



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

| | |
|-------------------------------|---|
| Application No: | DM/23/01109/FPA |
| Full Application Description: | Part retrospective application for the change of use of land as storage facility (Class B8) in association with scaffolding business, associated structures, fencing and hard surfacing |
| Name of Applicant: | Mr A Allison, Mr G Allison, and Mr P Foster |
| Address: | Land North Of Unit 13, Coundon Industrial Estate, Coundon DL14 8NR |
| Electoral Division: | Coundon |
| Case Officer: | Hilary Sperring (Planner) Tel: 03000 263947 Email: hilary.sperring@durham.gov.uk |

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to an area of land to the north of Coundon Industrial Estate, Coundon. The site is roughly rectangular in size, of relatively level topography, and of an overall size of approximately 1,500 square metres.
2. The site is enclosed by close boarded fencing approximately 2 metres in height. The eastern boundary also includes gates which provide access into the site into and out of the wider Industrial Estate.
3. To the north are residential dwellings within Holberry Terrace, with residential properties Eden Garth and Roseberry also located to the west.
4. The site is included within an area designated as a protected employment site under Policy 2 (Employment Land) (Table 4 Protected Employment Site) of the

County Durham Plan at Coundon Industrial Estate (west) (reference EMP 59 within the Council's Employment Land Review). The area also lies within Environment Agency Flood Zone 1 and a Coalfield Development Low Risk Area.

The Proposal

5. The application is part retrospective application and seeks planning permission for the change of use of land to a storage facility (Class B8) in association with an existing scaffolding business, associated structures, racking, fencing and hard surfacing. The business is already operating from the site although the application also proposes the extension of a racking and hardsurfaced area to be used for storage and parking.
6. The application is being reported to South West Planning Committee as the application is being recommended for refusal and, in accordance with the Council's Scheme of Delegation, it involves 10 or more full time or equivalent jobs.

RELEVANT PLANNING HISTORY

7. Whilst allocated as employment land under CDP Policy 2, the application site does not have planning permission to operate as a scaffolding storage facility and appears to have been laid with grass up until 2019.
8. The following planning applications are relevant to the current application:
9. Planning permission to change the use of the land to an equestrian paddock with a stable block was granted retrospectively on the 9th of July 2007 under reference 3/2007/0384. This relates to the application site as well as the land immediately to its south. Condition 2 of the approval stated – *'This permission shall enure for the benefit of Mr John Brunskill only and not for the benefit of the land or any other person(s) having for the time being an interest therein.'*
10. Applications 3/2004/0406 and 3/2005/0266 for the erection of a dwelling were refused due to concerns over the amenity of the future occupants and the access being unsuitable. An appeal was subsequently dismissed.
11. The erection of an industrial unit for the storage and maintenance of vehicles was approved on the 7th of April 2004 under reference 3/2003/0143 but was never implemented.

PLANNING POLICY

National Policy

12. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:

13. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
18. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
19. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
20. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in

greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

21. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

National Planning Practice Guidance:

22. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: determining a planning application; land affected by contamination; and noise.

<https://www.gov.uk/government/collections/planning-practice-guidance>

Local Plan Policy:

The County Durham Plan (CDP)

23. *Policy 1 (Quantity of Development)* outlines the levels of employment land and housing delivery considered to be required across the plan period.
24. *Policy 2 (Employment Land)* supports business, general industrial and storage and distribution development within specified employment allocations and also protects other existing employment sites from being changed to non-employment uses, unless appropriate marketing has been undertaken or that the use would not compromise the main employment use and would comply with retail Policy 9 where main town centre uses are being proposed. Where a non-employment development is proposed on the protected employment sites, any existing jobs on site must be relocated.
25. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings.

Development should have regard to Parking and Accessibility Supplementary Planning Document.

26. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards.
27. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development.
28. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
29. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
30. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
31. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.

32. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
33. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

Supplementary Planning Documents

34. Residential Amenity Standards SPD (2023) – Provides guidance on the amenity standards that would normally be expected relative to residential properties.
35. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

36. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham>

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

37. *Town / Parish Council* – There is no Town/ Parish Council.
38. *Highways Authority* – Confirm the proposals raise no highways safety concerns.

Internal Consultee Responses:

39. *Spatial Policy* – Confirm that the site is included within an area designated as a protected employment site under Policy 2 and outline the Planning Policy context relating to the application.
40. *Environmental Health and Consumer Protection (Nuisance)* – Raise concerns over the impact of the proposals on residential amenity and potential causing a statutory nuisance. Do not support the application due to proximity to residential housing and the feasibility of achieving a reasonable buffer zone.
41. *Environmental Health and Consumer Protection (Contamination)* – Confirm there is no requirement for additional information regarding contaminated land. Informative advice is offered.
42. *Ecology* – Advise that the proposals should deliver a net gain in biodiversity.

