
2021/0800

Variation of conditions 2 (approved plans) and 10 (drainage) of planning permission 2020/1199 – Erection of a freestanding restaurant building with drive-thru facility, car parking landscaping and associated works, including Customer Order Displays (COD), Goal Post Height Restrictor and Play Frame

Land off Kestrel Way, Birdwell, Barnsley, S70 5SZ

Site Location and Description

The site is located within the Gateway 36 employment area off the Dearne Valley Parkway. There are a range of employment, commercial and leisure/food businesses surrounding the site. Access to the site is off Kestrel Way.

There is a mixture of materials in the immediate area with grey/blue cladding on the employment/commercial buildings, red brick and tile on the adjacent pub and white/grey cladding on the other food/drink/pfs units nearby

The site area is 0.5 hectare and the site is the last vacant plot within the immediate area and is not part of the employment site allocation/MPF area. The site is brownfield (having been restored to hard after use). The site is roughly level with a fall from south to north of approximately 2 metres, reflecting the restoration to hard after use.

Site History

The site history for the site and the immediate area reflects the previous employment allocation of the site and a commitment to allow a proportion of non-conventional employment uses in order to help make the employment development viable and also secure a number of uses that would make the wider Dearne Valley Parkway employment allocations an attractive area for new business. The most relevant permission is as proposed to be varied:

2020/1199 - Planning permission was granted for the erection of a freestanding restaurant building with drive-thru facility, car parking landscaping and associated works, including Customer Order Displays (COD), Goal Post Height Restrictor and Play Frame on 5 May 2021

Proposed Development

The application 2020/1199 for a freestanding restaurant with drive thru was approved subject to conditions including conditions 2 and 10 which read:

2. The development hereby approved shall be carried out strictly in accordance with the amended plans (Nos.) and specifications as approved unless required by any other conditions in this permission.

Drawing numbers and specifications:

11627- AEW-8415-0002-C Block Plan

001-01 F Equipment Elevations Chargepoint Express 250

11627-AEW-8415-003 Existing Site Plan

16860-VL-McD-L01-E Landscape Plan

Location Plan

E11-003-V01-S Play Frame plan

11627-AEW-8415-0005 – A Proposed Building Elevations

11627-AEW-8415-0006 – A Proposed Floor and Roof Plan
4200204-1000 P1 Proposed Levels
11627-AEW-8415-0004-D Proposed Site Plan
5702 - Roof Level Standard Ventilation Layout
F200204/4101 Site Survey

Reason: In the interests of the visual amenities of the locality in accordance with Local Plan Policy D1 High Quality Design and Place Making.

10. The development shall be constructed in full accordance with the details submitted on drawing 4200204-SK08 (revision P1) dated 11/09/2020 prepared by Glanville whereby surface water shall discharge to public sewer at a maximum rate of 5 litres a second.

Reason: In order to mitigate against the risk of surface water flooding.

The conditions were imposed to ensure that the development took the form envisaged when planning permission was granted (approved plans) and to ensure that the approved drainage scheme was implemented.

It is stated on the application form that the reason for the proposed variation is 'Futureproof the levels, which has an impact on the drainage'. The agent has indicated verbally that the intention in moving the attenuation tanks away from the north east corner of the site and relocating them under the proposed car parking area is to 'future proof this development from further development'. A further impact of moving the attenuation tanks to a lower part of the site is that it has been possible to lower the FFL of the proposed building by 0.5metre

In all other respects the proposal is unchanged from the previous permission.

Policy Context

Planning decisions should be made in accordance with the development plan unless material considerations indicate otherwise and the NPPF does not change the statutory status of the development plan as the starting point for decision making.

Local Plan

The Local Plan was adopted on 3th January 2019. The site is designated as Urban Fabric on the Local Plan Proposals Maps. The following policies are relevant:

Policy TC1 Town Centres – indicates that new retail development will be directed to centres in order to maintain and enhance their vitality and viability and that a sequential approach will be used to assess proposals for new retail and town centre development outside the designated centres.

Policy Poll1 Pollution Control and Protection – sets criteria to ensure that new development does not unacceptably affect or cause nuisance to the natural and built environment or to people; or suffer from unacceptable levels of pollution.

Policy T4 New development and Transport Safety – expects new development to be designed and built to provide safe secure and convenient access and to not cause or add to problems of highway safety or efficiency.

Policy SD1 Presumption in favour of Sustainable Development – indicates that we will take a positive approach reflecting the presumption in favour of sustainable development in the National Planning Policy Framework and that we will work proactively with applicants to find solutions to secure development that improves the economic, social and environmental conditions in the area

Policy GD1 General Development – sets a range of criteria to be applied to all proposals for development.

Policy D1 High Quality Design and Place Making – indicates that development is expected to be of high quality design and to reflect the distinctive, local character and features of Barnsley.

