
Ref 2021/1306

Applicant: Mr Gary Mellor

Proposal: Erection of single storey building intended for storage purposes

Address: Land at Pond Street, Barnsley, S70 1NQ

Site Description

The application site is a hard surfaced level site, with approximately 2 metre high blockwork boundary walls and a galvanised metal gateway opening onto Pond Street. Within the site there is a shed, a couple of storage containers and some outside storage. The application indicates that the site is 838 sq. metres has been used for storage and sale of landscaping products

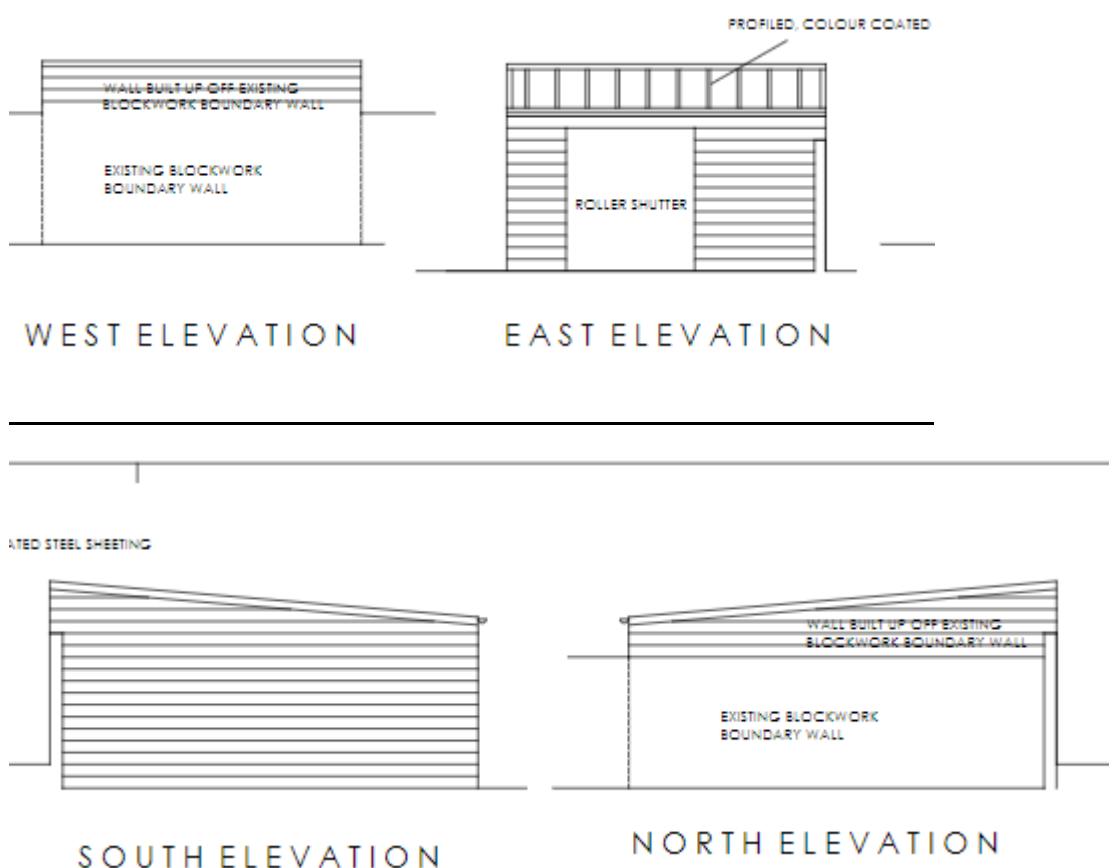
To the south and west there are commercial buildings, to the north and east are houses.

Aerial photos show that the site was previously used as a garage court.

Proposed Development

The building subject to this application is partially constructed from blockwork, with north and west walls proposed to be built up off the existing blockwork boundary walls. It is proposed to have a profiled metal sheeting roof. measures 9m x 6.5m x 4.5m at the highest part of the monopitch roof

The application is supported by a Coal Mining Risk Assessment.





Planning History

1999 and 2000 applications for erection of garage on individual plots of 'Pond Street Garage Site'.

2009/0110 – application for change of use to commercial storage and erection of a 3.6m high wall refused.

Policy Context

Decisions on planning applications 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 by the Council in January 2019. Council has also adopted a series of Supplementary Planning Documents which are other material considerations.

The Local Plan review was approved at the full Council meeting held on 24th November 2022. The review determined that the Local Plan remains fit for purpose and is adequately delivering its objectives. This means no updates to the Local Plan, in whole or in part, are to be carried out ahead of a further review. The next review is due to take place in 2027 or earlier if circumstances require it.

The site is in an area designated as Urban Fabric on the Local Plan Proposals Maps reflecting the existing built-up character. The following policies are relevant:

Policy GD1 General Development – Development will be approved subject to assessment against a range of criteria, including if there will be no significant adverse effect on the living conditions and residential amenity of existing and future residents.

Policy D1 High Quality Design and Place Making – Development is expected to be of a high quality design and will be expected to respect, take advantage of and reinforce the distinctive, local character and other features of Barnsley.

