



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]

14 November 2024

Dear Ms Thornhill

Re: Application 2024/44/92949/E

Discharge of conditions 9 (retaining walls), 17 (Phase II Report), 18 (Remediation), 21 (Coal mining) 23 (charging facilities), 24 (facing materials) and 27 (construction management plan) of previous permission 2021/92528 for erection of retail development, associated parking, servicing areas and landscaping at Land off Bankwood Way, Birstall Retail Park, Birstall, Batley, WF17 9DT

Thank you for your notification of 24 October 2024 seeking the views of the Coal Authority on the above application.

The Coal Authority response:

The application site falls within the defined Development High Risk Area. The Coal Authority records indicate that the plotted position of a recorded mine entry (adit, CA ref. 423427-054) is within the north eastern part of the site. In addition, the site lies in an area where underground coal mining activity is recorded to have taken place at shallow depth and where further historic unrecorded shallow coal mining is likely to have occurred.

You will be aware that, taking into account the content and professional opinions expressed in a supporting Detailed Coal Mining Risk Assessment (28 October 2021, prepared by Sirius), the Coal Authority's Planning & Development Team withdrew its objection to planning application 2021/92528, to which the current discharge of condition application relates. The removal of our objection was subject to the imposition of a

relevant conditions on any permission issued. We are therefore pleased to note that our recommended conditions are reflected in Conditions 21 and 22 of the consent subsequently issued, which state:

21. *None of the development hereby approved shall commence until:*
- a scheme of further intrusive investigations has been carried out on site to establish any risks posed to the development by past coal mining activity; and*
 - 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 relevant UK guidance.*
22. *Prior to the first occupation of the development, or it being brought 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.*

We note that the applicant has applied to discharge Condition 21 of the issued consent in full. Whilst this condition does not require the submission of any information for approval, the applicant has nevertheless submitted a number of documents for consideration by the LPA.

One of the supporting documents is a Supplementary Coal Mining Investigation report (28 March 2022, prepared by Sirius) which supplements previous Phase 1 and 2 Ground Investigation reports for the site. This report indicates that a further phase of intrusive investigations, comprising the drilling of rotary probe holes and trial pitting / trenching, has been carried out on site in order to further assess the risk posed by coal mining legacy.

The aforementioned report indicates that the drilling of closely spaced boreholes perpendicular to the recorded alignment of the adit and additional trial trenching, encountered no evidence of the feature to a maximum depth of 25m bgl. The report author considers that the adit may have been removed as part of historical earthworks within the north eastern site area and, as such, consider the feature to pose a low risk to surface stability. Should the adit exist at a depth greater than 25m bgl, the report author is satisfied that sufficient overlying competent cover is present within the eastern part of the site to mitigate any risk from surface stability of the adit.

In terms of shallow underground mining activity, based on the finding of the investigations, the report author is satisfied that the risk from pillar and stall workings within the eastern part of the site is low and such there is no requirement for remedial stabilisation works within the north eastern area of the site.

They do, however, highlight that underground coal workings do pose a risk to surface stability within the northern and western parts of the site (as set out in earlier reporting). They advise that shallow mine workings present beneath these parts of the site should be stabilised by means of drilling and pressure grouting. They also advise that confirmatory probe holes should be drilled within the areas of the former quarry to prove the absence of any shallow coal seam.

The report indicates that the possibility of encountering unrecorded mine entries/bell pits cannot be discounted. It advises that excavations should be inspected for any disturbed ground, associated with possible historic bell pits/mine entries/ crop workings of the shallow coal. It also recommends that areas beneath proposed buildings have overlying made ground removed in order to expose the natural ground (presumably at the time of development taking place).

We note that further details of proposed remedial works are included in a Specification for the Drilling and Grouting of Shallow Mine Workings (May 2022, prepared by Sirius) and a subsequent Combined Remediation Strategy, Drilling & Grouting Plan (May 2024, prepared by Remada Ltd). These appear to indicate that the drilling and grouting of workings in the shallow coal seam will take place within those parts of the site where this seam has not been removed by past quarrying activity. The latter report also advises that foundation designs of the buildings should consider the presence of shallow treated/consolidated mine workings.

The Coal Authority's Planning & Development Team welcomes the further investigatory works carried out. We acknowledge the professional opinions expressed regarding the absence of the recorded adit and the anticipated extent of shallow workings which could pose a risk of surface instability. We also welcome the apparent intention to undertake remedial works to stabilise these workings. We wish to highlight that these further works should seek to ensure the stability of not just the built development but also external parts of the site, such as access roads and vehicle parking and manoeuvring areas.

We consider that the first part of Condition 21 has been satisfactorily addressed. However, it is evident that the works required to remediate coal mining legacy affecting the site have not been implemented and as such the second part of the condition has not been complied with. We are therefore unable to recommend that the LPA should discharge Condition 21 of the issued consent at this time.

We take this opportunity to highlight that Permission will be required from our Permitting & Licensing Team before undertaking the proposed remedial works which will disturb Coal Authority property, i.e. coal seams and associated workings. Any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

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

Yours sincerely

James Smith

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

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 purposed 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.