



Northumberland

County Council

DELEGATED REPORT

Application No:	21/01978/FUL		
Proposal:	Change of use to industrial storage		
Site Address	Land North Of Jubilee Estate, Lennep Way, Jubilee Industrial Estate, Ashington Northumberland		
Applicant/ Agent	Mr William Armstrong Portland Industrial Estate, Ellington Road, Ashington, NE63 8TU		
Ward	Haydon	Parish	Ashington
Valid Date	15 June 2021	Expiry Date	10 August 2021
Case Officer Details	Name: Mr Will Laing Job Title: Planning Officer Tel No: Email: will.laing@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission

1. Introduction

1.1 After consideration by the Chairman of Planning Committee and the Executive Director of Planning, this application is to be considered by Local Area Planning Committee.

2. Description of the Proposal

2.1 The application seeks full planning permission for a change of use of a parcel of land to a B8 storage use, including the installation of an electricity kiosk as set out in the plans submitted to the local planning authority. The site is located with Lennep Way along the site's northern boundary, with the dwellings of no.49 to 53 Jubilee Estate along the southern boundary.

2.2 The site has an existing hard surface and is enclosed by a metal palisade fence, which was approved under application 20/01986/FUL and later varied under application 21/00671/VARYCO to relocate the site access.

3. Planning History

Reference Number: 20/01986/FUL

Description: Erection of 2.4m fence and replacement of grass with hardcore as amended by revised site layout plan "As Proposed" received 17/08/20

Status: Approved

Reference Number: 21/00671/VARYCO

Description: Variation of Condition 3 (Approved Plans) relating to planning permission 20/01986/FUL to allow relocation of the site access (Retrospective)

Status: Approved

4. Planning Policy

4.1 Development Plan Policy

Wansbeck District Local Plan 2007

GP1 - General Development;
GP6 - Trees and Hedgerows;
GP30 - Visual Impact;
GP31 - Urban Design; and
EMP1 - (a) General Employment.

4.2 National Planning Policy

National Planning Policy Framework 2021 (NPPF)
National Planning Policy Guidance (as amended 2019) (NPPG)

4.3 Other Documents/Strategies

Northumberland Local Plan - Publication Draft Plan (Regulation 19) and proposed minor modifications, submitted on 29 May 2019

STP 1 - Spatial strategy (Strategic Policy);
STP 2 - Presumption in favour of sustainable development (Strategic Policy);
ECN 6 - General employment land;
ECN 7 - Key general employment areas for B-Class uses;
QOP 1 - Design Principles;
QOP 2 - Good design and amenity;
TRA 1 - Promoting sustainable connections (Strategic Policy);
TRA 2 - The effects of development on the transport network; and
POL 2 - Pollution and air, soil and water quality.

5. Consultee Responses

County Ecologist	No objection subject to condition.
Public Protection	No comments or objections.
Ashington Parish Council	No response received.
Highways	No objection.
North Trees And Woodland Officer	No response received.
Forestry Commission	No response received.
The Coal Authority	No objection.

6. Public Responses

Neighbour Notification

Number of Neighbours Notified	17
Number of Objections	5
Number of Support	0
Number of General Comments	3

Notices

General site notice, 1st July 2021

No Press Notice Required.

Summary of Responses:

Councillor Brannigan

- No drainage on site and the site has a previous history of flooding requiring pumping to drain the site;
- Noise, opening times should reflect the 0800 to 1700hrs opening hours of the surrounding industrial estate;
- No flood lighting should be permitted in the interest of residential amenity;
- Containers should be restricted to a single height, as to not impact on the light of the neighbouring properties;
- Rear boundary fence should be erected in accordance with the approved plan, the applicant should not be allowed use the residential boundaries as the site boundary;
- Sufficient space should be left between the site and the neighbouring dwellings as to allow maintenance of fencing;
- Applicant to be made aware that any hazardous materials stored must be applied for through the appropriate channels;

Neighbour Representations

16No objections from 4No addresses and 2No neutral letters of correspondence from 2No of addresses have been received, raising the following issues and grounds of objection:

- Request for determination by Planning Committee;
- Impact on visual amenity;
- Colours should be controlled by means;
- Containers should be restricted to single height, and should not be double stacked;
- Safety concerns over potential storage of hazardous or flammable materials;
- Safety concerns, previous fires within the Jubilee Industrial Estate;
- Security concerns over the fencing that has not been installed at the site (previous application);
- Fencing shown on the proposed plans should be installed immediately and leave a maintenance gap for residents;
- Allegations that the applicant does not intend to install the fencing to the rear of the site;
- Opening times should be restricted to reasonable hours;
- Site has previously flooded, and there is no existing watercourse;

