



Northumberland County Council

Cramlington, Bedlington and Seaton Valley Local Area Council 18th May 2022

Application No:	21/01423/FUL		
Proposal:	Retrospective: Siting of upcycled shipping containers, installation of 2no. areas with tented roof covering and installation of a fixed roof with timber clad walls to provide a mixed use of land with bar, seating, toilet facilities and a venue for entertainment including live music (Sui Generis) (as amended 29.11.2021) (amended red line boundary 03.02.2022) (description amended 04.05.2022)		
Site Address	Jh Laidler Storage Yard , Double Row, Seaton Delaval, NE25 0PP		
Applicant:	Mr Daniel Miller c/o BH Planning & Design, 1 Hood Street, Newcastle upon Tyne, NE1 6JQ	Agent:	Mr Mark Ketley Floor 3 , 1 Hood Street, Newcastle Upon Tyne, NE1 6JQ
Ward	Seghill With Seaton Delaval	Parish	Seaton Valley
Valid Date:	8 April 2021	Expiry Date:	31 January 2022
Case Officer Details:	Name: Mr Richard Laughton Job Title: Planning Officer Tel No: 01670 622628 Email: richard.laughton@northumberland.gov.uk		

Recommendation: That this application be GRANTED temporary permission



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1. Introduction

1.1 The application is being brought to the Cramlington, Bedlington and Seaton Valley Local Area Council as the proposal raises significant planning issues.

2. Description of the Proposals

2.1 The application seeks retrospective permission for the siting of upcycled shipping containers, installation of a tented roof covering with internal walls to provide a mixed use of land with bar, seating, toilet facilities and a venue for entertainment including live music (Sui Generis) at Jh Laidler Storage Yard , Double Row, Seaton Delaval, NE25 0PP

2.2 The application site is located on the south eastern side of Double Row on Delaval Trading Estate. The site is bounded to the south east by a large caravan storage site beyond which is a railway line and residential area approximately 100m. To the north east is an existing retail unit and to the south west is a cash and carry wholesaler.

2.3 The application is retrospective with storage containers bounding the yard, two small tented areas covering an outdoor seating area. A timber cladded outbuilding provides an indoor seated area with bar and tv screen. The layout has changed during the winter due to storm damage and the larger tented roof has since been replaced with the current plans. There is on-site parking allocated to the north of the site.

2.4 The submitted planning statement highlights that:

“The site is a former storage yard which was used in association with the retail and wholesale trade of Laidlers fruit and vegetable business. This use has now consolidated onto the land immediately to the north east of the application site which is also within the ownership of the applicant. The adjacent site has therefore previously operated in association with the application site focusing initially on retail then expanding its wholesale element. Its historic use in planning terms is mixed with over 80% of the buildings as retail/wholesale and the balance being split between office and storage. In addition, the storage yard subject of this particular application has historically been used on a seasonal basis for the sale of fertiliser, plants and Christmas trees operating under the business name Edelweiss”

2.5 The application only relates to the entertainment area of the site and the existing buildings accommodating a café and food outlets do not form part of this assessment. To clarify, the applicant considers these buildings to be a former retail use and therefore permitted development as they now fall within the new Use Class E(b) which allows retail with the sale of hot food and drink to be consumed (mostly) on the premises. This results in the entertainment area being considered as ancillary to this retail use. The Council have not formally confirmed this stance however, and a Certificate of Lawfulness has not been submitted to establish this retail use. Permission will need to be sought in any event for those uses falling under sui generis. It is acknowledged that the previous use at Laidlers was for ‘Wholesale and Retail’ and therefore, elements of retail has been apparent, although the primary use has not been formally determined.

2.6 The initial aim of the entertainment area was a facility providing the ability to socialise outdoors during covid-19 restrictions. In addition to being a drinking

establishment, it currently supports street food outlets on site, provides movie nights, free kids clubs and temporary events for businesses.

2.7 An application (ref: 20/02488/FUL) was refused on site in April 2021 for the siting of upcycled shipping containers to provide retail and leisure facilities (use class A1,A3, and A4) and tented permanent roof covering. A subsequent appeal was withdrawn. The reasons for refusal were the loss of employment land, lack of sequential test for alternative town centre sites and highway safety.

