

Applicant: Mr David Wright

Description: Removal of condition 12 (site investigation to fully investigate potential mining legacy risks) of planning permission 2019/1466 - Erection of 1 no. detached two storey dwellinghouse as amended to enable increase in height of roof and insertion of dormer window extension to the front
 Site Address: 2A Station Road, Worsbrough Dale, Barnsley, S70 4SY

Site Description

The application relates to a recently constructed, detached, stone built, 2.5 story dwelling which fronts Station Road. To the front of the dwelling is an area of hardstanding providing off road parking and to the rear is a tiered, enclosed garden area.

To the East of the site is a detached, brick built dwelling and to the West is a former car sales garage which has been recently extended and changed its use to a health and nutrition business. To the rear of the site are dwellings on a higher level which are accessed off Thickett Lane and to the front is the junction between Station Road and Edmunds Road.

It should be noted that the dwelling was approved under application 2019/1466, however, it was not constructed in accordance with the plans and the pre-commencement/upon commencement conditions were not discharged. As such, the dwelling is essentially unauthorised.

Proposed Development

As outlined above, the property was constructed without any pre-commencement conditions being discharge and was not constructed in accordance with the approved plans, in particular the parking and turning space to the front/side of the dwelling.

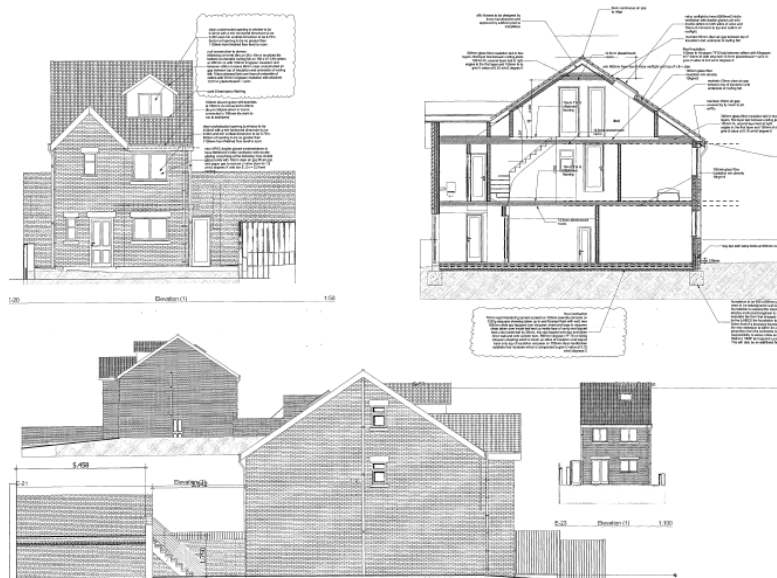
One of the conditions which was not discharged was condition 12 which stated;

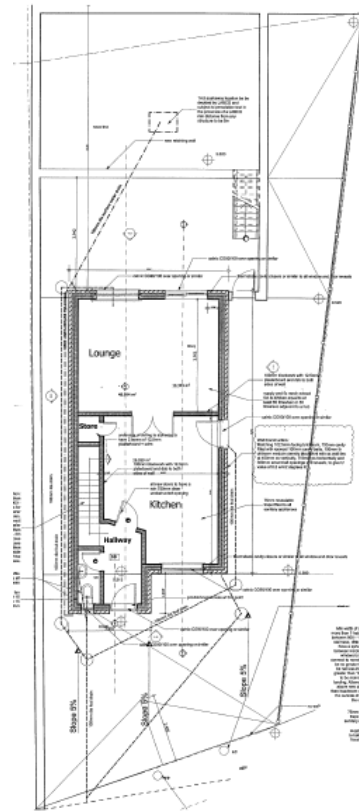
Prior to the commencement of development a site investigation must be undertaken to fully investigate potential mining legacy risks. The investigation should be carried out in compliance with CIRIA publication 32 'Construction Over Abandoned Mine Workings', a report detailing the findings of the investigation and any recommended mitigation shall be submitted for approval in writing by the Local Planning Authority, the development thereafter shall carried out in accordance with the approved details.

