

UNIT E, DALEWOOD ROAD, NEWCASTLE UNDER LYME
BESTWAY NORTHERN LIMITED

22/00092/FUL & 22/00183/FUL

Planning application 22/00183/FUL seeks full planning permission for the reconfiguration of the external areas of the site, including a new car parking area, conversion of existing customer car park to goods out delivery yard; creation of on-site vehicle route (connecting delivery yards); and erection of a retaining wall.

Planning application 22/00092/FUL seeks the removal of condition 2 of planning permission 00/00566/FUL which restricted the use of an access to the industrial unit for light vehicles only and not for use by HGV's.

The application site is occupied by an existing industrial unit (Use Class B8 wholesale trade warehouse) and lies in the urban area on Lymedale Business Park, as indicated on the Local Development Framework Proposals Map.

The application site extends to approximately 2.57 hectares in size.

The original statutory period for the determination of these applications has expired. Agreement to extend the determination dates of these applications is being sought.

RECOMMENDATIONS

22/00183/FUL

PERMIT the application subject to conditions relating to the following matters:-

1. Time limit condition,
2. Approved Plans,
3. Provision of access, car parking and cycle parking areas,
4. Soft landscaping scheme, including tree replacement, and
5. Tree protection measures.

22/00092/FUL

Permit the removal of condition 2 of planning permission 00/00566/FUL, subject to the following condition;

“Access 6 shall not be used by HGV's until the works granted under planning permission 22/00183/FUL have been fully implemented in accordance with the approved plans.

Reason: In the interest of highway safety, in accordance with the requirements of the National Planning Policy Framework 2021.”

and subject to the imposition of all other conditions attached to planning permission 00/00566/FUL that remain relevant at this time, amended as necessary.

Reason for Recommendations

The applications and proposed reconfiguration of the external areas of the site and a goods in and a goods out access arrangement with an internal route through the site for delivery vehicles, including HGV's, would allow the existing business to adapt and modernise. Subject to conditions and works being fully implemented in accordance with the submitted plans, the proposed development would not raise any significant highway safety concerns and represents a sustainable form of development 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 applications

The proposals are considered to be a sustainable form of development in compliance with the provisions of the National Planning Policy Framework and no amendments were considered necessary.

Key Issues

Planning application 22/00092/FUL seeks the removal of condition 2 of planning permission 00/00566/FUL which restricted the use of an access to the industrial unit for light vehicles only and not for use by HGV's.

Planning application 22/00183/FUL seeks full planning permission for the reconfiguration of the external areas of the site, including a new car parking area, conversion of existing customer car park to goods out delivery yard; creation of on-site vehicle route (connecting delivery yards); and erection of a retaining wall.

The application site is occupied by an existing industrial unit (Use Class B8 wholesale trade warehouse) and lies in the urban area on Lymedale Business Park, as indicated on the Local Development Framework Proposals Map.

The removal of condition 2 of 00/00566/FUL and the proposed reconfiguration of the external areas of the site would allow the existing wholesale trade business to operate differently and there would be less customers visiting the premises with more delivery/ distribution movements.

As discussed, the site is set within Lymedale Business Park and the use of the building would not change. Therefore, the principle of the development does not need to be considered. The external works are primarily towards the rear of the building and subject to a soft landscaping scheme and tree protection measures, as advised by the Landscape Development Section, the proposed works would not affect the visual amenity of the area. Therefore, the only key issue in the determination of both applications is the impact on highway safety.

Application 22/00183/FUL

This application seeks full planning permission for the reconfiguration of the external areas of the site, including a new car parking area, conversion of existing customer car park to goods out delivery yard; creation of on-site vehicle route (connecting delivery yards); and erection of a retaining wall.

The application sets out that the changes will allow a goods in and a goods out access arrangement with an internal route through the site for delivery vehicles, including HGV's.

There will no longer be a need for customer car parking but a greater level of staff car parking will be required.

The existing car parking arrangements provides 102 spaces and the proposed changes would increase this to 105 car parking spaces, which includes 7 disabled car parking bays. The proposals also include a cycle parking area for 16 cycles.

Saved Policy T16 of the NLP sets out that for a building of this size a maximum of 100 car parking spaces is required.

The application is supported by a Transport Statement which concludes that the proposed development provides satisfactory arrangements for delivery vehicles to stand, manoeuvre, load and unload within the site and leave the site forwards. It also concludes that the proposed car parking provision is in accordance with policy T16 of the NLP.

