



The Coal
Authority



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For the Attention of: Ms N. Helliwell – Case Officer
Kirklees Council

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

29 August 2023

Dear Ms Helliwell

APPLICATION: 2023/44/92107/E

Discharge condition 10 (Validation Report) on previous permission 2021/92981 for erection of 8 detached dwellings with associated landscaping, boundary treatment and vehicular access at Land Off, Oxford Road, Gomersal, Cleckheaton, BD19 4LA

Thank you for your consultation letter of 8 August 2023 seeking the views of the Coal Authority on the above application.

The Coal Authority Response:

The Coal Authority's Planning & Development Team raised no objection to planning application 2021/92981 subject to the imposition of conditions on any permission issued to secure the investigation and, if necessary, the remediation of shallow coal mining legacy affecting the site.

Whilst not reflective of the wording recommended by the Coal Authority, we note that matters relating to coal mining legacy (and contamination) are addressed in Conditions 7-10 of the planning permission subsequently issued. These conditions state:

- 7. Development shall not commence until a Phase II Intrusive Site Investigation Report as detailed within Table 1 of the Coal Mining Risk Assessment prepared by Arc*

Environmental Ltd ref: 18-317.01L (dated 1st May 2018) to establish the exact situation regarding coal mining legacy issues on the site and land contamination has been submitted to and approved in writing by the Local Planning Authority.

- 8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 8 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.*
- 9. 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 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. 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.*
- 10. Following completion of any measures identified in the approved Remediation Strategy or any approved revised Remediation Strategy, a Validation Report shall be submitted to the Local Planning Authority. No part of the site shall be brought into use until such time as the remediation measures for the whole site have been completed in accordance with the approved Remediation Strategy or the approved revised Remediation Strategy and a Validation Report in respect of those remediation measures has been approved in writing by the Local Planning Authority.*

We note that the applicant is seeking to discharge Condition 10 of the issued consent, which clearly follows on from Conditions 7, 8 and 9. It does not appear that the Coal Authority's Planning & Development Team was consulted on information submitted by the applicant to address the requirements of the preceding conditions. However, we assume that the LPA has previously received sufficient information to enable these conditions to be discharged, both in terms of coal mining legacy related land instability matters and contamination.

The applicant has now submitted a letter report from Rob Palmer of RGS, dated 6 July 2023, in support of their current application to discharge Condition 10. Mr Palmer alludes to a '*previous phase 2 investigation*' (presumably carried out pursuant to the requirements of Condition 7), and indicates that a further phase of trenching was

carried out targeting Plot 08. The latest investigations appear to have been undertaken to address concerns regarding the implications posed by the possible presence of combustible material (coal) to building foundations rather than to investigate coal mining legacy related land instability matters.

In light of the above, the Coal Authority's Planning & Development Team wishes to raise no specific comments regarding the information submitted by the applicant in respect of Condition 10 of the issued consent. However, further consideration of this matter may be required under any application for the development under the Building Regulations.

The applicant should be reminded that 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 written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, 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. Further guidance on the matter 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.

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

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 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.