- Impact on Protected Tree;
- No external lighting should be installed;
- Delivery of IBC tanks delivered to site;
- Previous history of planning enforcement;
- Comprehensive Risk Assessment/ Environmental Assessment should be carried out;
- Submitted Plans do not show the breezeblock structure in close proximity to the protected trees on site (plans since amended);
- Allegation that the stated site areas of 187sqm is incorrect;
- Work has started on site;
- No waste collection or storage details;
- Proposal would not generate any jobs;
- How will the site be enforced/policed?;
- Kerbs around the site have been displaced and the parts of the site are overgrown;
- The site is an allocated 'buffer zone' and is not meant for industrial use;
- Planning permission by degrees over several applications;
- Difference in the site notice date and the neighbour notification letters, time scale should be extended to include notice;
- Land Registry document challenging ownership; and
- Objection to 'industrial storage' in comparison to the applied for 'container storage'.

7. Appraisal

7.1 The main issues for consideration in the determination of this application are as follows:

- Principle of Development;
- Residential Amenity;
- Public Safety;
- Design and Visual Amenity;
- Flooding and Flood Risk;
- Parking and Highway Safety;
- Trees and Ecology; and
- Other Issues

7.2 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 comprises policies in the Wansbeck District Local Plan (adopted July 2007, saved policies 2010) (WDLP) as identified above. The National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are material considerations in determining this application.

7.3 Paragraph 48 of the NPPF states that weight can be given to policies contained in emerging plans dependent upon three criteria: the stage of preparation of the plan; the extent to which there are unresolved objections to policies within the plan; and the degree of consistency with the NPPF. The Northumberland Local Plan - Publication Draft Plan (Regulation 19) (NLP) was submitted to the Secretary of State for Ministry of Housing, Communities and Local Government on 29 May 2019, and is currently going through the examination process.

7.4 On 9 June 2021, the Council published for consultation, a Schedule of proposed Main Modifications to the draft Local Plan which the independent Inspectors

examining the plan consider are necessary to make the plan 'sound'. As such the plan is at an advanced stage of preparation, and the policies in the NLP - Publication Draft Plan (Regulation 19) (Jan 2019) as amended by proposed Main Modifications (June 2021), are considered to be consistent with the NPPF. The NLP is a material consideration in determining this application, with the amount of weight that can be given to specific policies (and parts thereof) is dependent upon whether Main Modifications are proposed, and the extent and significance of unresolved objections.

Principle of Development

7.5 This application seeks full planning permission for a change of use to B8 storage using shipping containers and the installation of a kiosk structure constructed from breeze blocks.

7.6 The application site is located within an existing industrial estate and allocated as an employment use area under the adopted Wansbeck Local Plan (adopted July 2007, saved policies 2010) and as an area for flexible employment uses in the Emerging Northumberland Local Plan 2019, as such the proposal is considered to be acceptable in principle.

7.7 It is noted that objections have been raised on the grounds that the site is located on an allocated buffer zone that should be maintained in the interest of residential amenity. However, there is no planning history to support this claim and allocation in both the adopted Local Plan and the emerging Local Plan have the employment use allocation run up to the boundary with the residential properties adjoining the site. As such, this is not a reasonable ground for refusal.

7.8 Objections have been submitted on the basis that the approved fencing to the rear of the site has not been installed, stating that the fencing should be installed and leave a maintenance gap for the neighbouring residents to maintain their fences. It should be noted that the hard-standing and fencing are the subject of an existing permission and are therefore not material to this application, issues with the previous application will need to be handled through the appropriate enforcement action.

7.9 An objection has been made on the grounds that the proposal would not generate any jobs. The proposed use class would be compatible with the land use allocation under then local plan and as such this is not reasonable grounds for refusal.

7.10 An objection has been received on the phrasing of application 'industrial storage' of the description in comparison to the applied for 'container storage' of the plans. The proposal applies for a B8 use, which is a use class that can include 'industrial storage' and the storage of shipping containers which, as in this case, can be used for short and long term storage.

7.11 Having regard to the above, the development is considered to be acceptable in principle and would comply with policies GP1 and EMP1 - (a) of the Wansbeck District Local Plan (2007), STP 1, STP 2, ECN 6, ECN 7 of the Emerging Northumberland Local Plan (2017).

Residential Amenity

7.12 Several objections have been raised regarding the potential detrimental impact of the proposed development on the neighbouring residential dwellings, including the impact on light from containers that if double stacked, light disturbance should any external lighting be installed and noise disturbance from the use with particularly if the operating hours are not controlled.

7.13 Due to the proximity of the proposed containers to the boundary of the nearest residential properties and the existing residential boundary height, the proposed containers would be visible from the neighbouring dwellings, however the impact on the light and outlook of the residential dwellings would not merit refusal of the application should the containers be limited to a single storey height. As such, it is necessary for the imposition of a condition to ensure the containers of the site are limited to a single level to ensure the proposal does not have a significant detrimental impact on the light or outlook of the neighbouring dwellings.