Public Responses:

43. The application has been advertised by site notice and individual notification letters sent to neighbouring properties.
44. The following representations have been received in relation to the application:

1 letter of objection has been received, from Durham Aged Mineworkers Homes Association, who have commented that they have several properties that overlook the site and have received numerous complaints from the residents about the development. They raise concerns over traffic, access and parking problems; the appearance of the site; and noise, overshadowing and overlooking.

Elected Members

45. No comments from Councillors received.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

Applicants Statement:

46. The applicants are two local brothers, born and raised in Coundon who over the past three years have built an ever-growing scaffolding business which provides employment now to eighteen people in the local area. As part of their business, they require a secure and protected storage yard for scaffolding equipment and vehicles.

47. It is with regret that a retrospective application is being applied for, however this is through no malicious intent, as the applicants were not aware of the planning status of the land upon purchase. Upon the contact by the Council's planning enforcement team, the applicants have worked proactively in the submission of a suitable planning application which was submitted in April 2023 and welcome that this is finally being brought to committee now in November 2024.
48. During the planning application, the Planning Officer has raised concern in relation to noise, disturbance, and impact upon residential amenity. An onsite meeting was held in September 2023 with the Planning Officer and the Environmental Health Officer to discuss these concerns and work towards resolving the issues and despite attempts from the applicants, the Planning Officer deems that this site is unsuitable for the above reasons to be used as a storage yard.
49. At the site meeting held in September 2023, the operational use of the site and hours of working were made clear on how the site is used as a storage yard for scaffolding equipment and vehicles kept overnight. If there is any handling of scaffolding equipment this is on an afternoon when vans require loading for a job (to leave the subsequent morning) or are being unloaded from a completed job.
50. It was further explained that scaffolding equipment is moved from site to site and its only surplus equipment that is returned to the yard which does not happen daily. The applicants happily agreed to re-arrange their site and investigate the installation of acoustic fencing/wraps. We would also comment that when the Planning Authority were asked if a noise assessment would be needed, the feedback was that the existing background noise from the industrial estate would likely be the primary baseline on any assessment, and the operational use of the scaffolding would be lost within this; due to this comment, a noise assessment was not further prepared to support this application. The applicants have also been clear that they are happy to work within conditioned working hours/management plan to prevent any potential antisocial noise generation within the yard.
51. The application site is located at Coundon Industrial Estate which under the County Durham Plan 2020 (CDP) Policy 2 is a protected employment site (shown on the plan maps). The Environmental Health Officer has declared that the application site was a green area that acts as a buffer between residential dwellings and the Industrial Estate. The plan making however of the CDP clearly identified that the land is important in the continued support of employment in Co. Durham, or it would have not been allocated on the maps as part of the Coundon Industrial Estate which is a protected site under Policy 2. To appreciate how much the planning authority have protected this land for employment use goes back to 2007 when the Wear Valley Local Plan (WVDP) was the development plan for the area. The WVDP also identified this land for employment in the protected industrial estate, which recognises that this has always been a long-term allocation. The planning officers delegated report from the planning permission to use the land as a temporary paddock (on a personal planning permission for the previous owner) stated:

“The erection of the stable and use as a paddock would not prejudice any potential future demand for industrial related employment use of the site should any demand arise in the future, either for expansion of the existing business at the estate or an independent industrial use.”

52. We have a site allocated for protected employment in the local development plan, and a demand for such land from a Scaffolding Business ran by two brothers from Coundon, which is creating a clear effective and efficient use of land available which aligns with the NPPF. Where else in Coundon is such a business able to operate from and grow if not the Industrial Estate as no other land is allocated for this in the village that is available. Since being made redundant in 2021, the brothers have created a successful business which at the time of this Planning Committee is now providing eighteen jobs to the local community. The scaffolding yard is providing an essential storage function for their business, and it is hoped that the members of the Planning Committee can provide support to this Planning Application.

PLANNING CONSIDERATION AND ASSESSMENT

53. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
54. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
55. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Residential Amenity, Highway Safety Issues, Visual Amenity, Ecology and Biodiversity Net Gain, Other Matters, and Public Sector Equality Duty.