GS2 Green Ways and Public Rights of Way – indicates that we will protect green ways and public rights of way from development that may affect their character or function.

NPPF

The National Planning Policy Framework sets out the Government's planning policies for England and how these are expected to be applied. At the heart is a presumption in favour of sustainable development. Development proposals that accord with the development plan should be approved unless material considerations indicate otherwise. Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole; or where specific policies in the Framework indicate development should be restricted or unless material considerations indicate otherwise.

Supplementary Planning Documents (SPD):

SPD Parking - Gives guidance on parking standards, including giving an indicative figure of what will be considered acceptable but does not prescribe maximum or minimum figures.

SPD – Sustainable Travel - seeks contributions for sustainable and active travel on major developments. Sets out the number of electric vehicle charging points to be provided on developments as a minimum.

SPD – Biodiversity and Geodiversity - Sets out how Local Plan policy BIO1 and GI1 on green infrastructure will be applied. It also provides further specific detail about the Dearne Valley Nature Improvement Area.

SPD – Hot Food Takeaways - Explains the main issues that are likely to apply to a planning application for a hot food takeaway

Hot Food Takeaways planning advice note - Explains and includes exclusion zones around schools where new takeaways won't be allowed.

Good Practice Planning Guidance: Barnsley MBC Air Quality and Emissions Good Practice Planning Guidance.

Consultations

Highways DC – No objections.

Pollution Control – The development is unlikely to have an adverse impact on health and the quality of life of those living and/or working in the locality, so approval is recommended.

SYMAS – No objections

Drainage – The details provided are sufficient, no further observations with respect to land drainage.

Public Rights of Way – Not consulted on the original application. A footpath runs alongside the southern and eastern boundaries of the proposed development. It does not appear to be directly affected by the proposals. Request an informative advising the developer of their responsibility to ensure that the public right of way is not obstructed during construction or after.

Yorkshire Water – No objection to the variation of Condition 2 or 10. Drawing 4200204-1200 (Rev P2 dated 28/05/2021) prepared by Glanville shows surface water restricted to 5 litres/second with primary infiltration disposal.

The Coal Authority – No comments (and note previously had no objections)

Ward Councillors – No comments received

Representations

The application has been advertised via press (2 July to 23 July) and site notices (28 June to 19 July) (Reason: affects public right of way) and direct neighbour notifications; no representations have been received.

Assessment

Principle of development including retail policy

The proposal is located on urban fabric within a wider employment area and outside of a designated (retail) Centre and is predominantly surrounded by commercial properties (the site backs on to the Dearne Valley Parkway). Planning policies for the development of a main town centre use in urban fabric indicate that, provided there is not a sequentially preferable town centre site/building available for the proposal, the development management criteria of policy GD1 will apply.

A sequential assessment was submitted in support of the previous application which demonstrated that there were no suitable and available sites within or on the edge of Hoyland. The application passed the sequential test and there is no reason to think that circumstances have changed in the period of less than four months since planning permission was granted.

The proposal is therefore supported in land use planning policy terms and permission has previously been granted. Consideration needs to be given to the impact of the revisions to conditions 2 and 10 in terms of the changes to the drainage of the site.

Drainage

The proposal involves moving the underground attenuation tank to a lower part of the site, allows for the finished floor level (FFL) of the proposed building to be lowered by 0.5m. The proposed alterations to the drainage of the site are supported by Yorkshire Water and internal Drainage Officers and there are no adverse impacts.

Other considerations

There are no proposals which change the previous conclusions in relation to health, pollution, visual amenity, residential amenity, highways safety, ecology, or crime prevention.

Since planning permission was granted for the development, the green walls and roofs condition has been discharged. The approved plans condition (2) and the relevant green walls and roofs condition (13) will be amended to reflect this.

Recommendation

Grant subject to conditions

Time limit condition

The development hereby permitted shall be begun before the expiration of 3 years from the date 5 May 2021.

Reason: In order to comply with the provision of Section 91 of the Town and Country Planning Act 1990.

The development hereby approved shall be carried out strictly in accordance with the plans and specifications as approved unless required by any other conditions in this permission.

Plan references:

11627- AEW-8415-0002-C Block Plan
001-01 F Equipment Elevations Chargepoint Express 250
11627-AEW-8415-003 Existing Site Plan
16860-VL-McD-L01-E Landscape Plan
Location Plan
E11-003-V01-S Play Frame plan
11627-AEW-8415-0005 – B Proposed Building Elevations
11627-AEW-8415-0006 – B Proposed Floor and Roof Plan
4200204-1000 P2 Proposed Levels
11627-AEW-8415-0004-D Proposed Site Plan
5702 - Roof Level Standard Ventilation Layout
F200204/4101 Site Survey

Green roof and walls specifications:

Aftercare living roof Dearne Valley
Aftercare living wall Dearne Valley
Dearne Valley Planting Design
Living Wall Dearne Valley

Reason: In the interests of the visual amenities of the locality and in accordance with Local Plan Policy D1 High Quality Design and Place Making.