Reason: In the interest of Land stability NPPF sections 120 & 121

As the dwelling is now complete the applicant has applied to remove this condition.

Dwelling as approved under application 2019/1466





Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the 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 also 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 and 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.

The site is allocated as Urban Fabric within the Local Plan Proposals Maps and therefore the following policies are relevant:

Policy H1 The Number of New Homes to be Built

Policy T4 New development and Transport Safety

Policy SD1 Presumption in favour of Sustainable Development

Policy LG2 The Location of Growth

Policy GD1 General Development

Policy D1 High Quality Design and Place Making.

Policy Poll1 Pollution Control and Protection

Policy BIO1 Biodiversity and Geodiversity

Policy CC2 Sustainable Design and Construction

SPD's

-Designing New Residential Development
-Parking

Other

South Yorkshire Residential Design Guide

NPPF

The NPPF sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Paragraphs of particular relevance to this application include:

Para 7 - The purpose of the planning system is to contribute to the achievement of sustainable development.

Para 11 – Plans and decisions should apply a presumption in favour of sustainable development.

Para 92 - Planning policies and decisions should aim to achieve healthy, inclusive and safe places

Para 111 - Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Para 126 - The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.

Para183 - Planning policies and decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Para184 - Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

Consultations

SYMAS – Object due to lack of information

The Coal Authority – Object due to lack of information

Ward Councillors – No comments

Representations

None

Assessment

Principle of development

Condition 12 required the applicant to, prior to commencement, undertake a site investigation to fully investigate potential mining legacy risks. A report detailing the findings, and any recommended mitigation, needed to be submitted to, and improved by writing, the Local Planning Authority. However, this was not done and the dwelling was constructed without being informed by a site investigation, in breach of the condition.

The applicant argues that given the dwelling is built and has been signed off by Building Control that this condition is no longer relevant and should be removed from planning application 2019/1466. However, Building Control have stated that they were not supplied with any Coal Mining legacy information from the applicant and were unaware of the potential issues.

South Yorkshire Mining Advisor Service have been consulted on this application to remove condition 12 and have stated that only a Coal Authority CON29m report has been submitted which confirms the site is potentially at risk from coal mining legacy risks due to the probable presence of shallow Coal. However, no site investigation has been submitted, as such, there are no details of what those risks are or what mitigation measures are required. SYMAS have therefore objected to the removal of the condition.

The Coal Authority have also been consulted on the application and state that the information submitted is in no way considered to be appropriate in order to discount risks to ground stability posed by coal mining legacy, as such, The Coal Authority objects to the removal of condition 12.

Given the above comments from the experts in this field it would be inappropriate to remove condition 12 without the required information to identify the potential risks and any required mitigation measures. The proposal is therefore contrary to Local Policy CL1 'Contaminated and Unstable Land' which requires proposal on sites with contamination or stability issues to be accompanied by a suitable report.

In addition, it is also contrary to NPPF paragraph 183 which states that decisions should ensure that a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from....activities such as mining, and any proposals for mitigation including land remediation.

Recommendation

Refuse for the following reason;

The site is located in a High Risk Coal Authority coal mining referral area due to the probable presence of shallow coal workings. The land could therefore be at risk from ground instability due to the presence of unrecorded shallow mine workings or associated mining legacy health and safety risks such as fugitive gas migration. In the opinion of the Local Planning Authority, the investigation information submitted is in no way sufficient to discount risks to the development from ground stability posed by coal mining legacy and in relation to the need to prescribe any necessary mitigation measures. As such, the removal of condition 12 of planning permission 2019/1466 would be contrary to Local Plan Policy CL1 'Contaminated and Unstable Land' and NPPF paragraphs 183 and 184.