



The Coal  
Authority

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**For the attention of: Ms E. Thornhill – Case Officer**

Kirklees Council

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

29 July 2024

Dear Ms Thornhill

**Re: Planning application 2024/62/91853/E**

**Erection of 18 dwellings with garages, formation of adoptable road, private road and parking spaces and new car park and beer garden for the Liberal Club at Birkenshaw Liberal Club, 10 Croft Street, Birkenshaw, BD11 2HT**

Thank you for your notification of 26 July 2024 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 for Energy Security and Net Zero. 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**

The application site falls within the Coal Authority's defined Development High Risk Area. Therefore, within the site and surrounding area there are coal mining features present at surface or shallow depths. The risk these features may pose should be considered as part of the planning process.

More specifically, the Coal Authority records indicate that the site lies in an area where historic unrecorded underground coal mining activity is likely to have taken place at shallow depth. Voids and broken ground associated with such workings can pose a risk of ground instability and may give rise to the emission of mine gases.

The application is accompanied by a Phase 1 Geotechnical & Geo-environmental Site Investigation report (1 March 2024, prepared by Eastwood Consulting Engineers). Based on a review of coal mining and geological information, Section 3.6.1 of the report concludes that possible unrecorded shallow mine workings pose a potential risk of instability at the site. Accordingly, it goes on to recommend the carrying out of intrusive ground investigations, in the form of the drilling of boreholes, in order to establish the depth, thickness and condition of underlying coal seams/workings.

The Coal Authority's Planning & Development Team welcomes the recommendation for the undertaking of intrusive site investigations. These should be designed and carried out by competent persons and should be appropriate in terms of assessing the ground conditions in order to establish the coal-mining legacy present and the risks it may pose to the proposed development.

The report does not outline what measures may be required in the event that mine workings are encountered within influencing distance of the surface. The results of the investigations should therefore be reviewed by competent persons and used to inform any remedial works and/or mitigation measures that may be necessary to ensure the safety and stability of the proposed development as a whole, including the buildings and external parts of the site such as the road and vehicle parking and manoeuvring areas. Such works/measures may include grouting stabilisation works and foundation solutions.

The applicant should note that Permission is required from our Permitting & Licensing Team before undertaking any activity, such as initial ground investigation works and subsequent remedial works, 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.

### **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.

### **The Coal Authority Recommendation to the LPA**

The Coal Authority's Planning & Development Team notes the conclusions of the Phase 1 Geotechnical & Geo-environmental Site Investigation report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development.

As such, should planning permission be granted for the proposed development, we would recommend that the following conditions are included on the Decision Notice:

- 1. No above ground development shall commence until;**
  - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past shallow coal mining activity; and**
  - b) any 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.**
- 2. 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.***

The Coal Authority therefore has **no objection** to the proposed development **subject to the imposition of the above conditions**. 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 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.*

We also request that the following Informative Notes are included on any planning permission 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, 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. 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 - 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.***

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.*