3. Planning History

Reference Number: 20/02488/FUL

Description: Siting of upcycled shipping containers to provide retail and leisure facilities (use class A1,A3, and A4) and tented permanent roof covering as supplemented by note from agent received 07/09/20, additional details received 23/09/20, acoustic report received 25/09/20, and supplementary information received 20/10/20

Status: REF

Reference Number: 20/00076/LIC

Description: Application for a new premises licence. Last date for representations is 22/10/20.

Status: OBJECT

Appeals

Reference Number: 21/00036/REFUSE

Description: Siting of upcycled shipping containers to provide retail and leisure facilities (use class A1,A3, and A4) and tented permanent roof covering as supplemented by note from agent received 07/09/20, additional details received 23/09/20, acoustic report received 25/09/20, and supplementary information received 20/10/20

Status: APLWDN

4. Consultee Responses

Public Protection	Acceptable subject to the imposition and implementation of conditions
Highways	Acceptable subject to the imposition and implementation of conditions
Seaton Valley Parish Council	<p>OBJECTION</p> <p>The Councils new Planning Committee discussed this application at its first meeting on Tuesday 1st June and was disappointed that it is substantially the same as the previous application which was refused on the following grounds:</p> <p>The proposed development is not suitable for location on land that is designated for General and Local Employment and Business Park Uses and therefore would have a harmful impact on employment land provision</p> <p>The proposal is more suited for Main Town Centre Uses in an out-of-centre location.</p> <p>The application was not supported by the necessary and supporting information so as to enable full and proper</p>

	<p>assessment in terms of highway safety in respect of off road turning space for larger service vehicles and the adequacy of bus stop infrastructure.</p> <p>Members feel that all of the above reasons for refusal still substantially apply and consequently ask that the new application is also refused.</p>
Architectural Liaison Officer - Police	<p>It is a matter for the Planning Authority whether to grant permission or not, but given the current uncertainty facing the licensing trade, we would ask that in determining the application consideration is given to whether a time limited approval might in the first instance be more appropriate. We are mindful of that the current public interest in the enterprise may alter as we move out of the post lockdown phase and seasonality may play a role in year round viability. We are also conscious that box development may prove to be a trend that doesn't sustain outside metropolitan areas.</p> <p>Should the Planning Authority consider a time limited approval there would be nothing to stop the applicant, or whomever ownership might pass to in the future, applying to make the permission permanent at a later date, but by then the Planning Authority should have evidence that the concept was both viable and sustainable in this location, that the components could be maintained over several years, and that the operation didn't have a negative impact on public amenity.</p>

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	23
Number of Objections	7
Number of Support	1
Number of General Comments	0

Copies of all representations received are available in the Member's Lounge and will also be made available at the meeting of the Committee

Notices

General site notice 11th May 2021 & 3rd February 2022

No Press Notice Required.

Summary of Responses:

7 Objections with concerns relating to:

- Noise, disturbance from music and entertainment and events
- Anti-social behaviour
- Wrong location for this type of facility
- Has been operating without permission
- Open too late into evening

- Shipping containers are not retail use as stated in application

1 letter of support:

"I think this is really good for the area. Instead of looking at a derelict building it's a fun place for the whole family, kids club some mornings (my kids love it) then somewhere to go for a drink/food/coffee/catch up with friend or family who we have not been able to see for a long time. It's clean, it's tidy, staff are accommodating and friendly. Don't see what the issues are".

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=QR6MABQSF900>

6. Planning Policy

In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the development plan comprises the Northumberland Local Plan 2016-2036 (adopted March 22). The National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are material considerations in determining this application.

Northumberland Local Plan - 2016 - 2036 (Adopted March 2022) (NLP)

STP1 Spatial strategy

STP3 Principles of sustainable development (Strategic Policy)

QOP1 Design principles (Strategic Policy)

QOP2 Good design and amenity

QOP4 Landscaping and trees

ECN1 Planning strategy for the economy (Strategic Policy)

ECN 6 General employment land - allocations and safeguarding (Strategic Policy)

