

The application seeks to remove or vary a number of conditions of 19/00846/OUT. Planning permission 19/00846/OUT removed or varied a number of conditions of 18/00736/OUT, a hybrid planning permission for:-

- A.** full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- B.** outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

The Newcastle Local Plan Proposal allocates, at policy E2, the site which measures 44ha, for employment development.

**The 13 week period for the determination of this application expires on the 6<sup>th</sup> September 2021.**

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## **RECOMMENDATION**

**PERMIT** the removal of condition B25 and variation of conditions A2, A8, B1, B6, B7, B9, B10, B11, B13, and B31 of 19/00846/OUT (but not B23) as follows:

1. Vary condition A2 to reflect the revised plans.

2. Vary condition A8 as follows:

*Within 12 months of the commencement of the development referred to in item (A), a detailed structural landscaping scheme to the perimeter, including the site frontage to Peacock Hay Road; and to the slope between plots C and B, shall be submitted to and approved by the Local Planning Authority. The scheme shall accord with the principles of the Green Infrastructure Strategy (Drawing no. 3227-L-01 Rev C) and shall include details of the species of plants, hedgerow shrubs and trees along with their size, numbers and density of planting...*

3. Vary condition B1 as follows:

*The development referred to in item (B) hereby permitted was approved in consideration of the following;*

- *Drawing no. 18004.GA.04 Revision B Proposed Highway Improvement Works at A500/A34 Grade Separated Junction*
- *Drawing no. 3227-L-01 Rev C– Green Infrastructure Strategy*

4. Vary condition B6 as follows:

*Prior to the commencement of development of any plot referred to in item (B) the following shall have taken place:*

- *The submission of a scheme of remedial works for the mine entries and the shallow workings relating to that plot for the approval of the Local Planning Authority; and*
- *The implementation of those remedial works.*

5. Vary condition B7 as follows:

*Prior to the commencement of the installation of the Talke Roundabout improvement works as shown on 18004.GA.04 Revision B, a suitable assessment of the needs of walkers, cyclists and horse riders shall have been carried out and appropriate amendments to the off-site highway works at the A500 Talke roundabout, as identified in the assessment shall be agreed and implemented.*

6. Vary condition B9 as follows:

*A reserved matters application of the development referred to in item (B) shall include full design details, in accordance with DWG number – NWK 170107-BED-EX-00-DR-C-0258 Rev P04, for the new roundabout access, footways and improvement to the existing site access. This is to include a full scheme of proposals to secure the delivery of the speed reduction which should include gateway features, street lighting, conspicuous speed limit and warning signs, road markings and surfacing with an appropriate PSV – high friction surfacing. The approved details shall be implemented before the occupation of buildings within the site unless otherwise agreed by the Local Planning Authority.*

7. Vary condition B10 as follows:

*A reserved matters application of the development referred to in item (B) shall include detailed structural landscaping scheme for the verges of the main internal spine road and footpaths. The scheme shall accord with the principles of the Green Infrastructure Strategy (Drawing no. 3227-L-01 Rev C).*

***All planting, seeding or turfing comprised in the approved scheme shall be carried out prior to the occupation of any building referred to in item (b) unless a phased approved is agreed as part of a reserved matters application. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.***

**8. Vary condition B11 as follows:**

***A reserved matters application shall include details of the main internal spine road which shall be designed to enable a bus to access the site and turn safely.***

**9. Vary condition B13 as follows:**

***Any reserved matters application regarding landscaping of the development referred to in item (B) shall include landscaping within the parking areas and other hardsurfaced areas.***

***All planting, seeding or turfing comprised in the approved scheme in as far as it relates to each plot shall be carried out prior to the occupation of any building on that plot. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species unless the Local Planning Authority gives written consent to any variation.***

**10. Vary condition B31 as follows:**

***No development shall be occupied that will generate more than 464 two way vehicular trips in the AM peak hour (0800-0900) and/or more than 411 two-way vehicular trips in the PM peak hour (17-1800), until the mitigation scheme for the A500/A34 junction as shown in principle on drawing no. 18004.GA.04 Revision B has been implemented in full and is open to traffic...***

**11. All other conditions of 19/00846/OUT as they continue to apply to the development**

### **Reason for Recommendation**

In the light of the policy support for the provision and enhancements to pedestrian and cycleway routes and in the absence of any basis upon which to conclude that they could not be achieved, the variation of condition B23 as proposed is not supported. It is appropriate and acceptable to amend all the other conditions as proposed and to remove condition B25.

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

The proposed variation and removal of conditions are largely acceptable. It is therefore considered that the proposal is a sustainable form of development in compliance with the provisions of the National Planning Policy Framework.