Principle of Development

56. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
57. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-

date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

58. CDP Policy 2 (Employment Sites) states that undeveloped land and plots at employment sites, and at proposed extensions to these existing employment sites, as shown on the policies map, are allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) unless specifically stated. The policy goes on to list sites which are allocated for employment uses at Table 3, and those which are identified as protected employment sites under Table 4. The supporting text to this policy at paragraph 4.45 advises that "*In addition to the new land identified for employment, the Employment Land Review (ELR) also identifies a number of other existing employment sites which make an important contribution to the economy of the county and are of sufficient quality that they should be protected for employment use. These are listed in Table 4*".
59. The application site is located at Coundon Industrial Estate (west) and is included within an area designated as a protected employment site under CDP Policy 2 by virtue of its inclusion within Table 4 Protected Employment Sites.
60. The site is used to store and transport scaffolding to other sites where it is used in other construction projects. Such a use would fall under Use Class B8 (storage and distribution).
61. However, having regard to the planning history of the site, it is noted that the site originally formed part of a larger site which previously included the land immediately to the south. Planning permission was granted in 2007 for the change of this wider site to a paddock and for the construction of a stable block, personal to the applicant. A condition was attached which stated that the permission shall enure for the benefit of the applicant only and not for the benefit of the land or any other person(s) having for the time being an interest therein.
62. Therefore, whilst the site is included within an area identified as protected employment land, the most recent lawful use of the land was not for employment purposes.
63. The land subject to the 2007 permission has now been subdivided into two separate parcels; therefore, the original planning unit no longer exists and planning permission is required for the current ongoing use.
64. In general terms, and with regard to principle of the development, the site is located within an area allocated as a protected employment site, under Table 4 of CDP Policy 2, and as such could, ordinarily, garner support with respect to CDP Policy 2. However, the development would need to demonstrate compliance with the remaining CDP policies of relevance and so the acceptability of the specific use and operational development proposed rests upon the consideration of the detailed issues which are discussed further under the headings below.

Residential Amenity

65. CDP Policy 31 is permissive towards development where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. It advises that proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.
66. The policy also advises that development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
67. Planning Practice Guidance (PPG) clarifies that noise is a complex technical issue and that it is necessary to identify whether the overall effect of noise exposure is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.
68. The supporting text to CDP Policy 31 at paragraph 5.328 advises that, *“It will be necessary to determine the impact of noise producing sources on prevailing ambient background levels and achievement of the World Health Organisation’s recommended maximum noise levels in residential areas. Development proposals will be unacceptable where any resulting noise from new development would constitute a Statutory Nuisance under Part III of the Environmental Protection Act 1990 or where the noise impacts, although not sufficient to constitute a Statutory Nuisance, would nonetheless have an unreasonable adverse effect on amenity.”*
69. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution. Paragraph 135 f) seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
70. The public objection received raises concerns regarding the impact of the development on the amenity of neighbouring residents in terms of noise, overshadowing and overlooking.
71. The Design and Access Statement submitted with the application outlines that the site is a storage facility where excess equipment is stored when not used on a construction site. Typically, the scaffolding equipment stored at the site includes:

- Scaffolding tubes (Galvanised steel) of varying lengths
 - Scaffolding boards (timber) of varying lengths
 - Scaffolding handrails (galvanised steel)
 - Associated items (fittings, clamps in various shapes, props, struts, bolts)
 - Debris netting
 - Scaffolding sheeting
 - Plastic brick guards
 - Scaffold gates and hatches
 - Scaffold ladders, treads, and steps.
 - Rubbish chutes.
 - Base plates and Base Jacks
72. The submitted information also advises that scaffolding equipment is moved from site to site, removing the need for it to be 'double handled'. When equipment is not moved to another site, it is brought back to the scaffolding yard. The yard is organised into racks and buckets containing different components of a scaffold, along with some items which are securely stored in the site containers.
73. Pick-up trucks and vans are also stored on the yard overnight. At the time of the submission of the application there were four pick-up trucks which are out on a daily basis and it is the aim with future growth to be able to purchase more vehicles along with hiring more staff.
74. Activity on the site would generally see employees entering the site between the hours of 7.30am to 8am and again then leaving with the pick-up trucks within the same timeframe to head to a job. The pick-up trucks, if containing any equipment, would usually be unloaded and stored on an afternoon between the hours 3.30pm to 5pm.
75. It is understood that between these hours, the scaffolding equipment needed for a job the next day would generally be preloaded on the afternoon so that on a morning the pick-up truck would be ready to head straight to a job. The hours of operations at the yard are described as being 7.30am to 5pm Monday to Friday, with works on a Saturday and Sunday between 7.30am and 1pm. However, if the application were to be approved there would be no mechanism to require pick-up trucks to be preloaded the afternoon before to prevent noise from loading being generated during the early morning, particularly with no work taking place after 1pm on weekends. There would also be no mechanism to prevent the 'double handling' or return of scaffolding to the site during the day to be unloaded and loaded ready for the next job at a different site on the same day.
76. An officer from the Environmental Health Nuisance Action Team (NAT) has reviewed the application and visited the site. They advise that they have concerns regarding the impact of the proposals upon residential amenity and that noise from the site is likely to cause a statutory nuisance.
77. To the north of the site runs Holberry Terrace, 12 residential bungalows in a block of 8 and 4, separated by a rear lane. No's 5-12 lies approximately 7m away from the northern boundary of the application site. The rear of the bungalows within