ECN 7 Key general employment areas for main employment uses

ECN 8 Areas for wider employment-generating uses

ECN 9 Flexible employment Use

POL 1 Unstable and contaminated land

POL 2 Pollution and air, soil and water quality

TRA 2 The effects of development on the transport network

TRA 4 Parking provision in new development

TCS4 Proposals outside centres

Seaton Valley Neighbourhood Plan Made Sept 2021

National Planning Policy

National Planning Policy Framework (2021) (NPPF)

National Planning Practice Guidance (2020) (NPPG)

7. Appraisal

7.1 In relation to the principle of this development, it is considered that the following main matters are relevant and need to be considered:

- Principle of Development
- Design
- Residential Amenity
- Highway safety

7.2 Policy STP 1 of the NLP states that in order *“to deliver sustainable development which enhances the vitality of communities across Northumberland, supports economic growth, and which conserves and enhances the County’s unique environmental assets:*

a. The Main Towns of Alnwick, Amble, Ashington, Bedlington/Bedlington Station, Berwick-upon-Tweed, Blyth, Cramlington, Haltwhistle, Hexham, Morpeth, Ponteland and Prudhoe will be the main focus for employment, housing, retail and services;

b. The Service Centres of Allendale, Belford, Bellingham, Corbridge, Guidepost/Stakeford/Choppington/West Sleekburn, Haydon Bridge, Newbiggin-by-the-Sea, Rothbury, Seahouses, Seaton Delaval/Holywell and Wooler will accommodate employment, housing and services that maintains and strengthens their roles”

7.3 In addition, the policy highlights that sustainable development will be supported within Green Belt inset boundaries and within settlement boundaries defined on the Local Plan policies map or in neighbourhood plans.

7.4 Policy STP 3 states that in applying the presumption in favour of sustainable development in Northumberland, and to deliver against economic, social and environmental objectives development proposals will be expected to adhere to the following principles where appropriate. This includes contributing to building a strong, responsive and competitive economy across Northumberland, support more and better jobs, protect and enhance the vitality and viability of Northumberland's town centres and other important economic sectors.

7.5 The site is located with the existing settlement of Seaton Delaval within an established built-up area and utilising a vacant brownfield site. It also provides local jobs within an accessible area identified as a Service Centre in the NLP. As such it supports the overarching principles of sustainable development with economic, social and environmental benefits of Policy STP1 and STP3.

7.6 Policy ECN1 of the Local Plan supports the economic growth of the County and states that development proposals should seek to deliver sufficient employment land and premises of the necessary range and quality and assist in the regeneration of existing areas through employment-related measures.

7.7 The site is allocated in the NLP Proposals Map as ‘General Employment Land’ which under Policy ECN 6 aims to safeguard industrial estates and business parks and the range of uses that will be either B-Class employment uses. The application site is located on Double Row which an area of industrial and employment. It has a clear mix of uses that extends beyond standard industrial, office and storage to encompass a wider range of employment generating commercial businesses. The NCC Employment Land Schedule map has recorded this site as B1 Use Class and (Business), B2 (General Industrial) and B8 (Storage and Distribution) although it is

recognised that the use may have changed over time and not been formally recorded through planning permissions. The same map shows that some of the surrounding uses are commercial, rather than industrial in character – class B8 wholesale and some clearly ‘sui-generis’. It is accepted that there are also some of retail sales with Double Row.

7.8 As previously recognised, the former use of the site was known as a ‘wholesale and retail’. This was evident on the previous signage on the site. Whilst involving the sale of goods, wholesale ‘cash and carry’ is recognised as B8 Use Class for the storage and distribution of food to business such as hotels and restaurants. A shop for members of the public was also on site for the general public to visit and purchase goods with online deliveries also made available.

7.9 Policy ECN 8 relates to areas for wider employment-generating uses and general employment areas, where employment-generating uses wider than the main employment uses will be supported, are identified on the Policies Map. Within these areas, unless otherwise limited by relevant policies in made neighbourhood development plans, permission will be granted for uses generating permanent on-site employment, provided that they comply with the definition of wider employment generating uses; and:

- a. The proposed economic activity is compatible with existing businesses on the site and adjoining land uses; and
- b. The proposal would not generate an unacceptable level of continual access by members of the public who do not work within that employment area.

7.10 As highlighted, the applicant claims that the proposed use is compatible with the existing business and land uses but this does not form part of the assessment. The proposal would be contrary to criterion b as it would generate a continual level of access by members of the public who do not work in this employment area. The counter argument however, is that members of the public may have also visited the site previously.