7.14 The previous application to enclose the land subject to this application (20/01986/FUL) had no operating hours and no operating hours are proposed in this application. The proposed use could potentially generate significant noise through the use of the site and the proximity to residential properties merits the imposition of conditions to ensure the proposal would not have an unacceptable impact on residential amenity. As such, it is officer recommendation that operating hours are limited between the hours of 0730 and 2000hrs Monday to Saturday and 0900hrs to 1600hrs on Sundays and Bank Holidays in the interest of residential amenity.

7.15 No lighting has been proposed as part of this application. The installation of lighting could potentially have a significant impact on the residential amenity of the neighbouring dwellings. As such, it is officer recommendation that no external lighting is installed without prior approval from the Local Planning Authority.

7.16 Public Protection has been consulted and have no objections to the proposal.

7.17 Having regard to the above and with the recommended conditions imposed, the proposal is deemed to comply with policies GP1 and EMP1 - (a) of the Wansbeck District Local Plan (2007) and policies QOP 2 and POL 2 of the Emerging Northumberland Local Plan (2017).

Public Safety

7.18 Several objections have been raised on the grounds of public safety raising concerns with the potential storage of dangerous or hazardous materials on site, and recent fires within the existing industrial estate.

7.19 The planning system does not override any health and safety legislation relating to the storage or handling of hazardous or dangerous materials. If planning permission is granted, the site's operator will need to comply with any relevant legislation to the handling and storage of materials on site. As such, this is not reasonable ground for refusal.

7.20 It is noted that fires have happened elsewhere in the estate, however these are material to the application site. The application does not include any industrial processes or incineration on site and as site this is not reasonable grounds for refusal.

7.21 A further objection has requested that a Comprehensive Risk Assessment/ Environmental Assessment be carried out. The scale and use of the proposal does not qualify for an Environmental Impact Assessment under EIA regulations, and a risk assessment of the site falls under the Health and Safety responsibilities of the sites operator and not within the jurisdiction of the planning system.

7.22 The Public Protection Team and Coal Mining Authority have been consulted and have raised no objections to the application on the grounds of public safety or ground stability.

7.23 Having regard to the above, the proposal would not have any significant adverse impact on public safety in terms of planning legislation.

Design and Visual Amenity

7.24 The proposed containers are not an unusual sight within the Jubilee Industrial Estate, with a similar container storage use to the north of the estate. It is noted that objections have been submitted on the grounds of visual amenity. It should be noted that the fencing and hard-surfacing were granted consent under a previous application and as such, the assessment of the visual impact is limited to the containers and breezeblock kiosk structure.

7.25 The proposed containers and breeze block are considered to remain in keeping with the industrial allocation of the site. Earlier within this report, it has been recommended that the containers are restricted to a single storey by means of condition in the interest of residential amenity, in addition to this, the proposed condition would have the secondary function of reducing the visual impact on the development. To ensure the containers have a uniform appearance, a condition shall be imposed to ensure that the containers are painted and kept in good repair.

7.26 Having regard to the above, the proposal is deemed to comply with policies GP1, GP30 and GP31 of the Wansbeck District Local Plan (2007) and policies QOP1 and QOP 2 of the Emerging Northumberland Local Plan (2017).

Flooding and Flood Risk

7.27 Concerns regarding flooding and flood risk have been submitted in conjunction with photographs of historic flooding following the implementation of the previous application.

7.28 While these concerns are noted, the application site does not fall within flood zone. The hard-surfacing of the site was approved and implemented under a previous application and the proposed shipping containers would be sited on the existing hard-surfacing, as such the proposed containers would have no further impact on the surface water drainage than the existing hard-surfacing.

7.29 Having regard to the above, the proposal is considered to be acceptable terms of flood risk and drainage.

Parking and Highway Safety

7.28 The Highways Authority has no objections to the proposal. It is noted that a resident has raised concerns on waste storage and disposal, however given the

nature and scale of the development the Highways Authority has not requested additional waste storage materials.

7.29 Having regard to the above, the proposal is deemed to comply with policies GP1 of the Wansbeck District Local Plan (2007) and policies TRA 1 and TRA 2 of the Emerging Northumberland Local Plan (2017).

Trees and Ecology

7.30 A breeze block kiosk has been built under the canopy of the protected tree on-site. The applicant has submitted a Tree Survey which has been reviewed by the County Ecologist, who has raised no objections to the proposal subject to the imposition of a condition to ensure the development is carried out in accordance with the submitted Tree Survey.

7.31 With this in mind, the proposal is considered to be acceptable in terms of trees and ecology and as such would comply with policy GP6 of the Wansbeck District Local Plan 2007 and QOP 4 of the Emerging Northumberland Local Plan.