### **Key Issues**

1.1 A hybrid planning permission has been granted involving:-

- full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works on the northern part of the site; and
- outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

1.2 The applicant has been reviewing their plans for the site and engaging with potential occupiers. They advise that this has led to the preparation of a slightly different proposed site layout with reconfigured plots. The revised layout reduces the earthworks programme and therefore the construction of buildings could commence on site in a quicker timeframe.

1.3 The application, under section 73 of the Town and Country Planning Act 1990, seeks to amend the planning permission, reference 19/00864/OUT, to reflect this latest revision on the proposed layout and to enable a phased approach to delivery.

1.4 In deciding this application the local planning authority must only consider the conditions that are the subject of the application, and should not completely reconsider the application.

## **2.0 Variation of Condition A2**

2.1 Condition A2 lists the approved plans and the revision sought is to list, as approved, plans which reflect amendments to the proposed layout and earthworks.

2.2 As indicated above earthworks have been approved on the northern part of the site only. The plans that are currently proposed reduces one of the approved platforms, plot C, from 7.1ha to 1.57ha. The amount of employment floorspace that could be provided on plot C therefore reduces.

2.3 The proposed amended development overall still has the capacity to accommodate over 100,000m<sup>2</sup> of gross internal floorspace and remains the largest employment site within the Borough at this time. This is an allocated site that has been undeveloped for a considerable period of time and any proposals that would make the development more deliverable are welcomed in principle particularly bearing in mind that the amount of structural landscaping remains comparable to the approved scheme.

## **3.0 Condition A8**

3.1 The condition secures structural landscaping to the perimeter of the site and to the slopes between Plateau C1 and C2 and between plots C and B in accordance with the principles of the Green Infrastructure Strategy. Assuming the variation of condition A2 is approved as proposed, the wording of the condition needs to be amended to reflect that the plans submitted under this application only have one plateau C. In addition the reference to the drawing number of the Green Infrastructure Strategy requires amendment to the most up to date version. Such amendments are necessary and do not raise any issues in addition to those considered above.

## **4.0 Condition B1**

4.1 The wording of this condition needs to be amended to refer to the latest version of the Green Infrastructure Strategy.

## **5.0 Variation of condition B6**

5.1 The condition secures remediation works to ensure that the development can be made safe and stable taking into consideration the coal mining legacy issues on this site. The current wording of this condition infers the works would need to be undertaken across the whole site prior to commencement of construction on any plot. A minor change of the wording is sought to allow for a phased approach to the delivery of different plots.

5.2 Such a change is considered to be acceptable and appropriate particularly as it is noted that the Coal Authority have raised no objections.

## **6.0 Condition B7**

6.1 The condition requires a suitable assessment of the needs of walkers, cyclists and horse riders and that appropriate amendments to the off-site highway works at the A500 Talke roundabout as required by the assessment are approved prior to the commencement of the development approved

in outline. The amendment sought is to specify that such an assessment is made prior to the installation of the Talke Roundabout improvement works shown on one of the approved plans.

6.2 It is noted that Highways England has not made any comment on this amendment and it is considered that there are no reasons to object to the proposed variation.

## **6.0 Condition B9 and B11**

6.1 Condition B9 requires details for the new access to accompany the first reserved matters application and for the works to be implemented prior to commencing the construction of buildings. The submission indicates that this would delay the programme delivery. The submission sets out that it is not considered necessary that the access details need to pre-date the details of the buildings on the site so long as they are in place by the time the buildings are occupied. This would provide additional flexibility which would reduce the prospect for delay to the programme.

6.2 Condition B11 specifies that the first reserved matters application shall include details of the main internal spine road which shall be designed to enable a bus to access the site and turn safely.

6.3 The Highway Authority (HA) note that the internal link road will be built off the designed and finished levels of the roundabout and until the detailed design of the roundabout has been agreed there is the possibility that the levels will change. The HA suggest that the proposed rewording of the conditions may be premature therefore although it raises no objection in principle to the revised wording. It is therefore possible that further applications to vary these conditions may be necessary at a future date however that does not give reason to object to the proposed variation which is considered acceptable.

6.4 The HA's comments about the need to start the process of agreeing full technical details with them as soon as possible will be passed to them for their information.

## **7.0 Condition B10 and B13**

7.1 Condition B10 requires a structural landscaping scheme to accompany the first reserved matters application and all works to be completed prior to any construction. Condition B13 requires landscaping details to accompany reserved matters application

7.2 The supporting information with this applications indicated that the proposed approach to deliver the site in phases may allow buildings to be constructed before the site wide earthworks are completed. It goes on to say that it is not practical to require site wide structural landscaping to be completed upfront as planting may be harmed during construction.

7.3 The requirement to provide the landscaping prior to the construction of any building was intended to give such landscaping an opportunity to mature before buildings appeared on site to assist in the assimilation of the development into the wider landscape. As a phased approach is now proposed this requirement could delay development commencing on site and could result in any planting undertaken having to be replaced due to it being damaged whilst construction takes place.

