

The application seeks the removal of condition 4 of planning permission 16/00712/FUL which was granted for an extension to the existing warehouse and distribution building to provide an additional 7,900sqm of floorspace.

Condition 4 as worded in the decision notice is as follows:

No development hereby approved shall commence until a scheme of landscaping has been carried out in the location shown hatched blue on the attached plan. The above mentioned scheme shall have been submitted to and approved in writing by the Local Planning Authority prior to it being implemented. Any trees or plants which within a period of 5 years from the completion of development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size unless the Local Planning Authority gives written consent to any variation.

The reason given for the condition within the decision notice was;

To reduce the visual impact on the proposed development when viewed from the adjoining Apedale Country Park and Cotswold Avenue residential area in accordance with policy CSP1 of the Staffordshire and Stoke-on-Trent Core Spatial Strategy 2006 - 2026, policies E3 and N22 of the Newcastle under Lyme Local Plan (2011) and to comply with the requirements of National Planning Policy Framework 2012.

The intention of the applicant is to pay a financial contribution towards the implementation and future maintenance of a landscaping scheme to be secured via a Unilateral Undertaking.

The statutory 13 week determination period for the application expires on 27th June 2017

RECOMMENDATION

A. Subject to the applicant first entering by 23rd June 2017 into a section 106 obligation securing a financial contribution sum of £17,500 towards the implementation and maintenance (including replacement planting if required) of a landscaping scheme on the adjacent bund and a side letter being received from the County Council agreeing to implement and maintain the agreed landscaping, PERMIT the removal of condition 4 subject to suitably worded conditions similar to those attached to planning permission 16/00712/FUL, unless they have already been discharged by the date of issue of the permission in which case the approved details will be referred to.

B. Should the matters referred to in (A) above not be secured within the above period, then the Head of Planning be given delegated authority to refuse the application on the grounds that without such financial contribution there would still be a justified need for the developer to provide an acceptable landscaping scheme as secured by condition 4 of 16/00712/FUL, or, if he considers it appropriate, to extend the period of time within which the obligation can be secured.

Reason for recommendation

A financial contribution would still secure an appropriate landscaping scheme and subject to the completion of a Unilateral Undertaking and a side letter from the County Council agreeing to implement, maintain and replace if required the agreed landscaping it is accepted that an acceptable development can be secured which would comply with the guidance and requirements of the National Planning Policy Framework..

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

Detailed discussions have been undertaken prior to the submission of the application and the removal of condition 4 is now appropriate subject to a Unilateral Undertaking being secured with a “side letter”.

KEY ISSUES

The application seeks the removal of condition 4 of planning permission 16/00712/FUL which secured an appropriate landscaping scheme on the existing bund to improve screening and the filtering of views towards the new building/ extension, whilst also improving the long term impact and effect on all landscape and visual receptors to an acceptable level.

The applicant accepts the need for the landscaping scheme but rather than implementing and maintaining a scheme themselves they have been in discussions with Staffordshire County Council (SCC), as the landowner, to agree a landscaping plan with the intention of providing a financial contribution to fund the works necessary.

A landscaping plan has now been agreed with SCC and a contribution figure of £17,500 has been accepted which it is understood includes a 3 year maintenance period as part of the maintenance programme for the whole of Lymedale Business Park currently carried out by SCC which includes the existing landscaping on the bund which was secured via a previous planning permission.

Furthermore, the landscaping plan and contribution figure have also been accepted by the Borough Council's Landscape Development Section who raises no objections to this application.

Condition 4 was a “Grampian” condition insofar as it prevents any part of the development happening until the landscaping scheme has been carried out – reflecting the fact that the area of the proposed landscaping is not within the applicants control. A draft Unilateral Undertaking (UU) has been submitted to secure the payment of the contribution by the applicant. However, the LPA should seek a requirement, for the landscaping scheme within a specified period and the replacement of any planting lost within a certain period, usually 5 years after the landscaping has been implemented. Strictly speaking a UU cannot impose obligations upon a party that is not a signatory to it, and obligations by agreement would be the more appropriate mechanism. However, the applicant has sought to avoid the completion of an agreement – to avoid the associated delay - and following discussions it has been agreed that SCC will submit a “side letter” that will accompany the UU which secures their agreement to implement the agreed landscaping scheme in the next available planting season after works for the extension commence and then maintain it for a period of 3 years. SCC will also agree to replace any planting which dies, or is removed or becomes seriously damaged or diseased within a period of 5 years.

Subject to the UU being secured and the side letter from SCC being received prior to a decision notice being issued your officers consider that appropriate landscaping for the bund will be secured to meet the reasons for the previous condition. Therefore condition 4 can be removed. The development is still in accordance with development plan policies and still represents a sustainable form of development as required by the NPPF.

APPENDIX

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 SP2	Spatial Principles of Economic Development
Policy SP3	Spatial Principles of Movement and Access
Policy CSP1	Design Quality
Policy CSP3	Sustainability and Climate Change
Policy CSP10	Planning Obligations

Newcastle-under-Lyme Local Plan 2011 (NLP)

Policy E3 - Lymedale Park Extension
Policy T16 – Development – General Parking Requirements
Policy T18 - Development and servicing requirements

Other material considerations include:

National Planning Policy Framework (March 2012)

Planning Practice Guidance (2014)

Newcastle-under-Lyme and Stoke on Trent Urban Design Guidance (adopted December 2010)

Relevant Planning History

In 2003 outline planning permission was granted for the erection of buildings for Class B1, B2 and B8 purposes on this site, and a wider area forming the Lymedale West extension (03/560/OUT). In addition to outline planning permission being granted, under the same application full permission was granted for the formation of plateaux, mounding and construction of access road, together with other associated engineering operations. In 2006 approval of reserved matters was given for the warehouse building (reference 05/01140/REM) on this site and that development was then built out .

A retrospective application (reference 05/01241/FUL) to amend the details of the bund around the development plateaux was permitted in 2006.

An application was then granted for a 8,918sqm extension to the existing warehouse in 2009 under reference 09/00430/FUL. That development was then built out (DC3)

The latest planning application, reference 16/00712/FUL, was permitted in December 2016 for the extension to the existing warehouse building (class B8) with two storey office extension and associated car park works.

Views of Consultees

The **Landscape and Development Section** raises no objections.

The Greater Chesterton Locality Action Partnership (LAP) has been consulted on this application and have not responded by the due date and so it is assumed that they have no comments to make on the application.

Representations

No representations have been received.

Applicant/agent's submission

All of the application documents can be viewed at the Guildhall or using the following link.

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/17/00240/FUL>

Background Papers

Planning File

Development Plan

Date report prepared

8th May 2017