

2023/0538

Applicant: Mr Michael Hewitt

Proposal: Erection of a temporary warehouse facility (Lawful development certificate for a proposed development)

Address: Unit 13 and Unit 14, Beevor Street Industrial Estate, Beevor Street, Hoyle Mill, Barnsley S71 1HN

Planning History

2022/0717 – Change of use from go-karting use to B8 use class (storage and distribution) and the erection of a new detached warehouse building to be used in connection with the existing business.

2017/1184 – Variation of condition 5 of 2011/0751 to allow use of petrol go-kart engines.

2012/0233 – erection of go kart support building.

2011/0751 – change of use from B8 storage and distribution to go karting track

2008/1117 – change of use to B8 storage and distribution

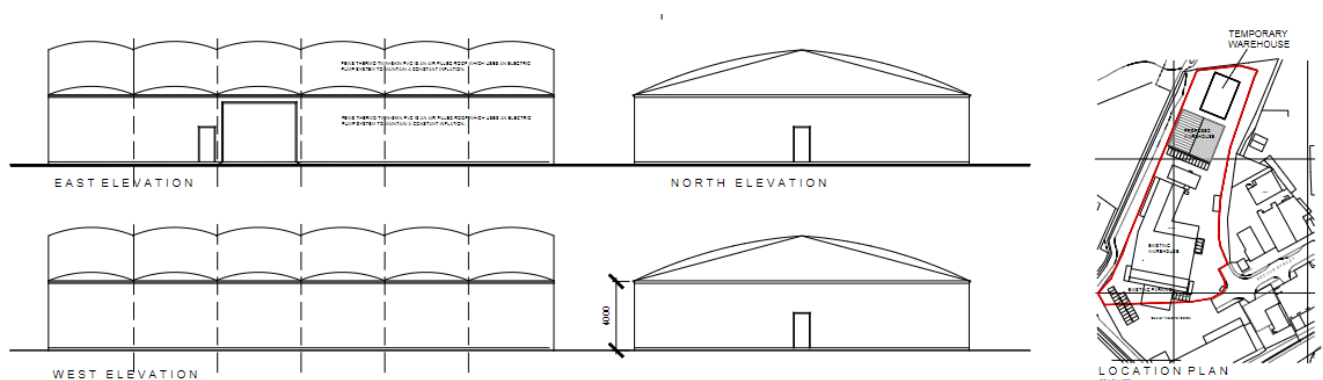
Description

The application relates to a site which is in use for storage and distribution following the grant of planning permission under application reference number 2022/0717 for both the use of the existing buildings and the construction of a new warehouse building. The planning permission was granted 20 October 2022. It is subject to a number of conditions including condition 4 requiring the submission of a scheme to delineate the hardstanding area to the north of the proposed warehouse building before any works above ground level commence. At site visit on 17 July there has been no commencement of works in relation to the new warehouse building and no submission of a discharge of condition application in relation to condition 4.

Proposed development

The application is made under section 192 of the Town and Country Planning Act 1990 and seeks to establish if the construction of temporary warehouse would be lawful or otherwise would require planning permission.

The temporary warehouse is proposed to measure 20 metres by 30 metres by 4 metres to eaves and just under 7 metres at the highest part of the roof. It would be constructed with walls of insulated panels and a roof which is described as 'Fews thermor twin-skin pvc is an air filled roof which uses an electric pump system to maintain a constant inflation'



The submission indicates that 'pending completion of the new permanent warehouse, a temporary facility is required to meet the current operational needs' and 'consent for the temporary building will be required until such time as the new warehouse is operational'.

The submission indicates that 'the proposal fully complies with' the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 4 Temporary Buildings and uses Class A – temporary buildings and structures which states:

Permitted development

A. The provision on land of buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over that land or on land adjoining that land.

Development not permitted

A.1 Development is not permitted by Class A if—

- (a) the operations referred to are mining operations, or
- (b) planning permission is required for those operations but is not granted or deemed to be granted.

Conditions

A.2 Development is permitted by Class A subject to the conditions that, when the operations have been carried out—

- (a) any building, structure, works, plant or machinery permitted by Class A is removed, and
- (b) any adjoining land on which development permitted by Class A has been carried out is, as soon as reasonably practicable, reinstated to its condition before that development was carried out.

Consultations

No consultations have been undertaken with neighbours or nearby properties – planning practice guidance indicates that there is no such statutory requirement. Any views expressed on the planning merits of the case would be irrelevant to this decision which simply requires the local planning authority to reach a determine whether the appropriate legal tests have been met.

Legal Officer – Part 4 Class A does allow temporary buildings as permitted development but the buildings need to be *required temporarily in connection with and for the duration of the operations being or be carried out on, in under or over that land or on land adjoining that land*. Apart from cases of self-build where prospective occupants of a new house are living on site typically in a caravan while they build their house all other cases under Class A of part 4 have related to buildings and plant and machinery needed directly in connection with the development works themselves. This proposal does not directly relate to building operations and my view on balance is that this proposal falls outside the scope of Class A and that this should be the subject of a planning application.

Assessment

In order for the provisions of Part 4 Class A to apply it is necessary for the proposed temporary building to be required temporarily in connection with and for the duration of the operations being carried out. The submission indicates that the proposed temporary building is required to

accommodate storage that will subsequently be transferred into the new warehouse building. There is no indication that the temporary building is required in connection with operations being, or planned to be, carried out.

Nor does the submission indicate when or how long the temporary building will be required for as it does not establish when development of the new warehouse will commence. As indicated above, the permission for the new warehouse building is subject to a condition requiring the submission of a scheme to delineate the hardstanding area to the north of the proposed warehouse building before any works above ground level commence. At site visit on 17 July there has been no commencement of works in relation to the new warehouse building and no submission of a discharge of condition application in relation to condition 4. However, even if a timescale had been indicated, this would not overcome the failure of the proposed building to be demonstrably required in connection with operations.

It is concluded that the proposed development does not comply with the relevant permitted development provisions necessary for a lawful development certificate to be issued.

Recommendation

Refuse