7.4 It is also necessary to amend the reference to the Green Infrastructure Strategy for the reasons set out above.

7.5 As such it is considered that it is acceptable and appropriate to amend the conditions as proposed.

## **8.0 Condition B23**

8.1 The condition requires the undertaking of works to pedestrian and cycleway routes through the site and the surrounding area. The supporting information suggests that these works were not required by the HA in order to make the development acceptable and highlights that the proposal does include improved linkages to the surrounding area. The applicant indicates that the links to the A527 are acceptable and are proposed to be provided through the application.

8.2 A similar argument was put forward in support of a proposal to remove condition B23 as part of application 19/00846/OUT. Whilst other aspects of that application were approved the removal of condition B23 was not accepted.

8.3 The NPPF indicates at paragraph 110 that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that, amongst other things:

- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
- b) safety and suitable access to the site can be achieved for all users; and
- c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

8.4 At paragraph 112 it states that applications for development should:

- give priority first to pedestrian and cycle movements, both with the scheme and with neighbouring areas and second, as far as possible, to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other transport services, and appropriate facilities that encourage public transport use;
- address the needs of people with disabilities and reduced mobility in relation to all modes of transport,
- create places that are safe, secure and attractive.
- allow for the efficient delivery of goods, and access by service and emergency vehicles; and
- be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.

8.5 Saved Policy E2 of the Local Plan includes a list of requirements that must be met for the employment development at Chatterley Valley, including the potential for access to the site by non-car modes, including a rail passenger station, should be fully assessed and exploited.

8.6 Notwithstanding, as highlighted by the applicant, that the Highway Authority did not specify the provision of pedestrian and cycleway enhancement over and above those proposed there is strong policy support for this requirement.

8.7 There is already a pedestrian and cycle route through Bathpool Park which forms part of the Sustrans route NCN555 and provides access to the large residential population of Kidsgrove. To ensure that access to the site by non-car modes is fully exploited so that employees that live within the catchment area of the development site have a safe route to walk and/or cycle to and from work it is important that there is a safe and suitable link through Bathpool Park in addition to the other route enhancements that the applicant is willing to provide.

8.8 This could potentially be achieved by providing a route through woodland forming part of Bathpool Park to the south west of the railway line, joining the existing route at the point where it passes under the railway line. Alternatively it may be possible to provide the required enhancement along Peacock Hay Road from the site to the Bathpool Park carpark other than for the relatively short stretch where the road crosses over the railway line.

8.9 In the light of the policy support for the provision of such enhancements it is concluded as was the case in the previous application that the requirements of condition B23 are justified and as such the suggested amendments to the wording of this condition are not accepted.

## **9.0 Condition B25**

9.1 The condition prevents the buildings to be erected on plots C and D to be used for storage or distribution. The reason for this is to ensure that the uses are demonstrably consistent with the role and objectives of this Premium Employment Site as referred to in policies SP1 and ASP5 of the Core Spatial Strategy and policy E2 of the local Plan.

9.2 The reference within current development plan policies to the northern part of the site being a Premium Employment Site stems from the former Staffordshire and Stoke-on-Trent Structure Plan 1996-2011 which was abolished by the Planning and Compulsory Purchase Act 2004. There is no longer any clear justification for this restriction given that the nature of B8 operations has changed over recent years as they provide better quality jobs than was previously believed. It is considered that the removal of this restriction would provide greater flexibility and would assist in bringing the development of the site forward. It is therefore considered that the removal of the condition as proposed is acceptable.

## 10.0 Condition B31

10.1 The condition sets the threshold for the implementation of the mitigation scheme for the A500/A32 junction (Talke Roundabout). The supporting information with the application states that the figures quoted in the condition are incorrect as they are not consistent with the agreement reached with Highways England.

10.2 Highways England accept that there is an error in the figures set out in the condition as they account for Phase 1 or Phase 1A/ Phase 1B when they should account for the combined Phase 1, 1A and 1B cumulative figures. Highways England therefore consider that the proposed amendment to condition B31, which involves an increase in the threshold before the mitigation works are required, are acceptable.

## 11.0 Reducing Inequalities

11.1 The Equality Act 2010 says public authorities must comply with the public sector equality duty in addition to the duty not to discriminate. The **public sector equality duty** requires **public authorities** to consider or think about how their policies or decisions affect people who are **protected** under the Equality Act. If a public authority hasn't properly considered its public sector equality duty it can be challenged in the courts.

11.2 The duty aims to make sure public authorities think about things like discrimination and the needs of people who are disadvantaged or suffer inequality, when they make decisions.