7.11 The preamble of the NLP highlights that even with the flexible approach set out above, there are occasions when it will be appropriate to introduce additional flexibility as to what may or may not be permitted. For example, purpose built premises may have stood vacant over a long period, or dereliction and eyesores could put potential employers off moving into or staying in an area. There may be a need to pump prime the development of employment uses with a non-employment use or that use may serve a strong and sustainable purpose within the employment areas. Policy ECN 9 relates to additional flexibility in general employment areas. It states that within areas allocated for general employment use in Policy ECN 6, permission for uses wider than the ranges specified in Policies ECN 7 or ECN 8 may be granted if the proposal meets one or more of the following:

- a. It is ancillary to and will support the main employment-related use of the area;*
- b. It is for part of a larger site or premises and would facilitate the retention of the remainder in the specified employment use range;*
- c. It is on part of a larger development site and would facilitate the development of the remainder for employment uses in the specified range, which would otherwise be undeliverable;*
- d. It would bring back into use a building which has stood vacant for at least 12 months, and the reoccupation of which by an employment use is demonstrated to be unlikely;*

- e. It would provide the optimal location for essential infrastructure provision;*
- f. It can be demonstrated to deliver significant community and economic benefits that override the need to maintain the site or premises within the specified range of employment uses;*
- g. It would help foster skills development and cannot be provided in an existing educational establishment or as ancillary to an employment use”*

7.12 In this instance criterion e) is a relevant exception to demonstrate if significant community and economic benefits override the need to maintain the site or premises within the specified range of employment uses.

7.13 The need to protect allocated employment land is acknowledged but there are other premises in the area and within industrial estates in general, where leisure and retail facilities are more appropriately located outside of town centres as there is a lack of suitable sites, accommodation or floorspace requirements.

7.14 The proposed use includes a drinking establishment which is recognised as a town centre use. Policy TCS 4 of the NLP states that proposals outside centres where proposals for main town centre uses come forward on sites outside defined town centre boundaries, and they are of a scale that would be inappropriate in a less accessible location, they will be subject, first to a proportionate sequential test. The application has been supported by a sequential test which has identified that there are no other suitable town centre sites for the business need. Worthy of note, was the submission of an application for the site at Blyth Market Square however, this was withdrawn due to a lease being unavailable. Therefore, an attempt has made to seek town centre locations.

7.15 In addition, the proposed use is mainly outdoors therefore, this may be less suitable to smaller secondary centres due to visual impacts and increased disturbance in close proximity to residents. The impacts are less severe within an area of industry and business whilst still being a sustainable location.

7.16 To further demonstrate the community and economic benefits the applicants states that;

“To identify the employment benefit of the proposed development we are able to highlight not only the level of employment for the venue but also the businesses that the venue supports that would not be viable independently.

With the conversion of the existing buildings, we have been able to create 5 new start ups not only providing social mobility through the opportunity of self employment but through the success of our mentoring scheme and the investment within the site these start-up’s have now prospered and provide employment for in excess of 15 people.

The venue itself has a management team of 6, with over an additional 12 employees onsite.

It has also supported the opening of further new businesses within the site not only creating opportunity but providing job creation. The whole site now employs over 45 people and will continue to expand its employment requirements.

We also offer a range of additional services through the venue, from kids clubs, acoustic singers, quiz and bingo nights all creating further secondary employment.

We are converting further buildings within our ownership on site that we have through the success of the venue been able to attract further new businesses, all adding to the success of the scheme”.

7.17 The applicant also states that the site is part of a development that provides employment to more than double than the previous use. The site is a popular attraction within the local area with over 25,000 following on their facebook page. In addition to the drinking establishment, it provides movie nights, kids clubs and business events to support community cohesion.

7.18 The applicant further highlights that the site is offering a hub that will support small businesses and their plans to further develop the neighbouring vacant land in the immediate future for start-up businesses with the aim to take employment over 250 to create new jobs, provide new opportunities and social mobility whilst adding value to the area as a whole.