Policy T3 New development and Sustainable Travel – expects new development to be located and designed to reduce the need to travel, be accessible to public transport and meet the needs of pedestrians and cycles. Also sets criteria in relation to minimum levels of parking, provision of transport statements and of travel plans.

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 CL1 Contaminated and Unstable Land – requires the submission of a report where future users of occupiers of development would be affected by contamination or stability issues, to establish the extent of the issues and set out measures to remove, treat or protect from contamination, or address land stability issues.

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.

Supplementary Planning Documents

Parking SPD – gives guidance on parking standards

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.

The NPPF advises that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities

It also indicates that planning decisions should contribute to and enhance the natural and local environment including by preventing new and existing development from contributing to, being put at unacceptable risk from land instability.

Consultations

Highways DC – no objections

Pollution Control – no objections

The Coal Authority

- initial comments expressed concern that the application site is in a Development High Risk Area and that a Coal Mining Risk Assessment (CMRA) was required.
- In response to the submission of a CMRA, recommended that a condition is imposed requiring that an intrusive site investigation is carried out.
South Yorkshire Mining Advisory Service
- Initial comments recommended that permission is refused.
- Further comments recommend refusal unless the application can satisfy the Coal Authority's concerns.

Representations

The application was advertised by way of a site notice and letters to properties near to the site. 2 letters have been received making the following points:

- The building is proposed to be constructed over a disused mine shaft several hundred feet deep, have possible load created subsidence issues been addressed.
- The application does not describe that development has already taken place including use of the site for storage including building materials and 3 shipping containers.
- Noise levels from the site are at times intolerable and incompatible with our own business.

- Fires have been lit, generators left running causing smoke and fumes to enter our business

Assessment

Principle

The application site is located in an area designated as Urban Fabric in the Local Plan where the principle of small scale development is acceptable in principle subject to considerations of the principle of the use and detailed assessment of the impact of the development.

The existing use of the site appears to be unauthorised. Planning records indicate that the site was previously used as a garage court. Aerial photos indicate that the garages were removed as long ago as 2009 but that as recently as 2018 the site remained unused and there was no signs of any storage use on the site. It is clear from representations that the storage use of the site is causing noise and disturbance to neighbours, and it is concluded that the character of the storage use of the site is materially different from the previous use of the site as a garage court. There is therefore no authorised use of the site for storage.

Stability

It has not been possible to resolve the objections from the Coal Authority and South Yorkshire Mining Advisory Service to the proposed development. Their advice notes that the submitted Coal Mining Risk Assessment identifies that the site is at moderate to high risk from probable unrecorded shallow coal mining and recorded mine entries. The report author considers that it is likely that the building is adequately separated from recorded mine entries but that there remains a degree of uncertainty regarding the siting in relation to one mine entry. Accordingly, recommendations are made in the report that intrusive ground investigations are required to confirm the exact ground conditions within/beneath the site and to inform the extent of remedial and mitigation measures likely to be required. It was the consultees advise that this work should be required by condition before any further work is completed on the partially constructed building.

The difficulty with crafting a condition in circumstances where the building is partially constructed is in establishing the timing required for the intrusive ground investigations. In the normal course of events a pre-commencement condition is imposed but that option is not available here because the work has already commenced. A condition would need to establish a deadline for the completion of intrusive ground investigations; and what must happen if those investigations don't take place in a specified timescale, or if the investigations conclude that the building cannot be safely retained in its current position, or if the investigations conclude that further remediation or mitigation measures are required and must be required to be undertaken in a specified timescale.

The applicant has been recommended to undertake intrusive ground investigations, or to remove all construction from the site, before planning permission is granted. The agent has indicated verbally that the applicant is not prepared to invest this money in advance of planning permission being granted. It is concluded that in the absence of further evidence, there is a significant risk that the proposed development would be at risk from land stability issues resulting from former coal mining activities and therefore the proposal is contrary to Local Plan policy CL1

Highway Safety

Reflecting the advice of the highway officer it is considered that the proposed storage building would not adversely impact highway safety conditions and the proposal is in compliance with policy T3 of the Local Plan.

Residential and Visual Amenity

Reflecting the advice of the pollution control officer, the proposed building is unlikely to adversely affect the amenity of local residents or businesses and given it's relatively modest size is

considered to be of limited impact on visual amenity of the area. It is therefore concluded that the proposal is in compliance with Local Plan policies GD1 and D1.

Other matters

The underlying use of the site remains unauthorised and would need to be addressed before any planning permission could be granted for the proposed development, were the land stability issues to be resolved. The agent has been invited to amend this application or make a separate application to regularise the unauthorised use but has not responded.

Conclusion

It is concluded that the proposals' conflict with Local Plan policy CL1 is unsurmountable and accordingly the proposal is contrary to the development plan as a whole.

Recommendation

Refuse for the following reasons

1. Given the lack of information submitted to address the land stability issues resulting from former coal mining activities on the site and in particular the proximity of the proposed building to a mine entry, there is significant risk that the proposed development would be at risk from land stability issues, contrary to Local Plan policy CL1