



The Coal
Authority

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For the attention of: Christopher J Harrison (case officer)

Cumberland Council (Copeland area)

[By email: Development.Control3@cumberland.gov.uk]

28 February 2024

Dear Mr Harrison

Re: Planning application 4/23/2314/0F1

Erection of a discount food store with associated access, parking, hard and soft landscaping and associated works; Land at Preston Street, Preston Street, Whitehaven

Thank you for your notification of 8 February 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

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

The Coal Authority records indicate that the Brick (Bannock) coal seam is conjectured to outcrop at or close to the surface of the site. This seam is recorded to have been worked at shallow depth beneath the site. These recorded mining features could affect public safety and surface instability for the redevelopment of this site.

The planning application is accompanied by a Geo-environmental Appraisal and Coal Mining Risk Assessment by 3E Consulting Engineers and dated 31.01.22. We note that the assessment reviews relevant sources of coal mining and geological information, including a mine abandonment plan and the results of intrusive ground investigations carried out at the site.

The report indicates that intact coal was encountered during drilling, with no evidence of voids, broken ground or loss of flush was recorded at any of the rotary borehole locations. However, the report acknowledges that the Bannock coal seam is recorded to have been worked at shallow depth and considers that there exists the potential for the boreholes to have intersected intact supporting pillars within the workings. As such, and given that the coal seam lies within influencing distance of the site surface, the assessment takes a precautionary approach to allow for localised probing and grouting across the building footprint.

We welcome the recommendation for the undertaking of further intrusive site investigations. These should be designed and carried out by competent persons, in cognisance of the conclusions of the submitted report. The results of the investigations should be used to inform any remedial works and/or mitigation measures that may be necessary to ensure the safety and stability of the proposed development.

Due consideration should be given to extending these works across the whole of the development site and not just the building footprint especially given the shallow ratio of rock cover to seam thickness.

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.



Sustainable Drainage (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 concurs with the conclusions of the Geo-environmental Appraisal and Coal Mining Risk Assessment by 3E Consulting Engineers dated 31.01.22; 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 further 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 further 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.

Should planning permission be granted for this proposal, we also request that the following Informative Notes are included on the 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.

2 - Shallow coal seams

In areas where shallow coal seams are present caution should be taken when carrying out on site burning or heat focused activities.

If you would like to discuss this matter further, do not hesitate to contact me.

Yours sincerely

Iain Armstrong

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Planning Liaison Consultant

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.