

Re: Planning Application No. 2024/62/93458/E

We OBJECT to this planning application for the following reasons:

1. It is not clear who is the Applicant. "PB Planning Ltd c/o JGC (1980) & Nick Gould" is not a legal entity. The Applicant should be required to state properly which legal entity is actually making this application, otherwise the application is invalid.
2. The principle of consistency in planning decisions is well-established and previous planning decisions are a material consideration. This application has been refused by two separate planning committees and there has been no fundamental change to the proposal. The first application (2022/91911) was recommended for refusal by the LPA and was indeed refused on a number of grounds by the planning committee. It is submitted that the grounds for refusal were not fully addressed in the second application and so it is concerning that the LPA decided to recommend that the second application be allowed. Specifically on the issue of coal extraction, there was no material change to the application at all compared to the first application. It was on that basis that the first committee hearing of the second application (2023/92191) was deferred due to a lack of information about the coal extraction plans. When the committee was reconvened, very little new information had been provided and the application was again refused on the same ground as the first application in regard to the coal extraction. There has been no fundamental change to the plans in this new application.
3. The committee which heard the second application may well have raised further grounds for refusal, however during the second hearing of the second application, the planning officer directed the planning committee that it may only consider grounds of refusal based on the reason for the deferral (i.e. coal extraction) when in fact the application had gone back before the committee as a full application. That statement was misleading and denied the committee of an opportunity to consider other reasons for refusal such as those set out in the grounds of refusal to the first application.
4. The Applicant makes much of the Springhead Gardens development to the south of the site as being a precedent for approval of this site. The Springhead Gardens development did not involve the extraction of coal and was not bordered closely by existing properties at the time it was developed and so is irrelevant.
5. Coal Extraction and Environment. The plans include a Ground Stabilisation Remediation Strategy which recommends the extraction of coal from the site to stabilize the ground to be fit for development. There is insufficient detail on this proposal, however it would effectively be an open cast mining operation. The site is bordered by various residential properties, a spring, and a public footpath. There is known wildlife, including bats, and a tree which is subject to a TPO on the site.
 - a. Coal mining has a significant physical and environmental impact as it releases methane gases into the atmosphere leading to a significant reduction in air quality. There is no sufficient risk assessment in place which sets out how the risks to the environment will be managed whilst the extraction operation is carried out. For example, how air quality will be preserved and the tree subject to the TPO will be protected. The application, particularly the Ecological/Biodiversity Assessment and the Air Quality Assessment, does not fully address the risks of the proposed coal extraction operation.
 - b. The location of the spring, which runs down the left-hand side of the site from the public footpath to Leak Hall Road, means that any excavation works carry a risk of

water contamination to the area and surrounding properties. There is no sufficient risk assessment carried out in relation to water contamination.

