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2023/1164

Mr Philip Fletcher

Land adjacent to 7a Station Road, Dodworth, Barnsley, S75 3JD.

**Removal of conditions 14 (Coal Mining Legacy) and 15 (Ground Stability) relating to planning application 2022/0008 - Erection of detached dormer bungalow with associated access, parking area and landscaping.**

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### Site Description

The application site is an infill plot located just off the corner of Station Road and Baslow Crescent in Dodworth. The plot measures c.325sqm in total located to the rear (West) of 7a Station Road, which is a commercial unit, most recently used as a sandwich shop but has previously been used as a hot food takeaway at various points. There is a slight pitched roof substation to the immediate side/North of the plot. The site previously had substantial hedging located on the front boundary line (visible on historic google street view images as late as 2020), which was removed prior to the submission of planning application 2022/0008.

The site is located just outside of the Local Centre of Dodworth (as allocated in the Local Plan), and the surrounding area is fairly diverse with a variety of different use types including 2 x drinking establishments – the Dodworth Tap to the North and Dodworth Central Social Club to the East. There are other commercial uses further East such as the Co-op supermarket. However, the site itself is located at the start of a residential estate and the street scene to the South and West is largely characterised by detached and semi-detached bungalows. The site is allocated as Urban Fabric and falls within a high-risk coal mining area.



## **Planning History**

There are several previous planning applications associated with the application site:

1. 2007/0775 – Erection of detached bungalow. – Refused.
2. 2007/1550 – Erection of detached bungalow (Outline) (Resubmission) – Approved.
3. 2019/1096 – Erection of dormer bungalow and provision of associated access and car parking. – Withdrawn
4. 2020/0490 – Erection of 1 no. pair of semi-detached dwellings. – Refused.
5. 2022/0008 – erection of detached dormer bungalow with associated access, parking area and landscaping. – Approved.
6. 2023/0847 – Discharge of condition(s) 3 (Floor Levels), 4 (External Materials), 5 (Boundary Treatments), 7 (Soft Landscaping Details) and 16 (Noise Assessment) relating to planning application 2022/0008: Erection of detached dormer bungalow with associated.

## **Proposed Development**

The applicant is seeking approval for the removal of conditions 14 (coal mining legacy) and 15 (ground stability) in relation to planning application 2022/0008. An updated Coal Mining Risk Assessment has been submitted.

## **Policy Context**

Planning decisions should be made in accordance with the current development plan policies unless material considerations indicate otherwise; the National Planning Policy Framework (NPPF) does not change the statutory status of the development plan as the starting point for decision making. The Local Plan was adopted in January 2019 and is now accompanied by seven masterplan frameworks which apply to the largest site allocations (housing, employment, and mixed-use sites). In addition, the Council has adopted a series of Supplementary Planning Documents and Neighbourhood Plans which provide supporting guidance and specific local policies which are a material consideration in the decision-making process.

The Local Plan review was approved at the full Council meeting held 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means, no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027, or earlier, if circumstances require it.

### Local Plan Allocation – Urban Fabric

The application site is allocated as urban fabric within the adopted Local Plan which has no specific land allocation. Therefore, the following policies are relevant:

- ***Policy SD1: Presumption in favour of Sustainable Development.***
- ***Policy GD1: General Development.***
- ***Policy D1: High quality design and place making.***
- ***Policy T3: New Development and Sustainable Travel.***
- ***Policy T4: New Development and Transport Safety.***
- ***Policy POLL1: Pollution Control and Protection.***

### Supplementary Planning Documents

- ***Design of Housing Development.***
- ***Sustainable Travel.***
- ***Parking.***

### National Planning Policy Framework

The NPPF sets out the Government's planning policies and how these are expected to be applied. The core of this is a presumption in favour of sustainable development. Proposals that align with the Local Plan should be approved unless material considerations indicate otherwise. In respect of this application, relevant policies include:

- ***Section 12: Achieving well-designed and beautiful places.***

### Town and Country Planning Act 1990 (as amended)

Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. The Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 73.

