

This application is materially no different from the previous (refused) application for this site. The new application contains a 'biodiversity statement' and a 'peer review'. Neither materially alters the application.

It is believed that this application is a 'Trojan horse' application to allow the opencast mining of coal. The applicant clearly does not intend to develop the site themselves as they are 'in discussion with a number of developers including national housebuilders'.

There are three interconnected reasons given by Kirklees officers for the previous refusal of this application.

1. The ground works, removal of coal, and remediation associated with the proposed development would result in an unacceptable number of vehicle movements and unacceptable environmental impacts.
2. In addition, due to unknown conditions beneath the site, there is a lack of information that prevents it being fully ascertained what the environmental impacts of the aforementioned works would be.
3. Furthermore, it has not been demonstrated that the site is suitable for residential development.

The proposed development is therefore contrary to Policies LP24, LP36, LP52 and LP53 of the Kirklees Local Plan and chapters 8, 15 and 17 of the National Planning Policy Framework

1. Applicant states (on own estimates) traffic movements of 550 HGVs to remove material. This figure is inaccurate. Based on 20 tonne loads the actual figure, *if the lowest estimate* of the applicant is used, is around 650. In addition the applicant claims three further HGV movements per day (so six each way) but does not specify a time period for this. Assuming six months of operations, this is around 244 HGVs a month, or 11 per working day, presumably in each direction (to and from the site).

Furthermore, there will be waste material as well as coal to transport, plus the material (estimated at 1650 tonnes) to be brought into the site.

Cumberworth Lane cannot support this amount of extra traffic.

According to the report from GRM Development Solutions Ltd (31/5/2024), ground works would be carried out using large tracked rotary rigs. These typically operate at noise volumes of 90 - 105 decibels so within 'hazardous' to 'highly hazardous' levels (source 'The Driller' online).

The applicant makes no mention of noise mitigation.

2. The conditions beneath the site are not sufficiently or accurately known. To stabilise the site, the applicant proposes to use grouting and capping and says that excavation *may be necessary* at the centre of the site.

This excavation would involve the opencast mining of a thick coal seam (the Whinmoor Seam).

The original application in 2022 '(2022/62/91911/E) Proposal for 48 houses. (REFUSED)' proposed mining the entire site for 12,000 tonnes of coal and involved excavations to 10m deep, only metres from neighbouring properties. A coal processing plant was to be sited in the NW corner of the site. The report remains available on Kirklees Planning Portal.

The latest application removes the explicit intention to remediate by mining replacing it with "Additionally, excavation *may be necessary* at the centre of the site.' with the mining of 'approximately 4400 cubic metres', a figure 'likely to change as works progress'. The

submitted Ground Stabilisation Remedial Strategy (GRM July 2023) discusses **needing to excavate the centre of the site, over an area of 4,500m², to 6 metres deep, to remove combustible coal**. Using an estimated seam thickness of 1.4m average, and 30% being already worked, they state the 'potentially extractable volume of coal is estimated as being approx. 4,150 cubic metres - subsequently increased by GRM to 4400 cubic metres (GRM letter 31st May 2024) .

These estimates are based on two weak 'assumptions'. The Applicant's response to questions regarding environmental impacts is 'based on' an 'assumed' thickness of seam and an 'assumption' that 30% has been worked arriving at an 'approximation' which, according to the applicant, is 'likely to change'.

Nevertheless, 4400 cubic metres of coal is proposed to be mined, contrary to any number of local and national environmental policies.

If the applicant's estimates are even slightly inaccurate, this figure could be substantially larger making all of the estimates regarding timescales, vehicle movements, pollution etc. become unviable.

There is no evidence (or assessment) of **where the coal will be disposed of once it has been mined**. If it is to be sold, the income has not been anywhere declared. If it is combusted, this is contrary to Kirklees' environmental policies and current priorities.

The applicant states in the appeal documentation (an identical application has already been refused and is currently subject to appeal) that it 'does not intend to dispose of any coal extracted from the site for commercial purposes'. This does not prevent it giving this task to another entity. There are only two options for mined coal. Burning it (commercially) or safe permanent storage. Neither option is stated.

3. The 'peer review' (commissioned and paid for by the applicant) cites the small six house development at Springhead Gardens, in the corner of HS144 as a precedent for development, claiming that this was a project that proceeded without 'unacceptable' environmental or health risk or damage.

This is not a sufficiently similar site to make a comparison. For this site, access is off a minor road (with no through traffic) and there were **no coal seams to mine**. The grouting exercise involved dozens, if not hundreds, of HGV movements.

In addition, the site required much more 'remediation' material than originally anticipated and the lack of a Groundworks Management Plan meant that there were many breaches of conditions. Over a period of many weeks, huge quantities of spoil were loose tipped onto adjoining land (the site currently under this Appeal) by the developer, presumably with the landowner's connivance, most of it outside the red line boundary of the Springhead Gardens development. This caused continuous unmitigated noise and dust.

Furthermore, **the geology of the two sites is not similar**. The Harland Resources report geological maps (available at nls.org.uk) indicate that the thick Whinmoor seam does not affect Springhead Gardens, only a 'Cumberworth thin' seam skirts the edge of that site. The geology is not comparable.

Whilst Paragraph 11 c) of the NPPF identifies that decisions should apply a presumption in favour of sustainable development, it is contended that **this site is not sustainable, primarily due to the necessity of removing large quantities of coal**. Thus it is not suitable for residential development.

There are also doubts about financial viability, given the extraordinary costs required to remediate the site – estimated in the Financial Viability Assessment Report (Avison Young, November 2023) at approx. £2.2million, or £36,000 per plot, giving a much-lower than desired profitability, indeed unviability if the scheme remains policy-complaint as set out.

This suggests that if attempts at remediation prove to be even a little more expensive, the developer will either drop the affordable homes the village needs or declare bankruptcy and fail to pay s106 funds, or even abandon the works, leaving a worst-case scenario of a contaminated hole in the ground. This report only allows 5% contingency, despite the known uncertainty.

The initial company named as applicant has already gone into liquidation, following Committee refusal last July - giving a different individual name (but connected to those in the previous company) and company now in the Appeal process.