



**Growth and Sustainability
Regeneration and Culture
Planning and Building Control**

Mrs S Smedley
Peacock & Smith
Central House
47 St Pauls St
Leeds
LS1 2TE

My Ref: 2019/0286 & 2022/ENQ/00323
Your Ref:
Date: 17th August 2022
Contact: Elaine Ward
Direct Dial: 01226 774731
Email: elaineward@barnsley.gov.uk

APPLICATION SUBMITTED UNDER SECTION 96A OF THE TOWN AND COUNTRY PLANNING ACT (1990) AS AMENDED

APPLICATION FOR NON-MATERIAL AMENDMENT to 2019/0286 Hybrid planning application for an extension to Capitol Park comprising a) development of 2no warehouses (floorspace of 9,755m² and 7,804m²) for general industrial and storage and distribution purposes (use classes B2 and B8) with provision of ancillary office accommodation - Outline with all matters reserved apart from means of access; and b) full application for provision of associated earthworks, demolition of existing bungalow and formation of access (Amended Plans)

The changes proposed by the Non- Material Amendment are to vary condition 3, 8 and 10 of planning permission dated 05/09/2019.

Section 96A (1) gives the power to a Local Planning Authority to make a change(s) to a planning permission if the change(s) is/are not material which includes the power to

- (a) Impose new conditions
- (b) To remove or alter existing conditions

The conditions proposed to be amended in this Non Material Amendment application as set out in the original decision notice are as follows:

Condition 3

Prior to the commencement of development, details of the Engineering operations proposed to be undertaken adjacent to the motorway cutting shall be submitted to and approved by the Local Planning Authority (in consultation with Highways England). The details shall demonstrate that the operations will be carried out in accordance with the Design Manual For Roads and Bridges, Vol 4 Section 1 Part 2 HD22/08 Managing Geotechnical Risk and Vol 1 Section 1 Part 1 BD2/12 Technical Approval for Highways Structures and shall include but not be limited to:

- 1) the construction details of the retaining wall along the boundary of the motorway*
- 2) details showing that drainage and surface water run off shall not enter the motorway network*
- 3) how the stability of the cutting slope shall be maintained*

Condition 8

No development, including any demolition and groundworks, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority. The WSI shall include:



-The programme and method of site investigation and recording include geophysical Investigation if appropriate.

-The requirement to seek preservation in situ of identified features of importance.

-The programme for post-investigation assessment

.-The provision to be made for analysis and reporting.

-The provision to be made for publication and dissemination of the results

.-The provision to be made for deposition of the archive created

.-Nomination of a competent person/persons or organisation to undertake the works.

-The timetable for completion of all site investigation and post-investigation works.

Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.

Condition 10

Prior to the commencement of development

1) A scheme of intrusive site investigations/gas monitoring shall be undertaken by a suitably qualified person to evaluate ground conditions and determine any mining legacy risks

2) The site investigation and subsequent development shall be undertaken in compliance with Construction Industry Research and Information association publication 32 'Construction over abandoned mine workings'

3) A report detailing the finding of the investigations/gas monitoring, including a scheme of remedial works/mitigation, and a timescale for the implementation of any remedial works/mitigation, shall be submitted for approval in writing to the Local Planning Authority

4) Where further stabilisation works are required, details of the further works and a timescale for the implementation shall also be submitted for approval.

5) Once the report and any additional details have been approved, the development shall thereafter be carried out in accordance with the approved details

The reason for the proposed changes is that following the grant of planning consent although there is keen interest from a number of parties in the approved development for two warehouses and approved SCRIF funding for the roundabout access, (which will significantly assist the viability and marketability of the scheme), the permission expires on 5 September 2022. Reapplying for permission would entail significant cost and delays and uncertainty in the delivery of the site. It is therefore proposed to vary the above pre-commencement conditions to allow a technical start take place.

In respect of the 'full' application, the description includes earthworks, demolition of the bungalow and formation of the access. It is proposed that demolition of the bungalow would make a technical start on the development. However, several pre-commencement conditions would be required to be discharged before commencement, but some are not relevant to the bungalow demolition and would require considerable work. It is proposed therefore to vary the above three of the pre-commencement conditions above so that demolition is exempted from the pre-commencement requirement. The remainder of the pre-commencement conditions would be subject to a discharge of condition application prior to the commencement in accordance with the decision notice for 2019/0286.