7.19 In summary, whilst there are conflicts with the allocated employment land use in principle, there are benefits to the scheme such as:

- A popular attraction within the local and wider community;
- There are no other suitable town centre sites;
- There are economic benefits with job creation and promoting small business outlets;
- The site promotes leisure facilities in Seaton Delaval;
- The proposal supports hospitality sector impacted by Covid-19;
- A temporary permission will ensure the application will not permanently take up employment/industrial land and be re-assessed if necessary.
- It will support the proposed ‘business hub’ that provides a unique culture for start up businesses;
- There is noise mitigation in place and strict conditions to enforce if disturbance becomes excessive;
- The proposal does not take up a strategic employment site and is commensurate with the size of the settlement;
- It does not adversely impact upon the character and appearance of the settlement and surrounding area;
- Whilst objections have been acknowledged, there has not been a significant level of concern received that indicates the use generates an unacceptable level of continual access by members of the public as identified in Policy ECN8.

7.20 Due to the identified community benefits, it is considered that the scheme overrides the need to retain the site for possible future employment development and would therefore accord with Policies ECN6, ECN8 and ECN9 of the Local Plan as well as supporting economic and sustainability aims.

7.21 It is acknowledged that due to the nature of the structures on site, the potential for disturbance, concerns with the loss of employment land and to provide time to evaluate the growth of the connected ‘business hub’, then a temporary permission may alleviate any concerns. It would also allow time to determine the existing use of the site via a formal route. An appropriately worded condition can be imposed for a time limit whereafter the site must return to its previous use or to reapply to extend the permission. This would allow members the opportunity to reassess the scheme.

Visual and residential amenity

7.22 In summary NLP Policy QOP 1 (Design principles) states that development proposals should make a positive contribution to local character and distinctiveness and contribute to a positive relationship between built and natural features, including landform and topography, having particular regard to:

- Building heights;
- The form, scale and massing, prevailing around the site;
- Not cause unacceptable harm to the amenity of existing and future occupiers of the site and its surroundings

7.23 Policy QOP 2 (Good design and amenity) further highlights that:

- *“Development will be required to provide a high standard of amenity for existing and future users of the development itself and not cause unacceptable harm to the amenity of those living in, working in or visiting the local area.*
- *Development proposals will need to ensure that the following criteria are met where applicable, taking into account any relevant cumulative effects and possible mitigation measures:*
- *The physical presence and design of the development preserves the character of the area and does not have a visually obtrusive or overbearing impact on neighbouring uses, while outlook from habitable areas of the development is not oppressive and the best outcomes for outlook are achieved wherever possible;*
- *Trees, other green and blue infrastructure and soft landscaping of amenity value are retained where appropriate and are introduced or replaced where they would enhance amenity of the development;*
- *Neighbouring uses are compatible and that there are no unacceptable adverse impacts from noise, disturbances, odour, gases, other emissions and any other harmful effects, resulting from either the development or from neighbouring uses on the development”.*

7.24 The site reuses the upcycled shipping containers around the perimeter of the site with tented areas and outdoor seating. This is screened by a newly built brick wall on Double Row and not highly visible from the public domain. The surrounding environment is employment and industrial buildings; vacant land and the neighbouring caravan storage. It is not considered that the scheme impacts the visual amenity of the area and is in accordance with Policy QOP1 and QOP2.

7.25 The development is situated at a distance of approximately one hundred metres from housing to the Northwest (Jefferson Grove / Washington Grove) and approximately one hundred metres from housing to the South East (Harehope Court / Capheaton Way). The development includes a range of leisure / entertainment uses including the playing of live sports on televisions, the use of a DJ, movies, solo artists, general background music and temporary events. Given this breadth of usage it was integral that the submitted noise impact assessment was reflective of the sites acoustic “worst-case scenario” to assess the impact the nearest residential areas and mitigate the impact to concerns received.

7.26 Public Protection were consulted on the scheme and the submitted interim report was limited in its data collection – providing only one hour of noise monitoring at a

representative point to the north and one hour of noise monitoring at a representative point to the south. Added to this issue, the applicant has submitted no quantified evidence of how the site will be acoustically mitigated and the venue has limited acoustic mitigation from structure due to the physically thin nature of the tent structure. It has been acknowledged that an acoustic fence has recently been erected on site to the southern boundary.