### Other Material Considerations

South Yorkshire Residential Design Guide 2011.

## **Consultations**

1. South Yorkshire Mining Advisory Service (SYMAS) – No objection.
2. The Coal Authority (TCA) – No objection.

## **Representations**

No neighbouring properties were consulted.

## **Assessment**

### Principle of Development

The erection of detached dormer bungalow with associated access, parking area and landscaping was approved under planning application 2022/0008. A subsequent Discharge of Conditions application was made (2023/0847) seeking the discharge of details concerning conditions 3 (Floor Levels), 4 (External Materials), 5 (Boundary Treatments), 7 (Soft Landscaping Details) and 16 (Noise Assessment). Conditions 14 (Coal mining Legacy) and 15 (Ground Stability) were initially included but removed following comments from the Coal Authority.

Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition(s) previously imposed on a planning permission. The Local Planning Authority can grant such permission unconditionally or subject to different conditions, or they can refuse the application if they decide that the original condition(s) should continue. The original planning permission will continue to subsist whatever the outcome of the application under section 73.

This application seeks to remove conditions 14 (Coal mining Legacy) and 15 (Ground Stability) in relation to planning application 2022/0008.

This application does not seek to amend the proposed development approved under planning application 2022/0008 nor the details discharged under application 2023/0847 concerning conditions 3 (Floor Levels), 4 (External Materials), 5 (Boundary Treatments), 7 (Soft Landscaping Details) and 16 (Noise Assessment) in relation to planning application 2022/0008. Therefore, the assessment carried out within that planning application concerning residential amenity, visual amenity and highway safety remains valid and unchanged.

### Coal Mining Legacy and Ground Stability

The application site is located within a high-risk coal mining area. As such, planning application 2022/0008, to which this removal of condition(s) application relates, was accompanied by a Coal Mining Risk Assessment ((20 September 2019, prepared by Lyons CMC Coal Mining & Geotechnical Consultancy). This report concluded that the site is at moderate to high risk as a result of past shallow coal mining activity. It went on to recommend that intrusive investigations should be carried to ascertain the depth and condition of the Joan Coal seam and underlying Flockton Thick coal, the latter of which is recorded to have been worked at shallow depth beneath the site. Based on the professional opinions and recommendations expressed in the aforementioned report, the Coal Authority raised no objection to the planning application subject to the imposition of conditions on any permission granted to secure the investigation and, if necessary, the remediation of shallow coal mining legacy along with the verification of works carried out. This is reflected in condition(s) 14 (Coal mining Legacy) and 15 (Ground Stability).

An updated Coal Mining Risk Assessment (June 2023, prepared by MDJA) has been submitted to support this application to remove condition(s) 14 (Coal mining Legacy) and 15 (Ground Stability). As with the original report, the latest report indicates that the Joan Coal seam is likely to be the shallowest coal seam present beneath the site but notes that geological memoirs (not reviewed as

part of the original CMRA) suggest that most of Dodworth is unaffected by mining in the Joan Coal. It acknowledges that the Joan Coal is underlain by the Flockton Coal seam, which is the shallowest worked coal seam present beneath the site at a depth of 29m. It concludes that due to its depth and extraction thickness 'it is too deep to be of concern and will not affect surface stability.'

The report goes on to conclude at Section 4.2 that 'the site can be considered unaffected by past mining, and further investigation by way of rotary boreholes is not necessary. As a purely precautionary measure, it would be advisable to lightly reinforce any strip footings.'

Based on the latest information submitted and the professional opinions contained therein, which draws upon additional sources of information, neither SYMAS or TCA raised objections to the removal of condition(s) 14 (Coal mining Legacy) and 15 (Ground Stability). However, further, more detailed considerations of ground conditions and foundation design may be required as part of any subsequent building regulations application.

**Recommendation -  
Approve with Conditions**