed that they are not affected by the shaft. They advised 'Jones Homes is willing to accept a condition on the planning consent stipulating that *"the development of plots 6 and 7 and the garage to plot 10 shall not commence until such time as the applicant (Jones Homes) has submitted, and received approval from both the Local Planning Authority (LPA) and the Coal Authority (CA) for a report following further investigation works. This report must satisfactorily demonstrate that the built form of plots 6 and 7, along with the garage to plot 10, does not lie within the zone of influence of any former mine shafts."*
- With regards shafts 419424-004, 419424-005 and 419424-006, Wardell Armstrong highlight a number of constraints that would prevent a full investigation of these features. However, they highlight these the shafts have previously been treated and the risk they pose to the development is considered to be very low. They indicate that investigations for shaft 419424-020 would serve to provide additional ground condition information for the area immediately to the south of the cluster of three shafts, the use of which is likely to enable a reduction in the zones of influence of these shafts.

As communicated to the applicant's technical consultants, the Coal Authority's Planning & Development Team is satisfied that our objection to the layout of the proposed development may be overcome by the imposition of a suitably worded condition effectively reserving the detail of built development at Plots 6, 7 and 10, along the lines of that proposed by Wardell Armstrong. We highlighted that this would of course be subject to the LPA being amenable to this approach.

We highlighted in our response that we assume that the applicant accepts, depending upon the exact position of shaft 419424-020 once located (and treated) or if its location remains inconclusive, that the built elements planned for these plots may have to be omitted entirely from the final scheme of development.

With regards shafts 419424-004, 419424-005 and 419424-006 located in the wooded area in the north of the site, we noted that the current extent of fencing around the shaft

positions does not include all of their associated potential zones of influence (as shown on the Mine Shaft Zone of Influence Drawing appended to the Technical Note).

Nevertheless, we are satisfied that the results of the further investigations would serve to definitely define the extent of these zones of influence and, given the presence of the shafts in an area of POS, to enable the area of potential instability associated with these features to be robustly fenced to prevent public access.

We advised that we would seek to ensure the incorporation of appropriate mitigatory measures, such as geogrid reinforcement, within those parts of the rear gardens of properties that remain within the zones of influence of these shafts. We also highlighted that we would seek the removal of permitted development rights to prevent built development in the form of extensions and curtilage buildings within the zones of influence of the mine entries where these extend into specific plots.

We take this opportunity to highlight that any intrusive investigations and remedial works should be designed and carried out by competent persons and seek to ensure the safety and stability of the proposed development as a whole, including buildings and external parts of the site such as roads and vehicle parking and manoeuvring areas.

The applicant should note that Permission is required from our Permitting & Licensing Team before undertaking any activity which may disturb Coal Authority property. Any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

#### **COAL AUTHORITY RECOMMENDATION (REVISED)**

On the basis of the information reviewed, the Coal Authority's Planning & Development Team would be able to **WITHDRAW ITS OBJECTION** to this application subject to the imposition of conditions on any permission issued to secure the following:

- ***The reserving of approval of the detail of built development at Plots 6, 7 and 10, as suggested by Wardell Armstrong.***

#### **Prior to development commencing:**

- ***The undertaking of a scheme of further intrusive investigations to locate recorded mine shaft 419424-020, to establish the risks posed to the development by past shallow coal mining activity and by recorded mine shafts 419424-004, 419424-005 and 419424-006, and to define the zones of influence of the recorded mine shafts present on site.***
- ***The submission of a report of the findings of the further investigations and a proposed scheme of remedial and mitigatory measures to address the risks posed by coal***

**mining legacy, including a timetable for their implementation, for approval in writing by the LPA.**

**Prior to the first occupation of the development:**

- ***The implementation of the approved remedial and mitigatory measures in accordance with the agreed timetable.***
- ***The submission for approval in writing of a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority. This should confirm the completion of the approved remedial works and mitigation measures necessary to address the risks posed by past coal mining activity.***

**General:**

- ***The removal of Permitted Development rights for the erection of extensions or curtilage buildings within the zones of influence of the mine entries which are to be defined by the further site investigation works (required 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 189 and 190 of the National Planning Policy Framework.*

Should planning permission be granted for this proposal, we also request that the following Informative Notes are included on the decision notice:

### **1 - Ground Investigations and groundworks**

***Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, the piling of foundation, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: [www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property](http://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property).***

## **2 - Requirement for Incidental Coal Agreements**

***If any future development has the potential to encounter coal seams which require excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal Agreement will be required from the Coal Authority. Further information regarding Incidental Coal Agreements can be found at: [www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements](http://www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreements).***

## **3 - Shallow coal seams**

***In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.***

## **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.

## **Surface Coal Resource**

The Coal Authority's records indicate that surface coal resource is present on the site, although this should not be taken to imply that mineral extraction would be economically viable, technically feasible or environmentally acceptable. As you will be aware those authorities with responsibility for minerals planning and safeguarding will have identified where they consider minerals of national importance are present in your area and related policy considerations. As part of the planning application decision making process consideration should be given to such advice in respect of the indicated surface coal resource.

## **SuDS**

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.

If you would like to discuss this matter further, please contact me on the above number.

Yours sincerely

**James Smith** *BSc. (Hons), Dip.URP, MRTPI*  
**Planning and Development Manager**

### **Disclaimer**

The above consultation response is provided by the Coal Authority as a statutory consultee and is based upon the latest available data and the electronic consultation records held by the Coal Authority since 1 April 2013. The comments made are also based on the information provided to the Coal Authority by the Local Planning Authority and/or information that 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 advisors for this development in relation to ground conditions and the acceptability of development.*