



The Coal
Authority



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For the Attention of: Helen Pressley – Case Officer
Bury Metropolitan Borough Council

[By Email: development.control@bury.gov.uk]

13 March 2023

Dear Ms Pressley

PLANNING APPLICATION: 68809

**Outline permission for 3 dwellings, with all matters reserved apart from access;
Land to Rear Of, Wells Street, Bury, BL9 0TU: RECONSULTATION**

Thank you for your notification of 01 March 2023 seeking the views of the Coal Authority on further information and amendments made to the above planning application.

The Coal Authority Response: Material Consideration

As you are aware, the Coal Authority objected to this planning application in our previous letter to you dated 22 December 2022 as no Coal Mining Risk Assessment had been submitted at that time to assess the risk to the proposed development from the mine entry (CA shaft ref: 380410-001) recorded to be within or within close proximity of the northern part of the site.

We note that the applicant is now seeking outline consent for only three dwellings of which we are pleased to note that these are proposed within the southern part of the site; outside the 20m zone from the mine entry. However, we would request that the LPA consult us on any subsequent reserved matters application.

The planning application is now accompanied by a Coal Mining Risk Assessment Report (A5346/23/CMRA/V1, February 2023) prepared for the proposed development by Earth Environmental & Geotechnical Ltd. The Report has been informed by historical, geological and coal mining information (Section 1.10).

Having carried out a review of the available information, the report authors inform that whilst a mine entry is recorded within the northern boundary of the site (proposed bin store) the area where the dwellings are proposed lies outside the Development High Risk Area as defined by the Coal Authority. Recommendations have been made that a watching brief be maintained during all construction activities and if the mine entry is found, will need to be treated and capped.

As identified in our previous letter, our records indicate the mine entry is located just within the site boundary. Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. Accordingly, we consider that in order for the applicant to demonstrate safe and stable development, as a whole, at this site, intrusive ground investigations should be carried out to confirm the presence or otherwise of the mine entry. It would be prudent to carry out a positional review of the mine entry in order that the best plot position can inform the intrusive investigations. If the mine entry is not found within the site, the worst-case scenario should be assumed that the mine entry is just outside the site boundary. Based on the findings of the intrusive ground investigations (depth to bedrock) the zone of influence (no build exclusion zone) can be calculated by the applicant's geotechnical consultants who can then recommend what mitigatory measures are required within the no build exclusion zone.

The applicant should be made aware that when a site is affected by land instability, the responsibility for securing safe and stable development rests with the developer / landowner (NPPF paras. 183 and 184).

The intrusive site investigations should be designed and undertaken by competent persons to ensure that these are appropriate to assess the ground conditions on the site to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary.

The applicant should be aware that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property. Please note that any comments that the Coal Authority may have made in a Planning context are without prejudice to the outcomes of a Permit application.

Mine Gas

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

It should be noted that 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

In light of the above, the Coal Authority recommends the imposition of the following conditions:

1. No development shall commence until;

a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity (mine entry: 381410-001), 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. This should include the submission of the approved site layout plan which illustrate the position and co-ordinates of the mine entry if found within the site and the zone of influence (no build exclusion zone) of any mine entry out with but within influencing distance of the site.

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.

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 Coal Authority **withdraws its objection** to the proposed development **subject to the imposition of the conditions** to secure the above.

The following statement provides the justification why the Coal Authority considers that a pre-commencement condition is required in this instance:

The undertaking of 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 183 and 184 of the National Planning Policy Framework.

Please do not hesitate to contact me if you would like to discuss this matter further.

Yours sincerely

D Roberts

Deb Roberts M.Sc. MRTPI

Planning & 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 trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Any form of development over or within the influencing distance of a mine entry can be dangerous and raises significant safety and engineering risks and exposes all parties to potential financial liabilities. As a general precautionary principle, the Coal Authority considers that the building over or within the influencing distance of a mine entry should wherever possible be avoided. In exceptional circumstance where this is unavoidable, expert advice must be sought to ensure that a suitable engineering design is developed and agreed with regulatory bodies which takes into account of all the relevant safety and environmental risk factors, including gas and mine-water. Your attention is drawn to the Coal Authority Policy in relation to new development and mine entries available at: <https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The

comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes 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 advisers for this development in relation to ground conditions and the acceptability of development.