11.3 People are protected under the Act if they have protected characteristics. The characteristics that are protected in relation to the public sector equality duty are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

11.4 When public authorities carry out their functions the Equality Act says they must have due regard or think about the need to:

- Eliminate unlawful discrimination
- Advance equality of opportunity between people who share a protected characteristic and those who don't
- Foster or encourage good relations between people who share a protected characteristic and those who don't

11.5 With regard to this proposal and the matters that can be addressed, it is considered that it will not have a differential impact on those with protected characteristics.

## 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 SP1: Spatial Principles of Targeted Regeneration  
Policy SP2: Spatial Principles of Economic Development  
Policy CSP1: Design Quality

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

Policy E2: Chatterley Valley

### **Other Material Considerations include:**

[National Planning Policy Framework \(2021\)](#)

[Planning Practice Guidance \(PPG\) \(2014\)](#)

### **Relevant Planning History**

In 2019 a hybrid planning permission, 18/00736/OUT, was granted for the following:-

- A. full planning permission for earthworks associated with the creation of development plateaus, access roads and associated works; and
- B. outline planning permission for development of buildings falling within Use Classes B1b (research and development), B1c (light industry), B2 (general industrial and B8 (storage and distribution), and ancillary A3 (Restaurants and cafes) and A5 (hot food takeaways) uses. All matters of detail are reserved for subsequent approval.

An application, 19/00846/OUT, was permitted. The application was to remove condition B23, relating to pedestrian and cycleway enhancements, of planning permission 18/00736/OUT and variation of condition A1 relating to timescales for completion of earthworks; variation of conditions A8, B1 and B10 with regards to reference to Green Infrastructure Strategy; variation of condition B3 regarding requirements for the reserved matters application/s; and variation of reason for condition B25 relating to permitted use classes on the plots.

Another application, 21/00570/FUL, for full planning permission for the formation of development platforms, provision of access road and accompanying infrastructure and ecological enhancements has also been submitted. The application is pending consideration.

### **Views of Consultees**

The **Highway Authority (HA)** comment as follows:

- Condition B9 relates to the new proposed roundabout junction access into the site. Whilst there are no objections in principle to this revised wording they note that the internal link road will be built off the designed and finished levels for the roundabout. These levels could change through this process so the detailed design may be premature for the internal road.
- Condition B11 relates to the internal road, again there are no objections to this wording but would again point out that any design would be reliant upon the finished levels of the new roundabout junction. The applicant is urged to consider starting that process of agreeing full technical detail with the highway authority as the roundabout is a complicated one with a variety of levels and the agreeing of details could be a lengthy process. The HA also require details on the ability for buses to be able to manoeuvre through the new road.
- Condition B23 relates to pedestrian and cycle link enhancements. There are no objection in principle to the wording proposed in the first part however the final part on implementation is not agreed, it should be prior to occupation to encourage sustainable access is available from

occupation to the units or travel patterns could be established that rely on the car. It is questioned whether this also effect the travel plan.

**Highways England** advise that the increase and amendment to condition 31 is acceptable based on the detailed work undertaken post the agreement to the original wording.

The **Coal Authority** have no objections to the revised wording of the condition as proposed.

The County Council **Public Rights of Way Officer** advises that Public Footpath No. 2 Newcastle runs through the proposed site, along the western boundary.

As the path will need diverting as part of these proposals, the developer will need to apply to the Borough Council under section 257 of the Town and Country Planning Act 1990 to divert the footpath to allow the development to commence.

It is important that users of the path are still able to exercise their public rights safely and that the path is reinstated if any damage to the surface occurs as a result of the proposed development.

There is a discrepancy in the submission. The northern end of Public Footpath No. 2 Newcastle, marked in purple as 'existing public footpath' is incorrectly shown. The existing footpath passes through the blue site boundary. This will need amending.

Any works affecting the footpaths need to be discussed at the earliest possible opportunity with the County Council Rights of Way Team.

The County Council has not received any application under Section 53 of the Wildlife and Countryside Act 1981 to add or modify the Definitive Map of Public Rights of Way, which affects the land in question. It should be noted, however, that this does not preclude the possibility of the existence of a right of way at common law, or by virtue of a presumed dedication under Section 31 of the Highways Act 1980. It may, therefore, be necessary to make further local enquiries and seek legal advice in respect of any physically evident route affecting the land, or the apparent exercise of a right of way by members of the public.

The County Council as the **Mineral and Waste Planning Authority** has no comments.

The views of the **Environmental Health Division** and **Stoke City Council** have been sought but as they have not responded by the due date it is assumed that they have no comments.

#### Representations

None received.

#### Applicant's/Agent's submission

The application is supported by a Transport Assessment Addendum and a Design and Access Statement. These documents, the form and plans can be accessed by following this link <http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/21/00595/OUT>

#### Background papers

Planning files referred to  
Planning Documents referred to

#### Date report prepared

1<sup>st</sup> September 2021