The approved Construction Environmental Management Plan shall be adhered to throughout the construction period.

Reason: In the interests of highway safety, residential amenity and the satisfactory appearance of the construction site.

The approved Delivery Management Plan shall be adhered to throughout the operation of the development hereby permitted.

Reason: In the interests of highway safety and residential amenity.

The Cycle Stands and Shelters indicated on the approved plans shall be installed before the development is brought into use and shall be retained at all times.

Reason: To ensure that satisfactory cycle parking provision is made in the interests of encouraging active travel options and in accordance with Local Plan Policy T4 New Development and Transport Safety

The approved air conditioning and fume extraction equipment and plant shall be installed strictly in accordance with the approved details before the use hereby permitted first commences and retained and maintained as such thereafter.

Reason: In the interests of the residential and visual amenities of the locality and in accordance with the Local Plan Policies D1 High Quality Design and Place Making and Poll1, Pollution Control and Protection.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which die within a period of 5 years from the completion of the development, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the visual amenities of the locality, in accordance with Local Plan Policy GD1 General Development.

The ecological mitigation measures identified in the ecological appraisal and set out on the approved drawing number 16860-VL/McD_LO1 E 'landscape plan' shall be carried out simultaneously with the landscaping scheme, that is in the first planting and seeding seasons following the occupation of the building or the completion of the development, whichever is the sooner.

Reason: To conserve and enhance biodiversity in accordance with Local Plan Policy BIO1 Biodiversity and Geodiversity.

The approved scheme to be employed to control litter and minimise waste from being deposited in the street, including the provision of litter bins shall be fully implemented, retained and maintained for the duration of the operation of the development and the use shall operate in complete accordance with the approved scheme.

Reason: In the interests of the visual amenity of the locality in accordance with Local Plan Policy Poll1, Pollution Control and Protection.

The development shall be constructed in full accordance with the details submitted on drawing 4200204-1200 (Rev P2 dated 28/05/2021) prepared by Glanville whereby surface water shall discharge to public sewer at a maximum rate of 5 litres a second.

Reason: In order to mitigate against the risk of surface water flooding

Before the development hereby permitted is first used, the two electric vehicle charging points and the infrastructure/ducting for a further four electric vehicle charging points shown on the approved plans shall be installed to the approved specification and shall thereafter be retained for the duration of the development.

Reason: in the interests of mitigating the impact of the proposals on air quality in accordance with Local Plan Policy Poll 1 Pollution Control and Protection.

The parking/manoeuvring facilities, indicated on the submitted plan shall be made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times.

Reason: In the interest of highway safety, in accordance with Local Plan Policy T4 New Development and Highway Improvement

The green roof and walls shall be provided, in full compliance with the details approved by the Local Planning Authority under application 2021/0824, before the first use of the building hereby permitted. The plants shall be maintained for a period of five years from the date of implementation and any failures within that period shall be replaced.

Reason: To ensure that the development takes the form envisaged by the Local Planning Authority and in the interests of satisfactory biodiversity mitigation in accordance with Local Plan Policy BIO1 and the SPD Biodiversity and Geodiversity.

Notes

1. The submitted drawing shows both foul and surface water proposed to be drained to private sewers believed to be contained in a sewer adoption agreement made with Yorkshire Water (or our predecessor/agent) under the provisions of Section 104 of the Water Industry Act 1991 (or amended earlier legislation).
2. The developer should also note that the site drainage details submitted have not been approved for the purposes of adoption or diversion. If the developer wishes to have the sewers included in a sewer adoption/diversion agreement with Yorkshire Water (under Sections 104 and 185 of the Water Industry Act 1991), they should contact our Developer Services Team (tel 0345 120 84 82, email: technical.sewerage@yorkshirewater.co.uk) at the earliest opportunity. Sewers intended for adoption and diversion should be designed and constructed in accordance with the WRc publication 'Sewers for Adoption - a design and construction guide for developers' 6th Edition, as supplemented by Yorkshire Water's requirements.
3. A public right of way runs alongside the proposed development site. Safe public access on the right of way should remain available whenever possible, with no obstruction of or encroachment onto the width of the path and no building debris, storage of materials or parked vehicles limiting access at any time. Appropriate measures should be taken to protect the public, including fencing if necessary. If safe public access is not possible at any time then a temporary closure should be arranged, providing at least 4 weeks' notice and details of how public access will be managed. For further information contact publicrightsofway@barnsley.gov.uk