- c. The National Planning Policy Framework (NPPF) requires that the planning regime should prevent new development from contributing to, or being an unacceptable risk of, unacceptable levels of soil, air, water or noise pollution or land instability. Clearly these are all risks of open seam coal mining, which are unacceptable in the location proposed due to the village location and close proximity to neighbouring properties to the site.
 - d. If the land cannot be developed without resort to coal extraction and the risks to the environment associated with it, then it is submitted that the land is not fit for development. There is no overwhelming community benefit in coal extraction at this site, and it does not accord with the government's objectives or targets in relation to the environment and use of green energy. In the Local Plan there is a presumption against developments identified as being at risk of instability or where there is evidence of contamination (e.g. by methane gases present in coal seams) which could cause harm to people or the environment.
 - e. There is a presumption in the NPPF against development in the green belt which would be harmful to the land within it. It expects planning to consider open spaces and opportunities for sport and recreation and to enhance biodiversity. It is submitted that this plan does not meet those requirements.
 - f. There is no detail about how the access point for the heavy machinery and wagons which will be required to extract and remove the coal from the site, will be made safe. The access point for the proposed site development is problematic in any event (see point 9 below), but is certainly not fit for large vehicles in that it joins Cumberworth Lane at its narrowest point where visibility is low and traffic is high. It also abuts a public footpath which is used very regularly by walkers and children going to school, which presents a significant safety risk.
 - g. The coal extraction plan is woefully lacking in detail; there have been no risk assessments done in relation to the impact on neighbouring properties which closely border the site; there has been no Environmental Impact Assessment as required by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 in relation to coal extraction. There is no detail about how residents whose properties are close to the site will be compensated for noise, dust, potential damage to properties and potential loss of value in properties as a result of coal mining activity in the vicinity.
 - h. Previous planning applications 2022/91911 & 2023/92191 were refused on this ground and the new plans do not further address the issue.
6. The Kirklees Local Plan was developed with projected population levels based on old census data. It is known that the population has not reached the levels envisaged and so the level of housing is not as required in the Plan. The Plan is being reviewed by the Council. In the knowledge that the Plan is based on incorrect data, it would be inappropriate to move ahead with housing development in green belt areas before that review has been carried out. Once it is developed it cannot be reversed. If, when that review is carried out, less housing is required than envisaged, housing development should be carried out in areas outside the green belt first. It is therefore premature to allow this development to go ahead until the Local Plan is reviewed.
 7. Flood Risk. There is a risk of flooding to the neighbouring properties on the south side of the site. There have been several occasions when flooding has occurred in the Wakefield Road

area to the south of the proposed site as a result of run off water from the direction of the site. The Applicant has proposed an attenuation tank in the plans, but there are no details or risk assessment of how this will affect the site's neighbouring properties or protect them from flood risk.

8. Proposed housing. Given the topography of the site, plots 43-46 which back on to Springhead Gardens are positioned too close to the boundary with the adjacent land. The proposals acknowledge that at least one of these plots does not achieve the required separation distance with the neighbouring property. These are three-storey houses which will stand at a much higher topographical level than Springhead Gardens. These plots will be overbearing on the existing properties to an unreasonable level, causing significant loss of privacy and amenity to existing residents. The LPA's report to the committee in the second application states that the required separation distance is 21 metres. In fact, this is the typical minimum distance required in the Housebuilders Design Guide for two-storey houses. These are three-storey houses. The Housebuilders Design Guide at paragraph 7.21 states that longer distances may be necessary if the site includes higher buildings or the steep topography of the site presents particular challenges relating to overlooking, which is clearly the case here. The height of these homes is therefore inappropriate in the position proposed, as they will impact on the privacy and amenity of properties on Springhead Gardens. Planning application 2022/91911 was refused on this ground and the new plans do not fully address the issue.
9. Access and Traffic. The Transport Assessment identifies Cumberworth Lane as "lightly trafficked". We do not agree with this conclusion from the data provided by the Applicant. This is a busy road. It is narrow with no footpath on the side of the road at the proposed point of access to the site, with difficult visibility as demonstrated by the need for a mirror to assist drivers with turning out of the Methodist Church opposite. The increased amount of traffic due to the proposed development would create an unacceptable impact on highway safety. When the site was originally added to the Local Plan it was recommended that access should be via Leak Hall Lane and the Council's Report on Adoption of the Plan confirms the Inspector's recommendations are binding. During the hearing of the second application, the LPA sought to justify the site entrance at Cumberworth Lane by saying the condition in the Local Plan referred to creating a pedestrian access at Leak Hall Lane, not vehicular. This cannot be correct because the original wording of the draft Local Plan simply stated "The provision of a pedestrian footway is required across the site frontage". i.e. to build a pavement perpendicular to the main site entrance. There is currently a pavement neither at Cumberworth Lane nor Leak Hall Lane and so the only explanation for adding in the words "the site frontage at *Leak Hall Lane*" was that the Planning Inspector required that to be the main site entrance.

In conclusion, we believe there are overwhelming reasons to reject this planning application.