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The NMA application has been considered by relevant consultees including National Highways, the South Yorkshire Archaeology Service and Contaminated Land Officer. No objections have been raised. However, the South Yorkshire Archaeology Services require that the bungalow is only demolished down to slab level and requests that an archaeology watching brief is undertaken whilst demolition is taking place. The LPA has therefore added a new condition 42 to cover this requirement in order to protect potential archaeology.

It is considered that these amendments will not impact significantly on highway safety, will not alter the nature or scale of the original permission, nor is it likely to result in loss of amenity to nearby adjacent residential properties or loss of visual amenity.

The changes would not result in any development which lies outside of the description of development, nor does it exceed the redline boundary of planning permission 2019/0286.

Overall, the proposed changes are inconsequential in terms of its scale in relation to the original permission. The proposed changes are therefore considered to be non-material.

Taking into account all of the above the **non-material amendment is acceptable.**

As a result of this non material amendment, conditions 3, 8 and 10 shall now be worded as follows:

Condition 3

Prior to the commencement of development, with the exception of demolition, details of the Engineering operations proposed to be undertaken adjacent to the motorway cutting shall be submitted to and approved by the Local Planning Authority (in consultation with Highways England). The details shall demonstrate that the operations will be carried out in accordance with the Design Manual For Roads and Bridges, Vol 4 Section 1 Part 2 HD22/08 Managing Geotechnical Risk and Vol 1 Section 1 Part 1 BD2/12 Technical Approval for Highways Structures and shall include but not be limited to:

- 1) the construction details of the retaining wall along the boundary of the motorway
- 2) details showing that drainage and surface water run off shall not enter the motorway network
- 3) how the stability of the cutting slope shall be maintained

Condition 8

No development, or groundworks, excluding demolition, shall take place until the applicant, or their agent or successor in title, has submitted a Written Scheme of Investigation (WSI) that sets out a strategy for archaeological investigation and this has been approved in writing by the Local Planning Authority.

The WSI shall include:

- The programme and method of site investigation and recording include geophysical Investigation if appropriate.
- The requirement to seek preservation in situ of identified features of importance.
- The programme for post-investigation assessment



- The provision to be made for analysis and reporting.
 - The provision to be made for publication and dissemination of the results.
 - The provision to be made for deposition of the archive created
 - Nomination of a competent person/persons or organisation to undertake the works.
 - The timetable for completion of all site investigation and post-investigation works.
- Thereafter the development shall only take place in accordance with the approved WSI and the development shall not be brought into use until the Local Planning Authority has confirmed in writing that the requirements of the WSI have been fulfilled or alternative timescales agreed.

Condition 10

Prior to the commencement of development with the exception of demolition,

- 1) A scheme of intrusive site investigations/gas monitoring shall be undertaken by a suitably qualified person to evaluate ground conditions and determine any mining legacy risks
- 2) The site investigation and subsequent development shall be undertaken in compliance with Construction Industry Research and Information association publication 32 'Construction over abandoned mine workings'
- 3) A report detailing the finding of the investigations/gas monitoring, including a scheme of remedial works/mitigation, and a timescale for the implementation of any remedial works/mitigation, shall be submitted for approval in writing to the Local Planning Authority
- 4) Where further stabilisation works are required, details of the further works and a timescale for the implementation shall also be submitted for approval.
- 5) Once the report and any additional details have been approved, the development shall thereafter be carried out in accordance with the approved details

The LPA also imposes a new condition:

Condition 42

Demolition of any building shall be undertaken to slab level only prior to the submission of the Archaeological Written Scheme of Investigation (WSI) as required under condition 8 above. An archaeology watching brief shall be carried out during all demolition works and any finds/actions/recommendations shall be reported in the subsequent WSI.

Reason: To ensure the archaeological interest is preserved for later investigation and in accordance with Local Plan Policy HE6.

This decision letter only relates to the non-material amendment. It is not a reissue of the original decision notice for planning permission 2019/0286 which still stands. The two documents should be read in conjunction.

Yours sincerely

Elaine Ward

For and on behalf of:

Joe Jenkinson BA (Hons) MSc

Head of Planning and Building Control

www.barnsley.gov.uk/developmentmanagement