The Highways Authority (HA) has raised no objections to the application, subject to a condition that secures the access, car parking and cycle parking areas.

The site is within a sustainable urban area and whilst a greater level of parking provision is being proposed than the maximum specified levels it is accepted that no fundamental objection can be raised and the provision of cycle parking would encourage non-car modes of travel to the site.

The proposed development accords with the guidance and requirements of the NPPF.

Application 22/00092/FUL

This application seeks the removal of condition 2 of 00/00566/FUL which was a variation of condition 10 of the original planning permission for the erection of an industrial unit for Class B1 B2 and B8 uses, reference 00/00128/FUL.

Condition 10 of 00/00128/FUL required visibility splays of 4.5m x 70m in both directions at both accesses onto Dalewood Road. The reason for the condition being 'to protect the safety and convenience of users of the highway.

Planning application 00/00566/FUL permitted the variation of condition 10 but conditions 1 and 2 were imposed. These stated that;

Condition 1 – The variation to the visibility splay shall relate to the eastern side of access 6 only.

Condition 2 - The access shall be used for light vehicles only and not for use by HGV's.

The reasons for both conditions within the decision notice were:

To protect the safety and convenience of users of the highway.

The application now seeks the removal of condition 2 which would allow the two site accesses to operate differently, with HGV using both, so that the reconfiguration of the external areas of the site can be implemented to provide a goods in and a goods out access arrangement. As set out above, these works have been submitted under planning application reference, 22/00183/FUL.

The NPPF indicates that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The Highways Authority (HA) has advised that the application should be refused because the application fails to provide details of how HGV's will use the 'goods-out' yard. However, full details have been provided under application reference 22/00183/FUL and the HA have no objection to such details.

In deciding an application under section 73 the local planning authority must only consider the condition/s that are the subject of the application, it is not a complete re-consideration of the application.

Where an application under section 73 is granted, the effect is the issue of a new planning permission, sitting alongside the original permission, which remains intact and un-amended. A decision notice describing the new permission should be issued, setting out all of the conditions related to it. To assist with clarity, decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged.

It is clear that condition 2 of 00/00566/FUL would prevent the proposed goods in and goods out access arrangements as now proposed because HGV's are currently prevented from using access 6. Therefore, in order for the works proposed under 22/00183/FUL to be implemented the condition would need to be removed or modified and whilst HA have objected to the removal of condition 2 of 00/00566/FUL, they have not objected to 22/00183/FUL. Therefore, it is considered that a suitably

worded condition can be secured which ensures that the condition is only removed once the works, if granted planning permission under 22/00183/FUL, are implemented.

On this basis, the condition can be removed but a new condition requiring the works under 22/00183/FUL being implemented and any conditions of the original permission that are still necessary, are still required.

Overall, it is considered that the proposed amendment is acceptable and in accordance with development plan policies and the requirements of the NPPF.

Reducing Inequalities

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.

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.

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

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

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 these decisions:-

[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 SP3: Spatial Principles of Movement and Access
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 T16: Development – General Parking Requirements
Policy T18: Development – Servicing Requirements

Other Material Considerations include:

National Planning Policy

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

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

Relevant Planning History

00/00128/FUL Erection of an industrial unit for Class B1 B2 and B8 uses Permitted

00/00566/FUL Variation of condition 10 of planning permission 00/128/FUL which relates to providing visibility splay to access Permitted

Views of Consultees

22/00183/FUL

The **Highway Authority** raises no objections subject to condition which secures access, car parking and cycle parking areas.

The **Landscape Development Section** raises no objections subject to conditions which secure tree protection measures and landscaping proposals.

The **Coal Authority** raises no objections on the basis that the part of the site where the development is proposed lies outside of the defined High Risk Area and a Coal Mining Risk Assessment is not necessary. However, they do request an informative note on the decision notice highlighting that there are coal mining activity has taken place in the area.

22/00092/FUL

The **Highway Authority** advises that the application should be refused on the basis that the application fails to provide details of how HGV's will use the 'goods-out' yard.

Representations

None received.

Applicant's/Agent's submission

The application plans are available for inspection via the following links:

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/22/00092/FUL>

<http://publicaccess.newcastle-staffs.gov.uk/online-applications/PLAN/22/00183/FUL>

Background papers

Planning files referred to

Planning Documents referred to

Date report prepared

12th May 2022