7.27 Referring to the Interim acoustic report, the southern monitoring point was approximately seven decibels above the measured background noise without the music present. Section 11 of BS 4142:2014 states that a ten decibel difference is “likely” to be a significant adverse health impact which would render the proposed development as unacceptable. There has been local complaints received by Public Protection that indicates the site as existing without mitigation is causing this significant adverse health impact level from music. The noise level was raised for the duration of the monitoring to a maximum broadband level of 80 dB, however the applicant has confirmed that they can viably operate with a maximum noise level for all music of 75 dB.

7.28 Considering all of the above, Public Protection recommends a number of strict conditions which are necessary to ensure that a significant adverse health impact will not occur in accordance with Planning Practice Guidance Paragraph: 010 Reference ID: 30-010-20190722. This will restrict noise levels at the residential areas to remain as existing and will enable enforcement action to be taken in levels become unacceptable.

7.29 There has been no background noise data submitted relating to the surrounding area after 10pm. In the absence of such data and due to the lack of structural mitigation, it is justified that the noise should be limited beyond that time as it has not been demonstrated if noise from entertainment sources could be successfully mitigated with the exception of a control of hours. This part of Seaton Delaval is in mixed commercial / residential usage and therefore it is considered to be unreasonable to automatically consider that noise monitoring carried out in half an hour periods between 20:00 – 21:30 would automatically be representative of the background noise after 22:00. Relevant guidance including the World Health Organisation Guidelines for Community Noise, 1999 recognises the distinct sensitivity of times after 23:00 and similarly no information has been submitted by the applicant to justify any entertainment noise being present after that time.

7.30 Public Protection consider that subject to conditions, the application is acceptable and accords with Policy QO2. If the application receives approval under a temporary permission, then noise levels can be further monitored and reassessed.

Highways

7.31 Policy TRA 2 of the NLP states that all developments affecting the transport network will be required to:

- a. Provide effective and safe access and egress to the existing transport network;*
- b. Include appropriate measures to avoid, mitigate and manage any significant impacts on highway capacity, congestion or on highway safety including any contribution to cumulative impacts;*
- c. Minimise conflict between different modes of transport, including measures for network, traffic and parking management where necessary;*

- d. Facilitate the safe use of the network, including suitable crossing points, footways and dedicated provision for cyclists and equestrian users where necessary;*
- e. Suitably accommodate the delivery of goods and supplies, access for maintenance and refuse collection where necessary; and*
- f. Minimise any adverse impact on communities and the environment, including noise and air quality”*

7.32 Policy TRA 4 of the NLP states that an appropriate amount of off-street vehicle parking sufficient to serve new development shall be made available in safe, accessible and convenient locations prior to the development, as a whole or in part, being brought into use. Vehicle parking should normally be provided in accordance with the parking standards set out in Appendix E of the Local Plan.

7.33 Further to our previous comments and concerns from Highways Development Management, additional information has been submitted and is acceptable subject to the imposition of conditions. Further information in relation to the deliveries and servicing are broadly acceptable, but in order to ensure appropriate management of these matters, along with the management of the car parking for the development, conditions are recommended to secure the allocated on-site parking and servicing strategies.

7.34 As a result of the additional information in respect to cycle parking and the layout of car parking, conditions are recommended to secure these details and the associated highways works to regulate the vehicular access drop kerbs to the highway, including the reinstatement of the footway.

7.35 In respect to the off-site improvements to nearby bus stops, to which the applicant places some reliance to achieve their sustainable transport access aims, we would always exercise the opportunity to secure improvements as a consequence of new development and recognise that the proposed and existing development may not rely solely on private car through the use of pick up/drop off, taxi, car share, walk etc. Therefore, appropriate solutions to operate safely and suitably for this development are sought through servicing, parking and management of the highway frontage, i.e., no obstruction of footways, as detailed above and secured by recommended conditions.

7.37 It is noted that the development will have increased footfall to the area, and we would like to see improvements to the bus stops infrastructure, however on balance we would request parking and servicing are secured through condition before any offsite works and therefore the of securing these under this planning application via condition is not met.

7.38 Highways Development Management has no objections to the scheme subject to the imposition of conditions and informatives with regards to car parking, parking and servicing management strategies, cycle parking, and highways works to the frontage of the site will address any concerns with the proposed development. It is considered that the impact of the development will not have a material impact upon the operation and safety of the highway and is in accordance with Policy TRA 2 and TRA 4.

