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For the attention of: Mr N. Hayhurst – Case Officer
Cumberland Council (Copeland area)

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

3 December 2025

Dear Mr Hayhurst

Re: Planning application 4/21/2432/0F1

Hybrid application seeking full planning permission for the erection of 139 residential dwellings (c3), new vehicular accesses off high road, public open space and ancillary infrastructure and outline planning permission for residential development units, retail (e(a,b,c,e,f), f2(a) and ancillary infrastructure with all matters reserved other than access at Former Marchon Chemical Factory, High Road, Whitehaven – FURTHER RECONSULTATION

Thank you for your notification of 28 November 2025 seeking the further views of the Coal Authority (trading as the Mining Remediation Authority) on the above planning application.

The Coal Authority response: MATERIAL CONSIDERATION

As you are aware, the application site falls partly within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

More specifically, our records indicate that mine shafts 296515-001 and 296515-002 and their associated potential zones of influence are present within the southern part of the outline application site area. Records indicate that these shafts were filled and subsequently capped at rockhead with reinforced caps in 1977. Our records also indicate that the potential zone of influence of off-site mine shaft 296516-002 encroaches into the

western part of the full application site area, into an area of proposed Public Open Space. Our records indicate this shaft is filled with clay to an unknown specification. An untreated or inadequately treated mine entry and its resultant zone of influence pose a significant risk not only to surface stability but also public safety.

We highlighted in our previous consultation response letters that whilst a raft of technical reports have been submitted in support of the planning application, no specific Coal Mining Risk Assessment appears to be listed. We therefore requested clarification as to which, if any, of the supporting documents provides the required assessment of the risk posed by coal mining legacy to development at the site.

We understand from your reconsultation email that the applicant has now submitted a Coal Mining Risk Assessment report (5 March 2021, prepared by NKC Geotech) in support of their application, presumably on the basis that the original supporting application documents did not address coal mining legacy related land instability matters.

Based on a review of coal mining and geological information the submitted report notes that the site has been subject to past coal mining activity, with two coal seams worked underground at depths of over 100m. It acknowledges the presence of on-site mine shafts 296515-001 (Ladysmith Pit, 333m deep) and 296515-002 (Croft Pit, 281m deep) and notes that an off-site adit located beyond the western boundary of the site (296516-001) connects to on-site shaft 296515-001 at a depth of 85m for mine water drainage outfall at sea level. It also acknowledges the presence off-site shaft 296516-002 close to the site boundary. Whilst we hold no details of any past treatment of this shaft, the report advises that it *'was investigated and sealed by Albright & Wilson in 1988.'*

Whilst not explicitly stated, we assume that the report author is satisfied that the recorded underground coal workings and drainage adit are considered to lie at sufficient depth such that they do not pose a ground stability risk at the site. Similarly, due to its distance from the site boundary and past treatment, we assume that they do not consider that off-site shaft 296516-002 poses a risk to the proposed development. The LPA may wish to seek confirmation from the applicant that our assumptions on these matters are correct.

The report acknowledges that the two on-site shafts were capped on rockhead at 5m depth in 1977 to a standard acceptable to the NCB for industrial sites at that time. However, it notes that these caps may not meet current specifications and new caps may be required given the proposed residential use of the site. As such, it recommends that an intrusive investigation is carried out to locate the shafts and to prove their characteristics/condition including their dimensions.

The Coal Authority's Planning & Development Team welcomes the recommendation for the undertaking of investigations to locate and to establish the conditions of the recorded on-site mine shafts. These works should be carried out by competent persons, with the results

of the investigations used to inform any further remedial works, such as the recapping of the shafts, that may be necessary to ensure the safety and stability of the proposed development.

We take this opportunity to highlight that 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. The Mining Remediation Authority has adopted a policy where, as a general precautionary principle, the building over or within the influencing distance of a mine entry should wherever possible be avoided. Our adopted policy on the matter can be found at:

www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries.

In light of our adopted policy, the Coal Authority's Planning & Development Team considers that any subsequent reserved matters application seeking the approval of a detailed site layout should include a plan identifying the mine entry positions as located and appropriate no-build zones around these features in the context of the proposed scheme of development. This plan should demonstrate to the LPA that the layout of development has been suitably informed by the presence of the mine entries.

The applicant should note that Permission is required from our Permitting Team before undertaking any activity, such as ground investigation and remedial measures, which may disturb Mining Remediation Authority property. Any comments that we may have made in a Planning context are without prejudice to the outcomes of a Permit application.

We wish to highlight that in addition to coal mining legacy, the Coal Mining Risk Assessment report identifies that gypsum and anhydrite have been worked beneath the site and also notes that previous investigations at the site encountered possible dissolution features within the limestones. We wish to comment that it falls outside the remit of the Coal Authority to provide comment on these matters. The LPA should seek its own technical advice on the safety and stability risks posed by non-coal related mining activity and other features that may be present.

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.

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/entries which may be present beneath/within the site.

The Coal Authority Recommendation to the LPA

The Coal Authority's Planning & Development Team notes the conclusions of the Coal Mining Risk Assessment report; that coal mining legacy poses a risk to the proposed development and that investigations are required, along with possible further 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 recommend that the following conditions are included on the decision notice in relation to the outline permission issued:

- 1. Prior to the submission of any Reserved Matters application seeking approval of a detailed layout of development in part of the site where recorded mine entries are present, a scheme of intrusive investigations shall be carried out to locate these mine entries and to establish their condition. These works shall be carried out in accordance with authoritative UK guidance.***
- 2. Any application seeking approval of a detailed layout of development for any part of the site where recorded mine entries are present shall be accompanied by: the findings of intrusive site investigations undertaken; a proposed layout plan which identifies the positions of the recorded mine entries and the extent of their potential zones of influence, and suitable no-build zones around these features.***
- 3. Prior to the commencement of above ground development on each phase of development, any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, including the re-capping of the recorded mine entries as may be necessary, shall be implemented in full in order to ensure that the site is made safe and stable for the proposed development. These works shall be carried out in accordance with authoritative UK guidance.***
- 4. Prior to the occupation of each phase of development where recorded mine entries are present, a signed statement or declaration prepared by a suitably competent***

person confirming that the site 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 completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

The Coal Authority therefore **withdraws its 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 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 187, 196 and 197 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:

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) in the ownership of the Mining Remediation Authority require the prior written permission of the Authority since these activities can have serious public health and safety implications. Such activities could include site investigations, the piling of foundations, 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 Mining Remediation Authority permission and further guidance can be obtained from: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property.

If you would like to discuss this matter further, please contact me on the above number.

Yours sincerely

James Smith

James Smith BSc. (Hons), Dip.URP, MRTPI

Planning and Development Manager

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.