

The application is for full planning permission to remove condition 5 of full planning permission reference 14/00736/FUL for a new industrial unit, link to existing unit, and associated service area and car parking. Condition 5 is worded as follows:

*5. The remedial measures as set out in sections 7.7.1 and 7.7.2 of the submitted Geotechnical Assessment prepared by SP Associates and dated September 2002 shall be carried out in full prior to the construction of the unit hereby permitted.*

*Reasons – To ensure that the construction addresses the coal mining legacy issues present on site in accordance with the aims and objectives of the National Planning Policy Framework.*

The site lies within the Kidsgrove Neighbourhood and Urban Area as indicated on the Local Development Framework Proposals Map.

**The 13 week period for the determination of this application expires on the 4<sup>th</sup> January 2016.**

### **RECOMMENDATION**

**PERMIT the application and remove condition 5 subject to all the relevant conditions from planning permission 14/00736/FUL that have not already been satisfied continuing to apply.**

### **Reason for Recommendation**

The applicant has demonstrated, to the satisfaction of the Coal Authority, that there are no remedial measures required to address any coal mining legacy issues on the site and as such condition 5 can be removed.

### **Proposed Statement as to how the Local Planning Authority has worked with the applicant in a positive and proactive manner in dealing with this application**

This is considered to be a sustainable form of development and so complies with the provisions of the National Planning Policy Framework.

### **KEY ISSUES**

Planning permission was granted earlier this year for a new industrial unit (Use Class B1, B2, and B8) and link to the existing building, with an associated service area and car parking. The development commenced some time ago, and is now close to completion.

This is an application to remove a condition of planning permission 14/00736/FUL. The condition (no.5) requires that remedial measures specified in sections 7.7.1 and 7.7.2 of the Geotechnical Assessment submitted in support of the application are carried out in full prior to the construction of the permitted unit. The remedial measures relate to the treatment and stabilisation of shallow abandoned mines and adits.

The Authority has a number of options. If it considers that the condition should remain it should refuse the application, if it considers that an amended condition is appropriate then it should approve the application subject to the amended condition, and finally if it considers the condition can be removed it can permit that. In deciding this application consideration can only be given to the disputed condition, it is not a complete re-consideration of the application.

The main issue to address is whether it is necessary to undertake the remedial measures to ensure that there are not unacceptable risks from land instability and that the development is appropriate for its location.

The NPPF, at paragraph 120, advises that to prevent unacceptable risk from pollution and land instability, planning policies and decisions should ensure that new development is appropriate for its location. At paragraph 121 it indicates that planning policies and decision should also ensure that the site is suitable for its new use taking account of ground conditions and land instability including former activities such as mining and any proposals for mitigation.

The applicant has advised that the site has been undermined in the past but apart from the area within the steep slope to the east (the rear of the site) the shallowest seam has a recorded thickness in the range of 0.3 to 0.9m at a depth in excess of 20m. They consider that the former workings at that depth would not pose any significant risk of surface differential subsidence sufficient to cause structural damage and no special precautions are considered warranted with respect to the site area.

The Coal Authority have accepted that the development proposals falls outside of the areas identified for remediation and that having reviewed the site investigation findings, there is no risk to the development from past mine workings at shallow depth. They have confirmed that they have no objection to the removal of condition 5.

In light of the additional information provided within this application and the advice of the Coal Authority it is considered that appropriate account has been taken to the ground conditions and land instability and that the development is appropriate for its location without such remedial works. Condition 5 can therefore be removed.

**Policies and Proposals in the approved Development Plan relevant to this decision:-**

Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (adopted 2009) (CSS)

Policy SP1: Spatial Principles of Targeted Regeneration

Newcastle-under-Lyme Local Plan 2011 (NLP)

None relevant

**Other material considerations include:**

National Planning Policy

National Planning Policy Framework (NPPF) (March 2012)

Planning Practice Guidance (PPG) (2014)

Relevant Planning History

14/00736/FUL – Permitted – New industrial unit and associated link to existing unit, with associated service area and car parking

14/00738/FUL Permitted – alterations to existing car park and associated landscaping

Views of Consultees

The **Coal Authority** has no objection to the removal of condition 5.

**Kidsgrove Town Council** advise that they will go with the decision of the Coal Authority.

Representations

None received to date

Applicant/agent's submission

A supporting letter from Sladen Associates Environmental and Geotechnical Consultants has been provided. This and other application documents are available for inspection at the Guildhall and under the application reference number 15/00885/FUL on the website page that can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/>

**Background Papers**

Planning file  
Planning documents referred to

**Date report prepared**

28<sup>th</sup> October 2015