Equality Duty

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications

These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

8.1 The application does not safeguard employment land however provides overriding public benefits in accordance with NLP Policy ECN9. The application is recommended for approval with a time limit of 2 years to the temporary nature of the development.

9. Recommendation

That this application be GRANTED temporary permission subject to the following:

Conditions/Reason

01. This permission is limited to a period expiring on 2 years from the date of this permission, when the use for an entertainment venue hereby permitted shall be discontinued and restored to its former use as a B8 storage and distribution, unless a further application for planning permission has been submitted, and subsequently approved, to continue the use.

Reason: In order that the effects of the use on employment land and the impact on the surrounding area can be monitored and in accordance with the provisions of the NLP and NPPF.

02. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans. The approved plans for this development are:-

Proposed Site Plan LM-PL-003 Rev D
Proposed Elevations A, B, & C - LM-PL-005 Rev C
Proposed Elevations D & E LM-PL-006 Rev C
Site Location Map LM-PL-001 Rev B

Reason: To ensure that the approved development is carried out in complete accordance with the approved plans

03. Within 1 month of the date of this permission, the approved car parking area shall be indicated on the approved plans, including any disabled and EV car parking spaces contained therefore shall be hard surfaced, sealed and marked out in parking bays in accordance with the approved plans.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

04. Within 1 month of the date of this permission, a car parking management strategy shall be submitted to and approved in writing by the Local Planning Authority. The car parking management strategy shall set out the operation of the car parking area, including provision of EV spaces and infrastructure, and the interaction with shared car parking demands within the car parking area. The approved Car Parking Management Strategy shall then be implemented in accordance with the approved details.

Reason: In the interests of highway safety and local amenity, in accordance with the National Planning Policy Framework.

05. Within 3 months of the date of this permission, details of the reconstruction of the vehicular accesses to the rear parking area and disabled car parking bays as well associated reinstatement of the highway including footway shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented within 8 weeks of the approval of these details thereafter, the vehicular accesses shall be retained in accordance with the approved details.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

06. Within 1 month of the date of this permission, the cycle parking shown on the approved plans shall be implemented in accordance with the approved plans. Thereafter, the cycle parking shall be retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.

Reason: In the interests of highway safety, residential amenity and sustainable development, in accordance with the National Planning Policy Framework.

07. Within 1 month of the date of this permission, a Servicing, Delivery and Refuse Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Servicing, Delivery and Refuse Strategy shall set out all matters pertaining to the servicing, delivery and refuse for the development and the existing uses to which it is ancillary to including vehicle types, times and frequency of deliveries and the management of the servicing, delivery and refuse details. The approved Servicing, Delivery and Refuse Strategy shall then be implemented in accordance with the approved details.

Reason: In the interests of highway safety and local amenity, in accordance with the National Planning Policy Framework.

08. The hereby approved premises must not emit any entertainment noise from any mixer, stereo, television or other electronic device from 22:00 to 07.00 Monday to Sunday

Reason: In the interests of residential amenity in order to reduce noise and general disturbance

09. Deliveries, servicing and collections, including waste collections, shall not take place outside of the following hours:

07:30 to 20:00, Monday to Saturday
10.00 to 18.00 on Sundays and Bank Holidays

Reason: To safeguard the amenities of the occupiers of nearby residential accommodation

10. The noise level of Entertainment noise (LAeq) including from music, singing, films, recorded and live television emitted shall not exceed by more than 5 dB the LA90 (without entertainment noise) in each octave band at the facade of the nearest noise sensitive locations. (Noise recordings must be taken as a 15 minute LA90 at the nearest sound-sensitive premises)

Reason: To safeguard the amenities of the occupiers of nearby properties

Informatives

01. You should note that alterations to the existing vehicle crossing point(s) are required. These works should be carried out within 3 months of the date of this permission. To arrange alterations to the existing vehicle crossing point(s) (and to make good any damage or other works to the existing footpath or verge) you should contact the Highways Area Office at blythdepot@northumberland.gov.uk

Date of Report: 05.05.2022

Background Papers: Planning application file(s) 21/01423/FUL