

THORP PRECAST, APEDALE ROAD, CHESTERTON
HARVEY THORP

21/00038/FUL

The application is for the removal of conditions 9 and 10 (coal mining investigation and remediation) of planning application 20/00354/FUL for a proposed new crane area, storage areas, trailer parking area and boundary wall, which was granted planning permission on the 5th August 2020.

The application site is located within the Rowhurst Industrial Estate in the urban area of Newcastle, as designated on the Local Development Framework Proposals Map. Part of the site is within a High Risk Coal Mining Area and the application is supported by a coal mining risk assessment.

The 13 week period for the determination of this application expires on the 24th April 2021.

RECOMMENDATIONS

PERMIT the removal of Conditions 9 & 10 of 20/00354/FUL but the inclusion of the following condition;

The development hereby permitted shall be carried out and implemented in strict accordance with the mitigatory measures set out in the 'Report on the Assessment of Coal Mining Legacy and Risk to Surface Stability' (January 2021) by D J Erskine.

and subject to the imposition of all other conditions attached to planning permission 20/00354/FUL that remain relevant at this time.

Reason for Recommendation

Through the submission of a Report on the Assessment of Coal Mining Legacy and Risk to Surface Stability, it has been demonstrated that alternative measures can be carried out without unacceptable risks to ground stability, in accordance with the guidance and requirements of the NPPF

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

The development is considered to represent a sustainable form of development, no further information had to be requested and the planning application has been dealt with in a prompt manner.

Key Issues

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The application site is located within the Rowhurst Industrial Estate in the urban area of Newcastle, as designated on the Local Development Framework Proposals Map. Part of the site is within a High Risk Coal Mining Area and the application is supported by a coal mining risk assessment.

Conditions 9 and 10 of the planning permission set out that;

"9. No development hereby approved shall commence until intrusive site investigations have been carried out on site to establish the exact situation in respect of coal mining legacy features. The findings of the intrusive site investigations shall be submitted to the Local Planning Authority for consideration and approval in writing. The intrusive site investigations shall be carried out in accordance with authoritative UK guidance.

R9. To ensure that the development can be made safe and stable taking into consideration the coal mining legacy issues on this site, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

10. *Where the findings of the intrusive site investigations (required by condition 9 above) identify that coal mining legacy on the site poses a risk to surface stability, no development shall commence until a detailed remediation scheme to protect the development from the effects of such land instability has been submitted to the Local Planning Authority for consideration and approval in writing. Following approval, the remedial works shall be implemented on site in complete accordance with the approved details.*

R10. To ensure that the development can be made safe and stable taking into consideration the coal mining legacy issues on this site, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.”

The effect of a grant of permission upon an application to vary or remove a condition is to create a new planning permission. Accordingly, unless there have been other material changes, such a permission should also make reference to the other conditions of the original planning permission where they remain relevant.

Given the two conditions relate to coal mining legacy, the sole issue in the consideration of this application is whether the removal of the two conditions would result in coal mining legacy implications or not.

The Coal Authority (CA) were consulted on the previous planning application and requested the two conditions on the basis that the site lies in an area where historic unrecorded coal mining activity is likely to have taken place at shallow depth and the applicants coal mining risk assessment identified a possible risk from surface ground movement. Therefore, intrusive ground investigations were considered necessary, along with any remedial measures to stabilise the workings. These were secured by conditions 9 and 10 and had to be satisfied

The applicant raised no objections to the conditions but following the issuing of the planning permission they now seek approval for an alternative approach to the requirements for intrusive site investigations. A report has been submitted to support the application to assess the extent of the coal mining legacy risk over the site and possible measures where necessary to mitigate any residual risks. The submitted report concludes that a reinforced foundation slab design for the crane will mitigate the potential for differential settlement of shallow coal mining legacy.

The CA have considered the report (and alternative approach) and raises no objections to the removal of the conditions on the basis of the nature of the development proposed, the information submitted and the professional opinions of the report author. However, the CA still requires the recommended mitigatory measures (outlined within the report) to be implemented on site. Therefore, it is considered necessary to secure this by condition.

Subject to the recommended condition, it is accepted that the applicant has demonstrated that the works to implement the planning permission can be carried out without unacceptable risks to ground stability, in accordance with the guidance and requirements of the NPPF, in particular paragraph 170(e).

APPENDIX

Policies and proposals in the approved development plan relevant to this decision:-

[Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy \(CSS\) 2006-2026](#)

Policy SP2: Spatial Principles of Economic Development
Policy ASP5: Newcastle and Kidsgrove Urban Neighbourhoods Area Spatial Policy
Policy CSP1: Design Quality
Policy CSP3: Sustainability and Climate Change

[Newcastle-under-Lyme Local Plan \(NLP\) 2011](#)

Policy E9: Renewal of Planning Permissions for Employment Development
Policy T16: Development – General Parking Requirements

Other Material Considerations include:

[National Planning Policy](#)

[National Planning Policy Framework](#) (February 2019)

[Planning Practice Guidance](#) (March 2014)

[Supplementary Planning Guidance/Documents](#)

[Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document](#) (2010)

Relevant Planning History

05/00999/FUL	Gantry crane	Permitted
07/00949/FUL	Proposed steel storage building	Permitted
11/00372/FUL	Proposed office building	Permitted
11/00561/FUL	Erection of palisade fence	Permitted
12/00765/FUL	Proposed manufacturing building	Permitted
13/00157/FUL	Proposed external storage area with mobile gantry crane and new vehicular entrance	Permitted
14/00140/FUL	Change of use of existing building, completion of cladding and extension to vehicular access	Permitted
16/00300/FUL	Extensions to building	Permitted
17/00688/FUL	Storage building in relation to the manufacture of large bespoke architectural panels	Permitted
17/00724/FUL	Cement silos	Permitted
18/00505/FUL	Erection of a Class B2 Manufacturing Building	Permitted
19/00426/FUL	Proposed enclosure to existing crane gantry	Permitted
19/00621/FUL	Extension to factory 1	Permitted

20/00309/FUL Proposed new building adjacent to Factory 2, proposed new cement silos
Permitted

20/00354/FUL Proposed new crane area, storage areas, trailer parking area and boundary wall
Permitted

Views of Consultees

The **Coal Authority** raises no objections to the removal of conditions 9 & 10 of 20/00354/FUL but recommends the implementation of the recommended mitigatory measures (outlined within the report).

Representations

None received.

Applicant's/Agent's submission

The application is accompanied by a Report on the Assessment of Coal Mining Legacy and Risk to Surface Stability' (January 2021).

All of the application documents can be viewed on the Council's website using the following link:
<http://publicaccess.newcastle-staffs.gov.uk/online-applications/plan/21/00038/FUL>

Background papers

Planning files referred to
Planning Documents referred to

Date report prepared

15th March 2021