

**KIRKLEES METROPOLITAN COUNCIL
INVESTMENT & REGENERATION SERVICE**

DEVELOPMENT MANAGEMENT

Town and Country Planning Act 1990 (as amended)

**DELEGATED DECISION TO DETERMINE APPLICATIONS FOR
CONSENT, AGREEMENT OR APPROVAL REQUIRED BY CONDITION**

Reference No:	2024/44/92228/E
Site Address:	Batley Shopping Centre, Alfreds Way, Batley, WF17 5DR
Description:	Discharge of details reserved by conditions 4 (site investigations), 6 (Phase I Desk Study Report), 7 (groundworks), 8 (Phase II Intrusive Site Investigation Report), 14 (drainage) on previous permission for 2023/93630 for erection of detached 2 storey building to form 3 retail units on the ground floor with shisha lounge above
Recommending Officer:	Edward Cheseldine

DECISION – DISCHARGE OF CONDITIONS – SPLIT DECISION

I hereby authorise the approval of this application for the reasons set out in the officer's report and recommendation annexed below in respect of the above matter.

Sarah Longbottom

AUTHORISED OFFICER

Date: 11-Sep-2024

Officer Report

2024/92228 - Batley Shopping Centre, Alfreds Way, Batley, WF17 5DR

Proposal Description

The applicant is seeking the discharge of details reserved by conditions 4 (site investigations), 6 (Phase I Desk Study Report), 7 (groundworks), 8 (Phase II Intrusive Site Investigation Report), 14 (drainage) on previous permission for 2023/93630 for erection of detached 2 storey building to form 3 retail units on the ground floor with shisha lounge above.

Condition 4

No 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. Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that appropriate measures are incorporated into the development at the relevant stage.

Assessment

The following information has been submitted:

- Drilling and Grouting Specification, by Abbeydale Geoscience, ref: 487044-DG, dated July 2024.

The information was assessed by The Coal Authority.

The report indicates that an intrusive investigation, comprising the drilling of two rotary openhole boreholes to depths of 30.0m bgl, was carried out at the site in order to establish the shallow coal mining situation. It advises that evidence of a worked coal seam was encountered at shallow depth. Due to the depth and thickness of the workings, the report goes on to detail a proposed drilling and grouting exercise to be carried out on a grid pattern across the footprint of the proposed building in order to stabilise/consolidate any workings present (as per report Figure 4).

The Coal Authority's Planning & Development Team welcomes the investigatory works carried out and the applicant's apparent intention to undertake drilling and grouting works to stabilise the shallow workings. However, as these remedial works have not been carried out (as required by part b) of the condition, we are unable to recommend that the LPA should discharge Condition 4 of the issued consent at this time.

Intrusive investigations have therefore taken place addressing criterion a).

Remedial works have not been implemented therefore criterion b) has not been met.

Permission must be sought from The Coal Authority's Permitting and Licensing Team before undertaking any remedial works.

As the remedial works have not been carried out, it is not possible to discharge this condition.

Condition 6

6. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that appropriate measures are incorporated into the development at the relevant stage.

Assessment

The following information has been submitted:

- Phase 1 report, by Solmek, ref:S200312, dated April 2020.

KC Environmental have reviewed the Phase 1 report. They found the report to be adequate in identifying the potential contamination sources and recommended the condition is discharged.

Condition 7

7. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved pursuant to condition 6 groundworks (other than

those required for a site investigation report) shall not commence until a Phase II Intrusive Site Investigation Report by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority. Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that appropriate measures are incorporated into the development at the relevant stage.

Assessment

No Phase II Intrusive Site Investigation Report appears to have been provided in the supporting documents. The officer requested the submission of a Phase II report on 16 August 2024 via email, however there has been no response. For that reason, we cannot consider the discharge of Condition 7 at the time of writing.

Condition 8

8. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved pursuant to condition 7 further groundworks shall not commence until a Remediation Strategy by a suitably competent person 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. Reason: To ensure the safe occupation of the site in accordance with Policy LP53 of the Kirklees Local Plan and paragraph nos. 189 and 190 of the National Planning Policy Framework. This is a pre-commencement condition to ensure that appropriate measures are incorporated into the development at the relevant stage.

Assessment

A Remediation Method Statement has been submitted. As a phase II report has not been received, the remediation method statement cannot be commented on or reviewed in full considered parts of the document are missing. Therefore, the condition cannot be discharged.

Decision Notice Text

Condition 4

The following information has been submitted:

- Drilling and Grouting Specification, by Abbeydale Geoscience, ref: 487044-DG, dated July 2024.

As the remedial works have not been carried out, it is not possible to discharge this condition. Permission must be sought from The Coal Authority's Permitting and Licensing Team before undertaking any remedial works.

Condition 6

The following information has been submitted:

- Phase 1 report, by Solmek, ref:S200312, dated April 2020.

KC Environmental Health, found the report to be adequate in identifying potential contamination sources and recommended the condition is discharged. Therefore, the condition 6 can be discharged.

Condition 7

No Phase II Intrusive Site Investigation Report appears to have been provided in the supporting documents. For that reason, we cannot consider the discharge of Condition 7.

Condition 8

A Remediation Method Statement has been submitted. As a phase II report has not been received, the remediation method statement cannot be commented on or reviewed in full considered parts of the document are missing. Therefore, the condition cannot be discharged.