Other Issues

7.32 The submitted objections raise several further issues that shall be addressed below:

7.33 It has been stated that the fencing shown on the proposed plans should be installed immediately and leave a maintenance gap for residents. The fencing and siting have been approved under the previous application and as such, they would be subject to the enforcement action for any breaches to the previous application.

7.34 Objections have been raised on the grounds that work has started and the delivery of IBC tanks delivered to site. While it is recommended that planning permission is obtained prior to the commencement of works, it is not a legal requirement to do so. The proposed IBC tanks would be in line with the proposed storage use and are therefore not reasonable grounds to refuse the application.

7.35 Concerns have been raised regarding the previous history of planning enforcement on the site. The previous enforcement history is not material to the determination of the application, which needs to be assessed on what is being applied for, rather than any previous history of the site.

7.36 A concern was raised that the submitted plans do not show the breezeblock structure in close proximity to the protected trees on site. The plans have since been amended to address this issue.

7.37 The stated site area of 187sqm within the application form is incorrect. Officer review of the plans show the site to be approximately 1830sqm, as such the application form appears to be typographical error. The proposal is not a major application, and would not require a s.106 planning obligation. As such, the error in site size would not have a material impact on the proposal.

7.38 An objection has stated that there is a difference in the site notice date and the neighbour notification letters, time scale should be extended to include notice. Officers can confirm that the public consultation period expires at the end of the

latest notice, which in this case was the site notice. All consultation periods have expired.

7.39 An objection was submitted with a partial Land Registry document challenging ownership. The submitted document did not include any maps or plans to show which plot of land the document referred to and no further information was submitted. As such, no evidence has been submitted to indicate that the ownership certificates within the application form are incorrect.

Equality Duty

7.40 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

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

Human Rights Act Implications

7.42 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.

7.43 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.

7.44 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 main planning considerations in determining this application have been set out and considered above stating accordance with the relevant Development Plan Policy. The application has also been considered against the relevant sections within the NPPF and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.

8.2 The proposal has addressed the main considerations and would accord with relevant policy and is considered acceptable. The proposal is therefore recommended for approval.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions/Reason

01. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved document and plans.

The approved document for this development is:-

- Application Form (dated 13.05.2021)
- JEA-KK: BS5837 Tree Survey Report (07.07.2021)

The approved plans for this development are:-

- 2133-02 REV A: Proposed Site Plan (dated 30.06.2021)
- 2133-03: Proposed Electrical Kiosk (dated June 2021)

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

02. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended)

03. The hereby approved development shall be carried out in full accordance with JEA-KK: BS5837 Tree Survey Report (07.07.2021) including the reseeding or mulching of the root protection area as identified within the section 4.6 report. There shall be siting of containers or storage within the Root Protection Area.

Reason: To protect the health, safety and amenity of the tree and to protect features environmental and amenity value having regard to GP 6 of the Wansbeck District Local Plan (2007).

04. The shipping containers of the hereby approved development shall be restricted to single storey in height with no stacking of containers at any time. No structures, plant or advertisements shall be sited on the hereby approved containers without submission of full details from the Local Planning Authority.

Reason: In the interest of residential amenity and visual amenity having regard to policies GP1, GP30, GP31 and EMP1 of the Wansbeck District Local Plan (2007).

05. No external lighting (temporary or permanent) shall be installed or used at the site without full lighting details being submitted to and approved by the Local Planning Authority in writing prior to first installation.

Any submitted light scheme shall include full details of that lighting scheme (including security lighting). Lighting must be designed following guidance set out in Institution of Lighting Professionals and lighting plans must show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications, and details of any automated motion sensitive or timed controls) so that it can be clearly demonstrated that areas to be lit will not disturb neighbouring residential properties.

All external lighting shall be installed in accordance with the specifications agreed and retained thereafter in perpetually. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority.

Reason: In the interest of residential amenity having regards to policies GP1 and EMP1 of the Wansbeck District Local Plan (2007).

06. The operation of the hereby approved storage use shall only operate between the hours of 0730 and 2000hrs Monday to Saturday and 0900hrs to 1600hrs on Sundays and Bank Holidays.

Reason: In the interest of amenity having regard to policies GP1 and EMP1 of the Wansbeck District Local Plan (2007).

07. The hereby approved shipping containers shall be painted a dark blue prior to their installation on site to provide a uniform appearance. The containers shall be painted no other colour without submission of a colour scheme to be submitted to and approved by the Local Planning Authority in writing. The containers shall retain the dark blue (or other approved colour scheme) in perpetuity and maintained in a good condition.

Reason: In the interest of residential amenity having regard to policies GP1, GP30 and GP31 of the Wansbeck District Local Plan (2007).

Date of Report:

Background Papers: Planning application file(s) 21/01978/FUL