Holberry Terrace face towards the application site. The bungalows themselves include habitable room windows on the rear elevation and also have a limited hard surfaced amenity area to the rear, with larger garden areas to the front of the bungalows. The northern boundary of the application is demarked by 2 metre close boarded fencing which, it is acknowledged, does provide some screening. However, the racking is higher than the fencing itself.

78. A residential property, Eden House is situated to the west of Holberry Terrace, within 35m of the north west corner of the site. Other residential dwellings nearby include Eden Garth, of which its rear garden is located within 5m of the western boundary of the site, and Roseberry, located within 30m. The wider area to the south and east includes other businesses and activities within the Industrial Estate.
79. The proposed use generates noise and disturbance from the loading and unloading of scaffolding materials including metal poles, handrails, and ladders. The movement of such items is considered to generate significant levels of noise and disturbance for the residents of the nearby dwellings given their close proximity. It should be noted that the social landlord of several nearby residential properties, Durham Aged Mineworkers Homes Association, has objected to the application on the grounds of the noise generated by the activities taking place on the site, citing multiple complaints they have received from their tenants.
80. The application retrospectively seeks planning permission for the activities currently taking place on the site, as well an expansion of the operations through the laying of an additional area of hardstanding which would allow additional scaffolding materials to be stored at the site and subsequently loaded and unloaded, generating additional noise which would have a greater impact upon the nearby residents than the current level of operations taking place on the site.
81. The application is not supported by a Noise Impact Assessment to consider the impact of quantitative noise levels from the moving of scaffolding and vehicle movements in context to the existing background noise levels. However, even if such an assessment were to be provided, it would only be representative of a snapshot in time. Given the activities taking place on the site, difficulties in ensuring the operations would take place within reasonable parameters in the future, and the very close proximity to residential properties, in this instance it is considered that the proposals have a significant impact upon the amenity of neighbouring residents.
82. Revisions to the proposals have been discussed, including the reorganisation of the site layout. This including the repositioning of racking to the southern area of the site, with containers to the northern area to seek to provide a buffer to try to alleviate amenity impacts and concerns of the use and activities. However, this would not be considered to provide an adequate buffer from the residential properties. The addition of 3 metre acoustic fencing along the northern boundary has also been raised, however this in itself is considered likely to give rise to additional visual concerns and amenity issues, particularly in respect of a loss of outlook for the occupants of Holberry Terrace located just 7m away.

83. It is acknowledged that the wider Industrial Estate includes builders yard, timber business and other users which generate noise and disturbance through the undertaking of activities, throughout the day, which contribute to the general background noise of the area. However, these uses take place in more central locations within the Industrial Estate and are located further away from residential properties to have a much lower impact upon residential amenity.
84. It is also appreciated that the site is identified as a protected employment site for B1, B2 and B8 uses, in the current County Durham Plan and similarly such an allocation was included in the previous Wear Valley Local Plan. As outlined within the planning history, planning permission has previously been granted for an industrial building and associated hard surfacing and fencing (3/2003/0143) which was never implemented. However, when considering that application, it is noted that this related to the larger site with the industrial and office buildings located to the south of the site further away from the residential properties (an area which now forms part of the adjoining site to the south, outside the current application site). Conditions were attached, amongst others, to secure a 2 metre close boarded acoustic fence along the western and northern boundary and to limit the hours of operation of the site.
85. The application site now comprises only the smaller area to the north, which is located directly opposite a number of residential properties. As above, this area has historically not been directly used for employment uses and the previous unimplemented permission proposed for the main activities associated with the employment use carried out to the southern part of the larger site further away from residential properties.
86. Whilst it is appreciated the noise and disturbance from the scaffolding business is not a constant throughout an entire working day, noise from the loading and unloading of materials would be generated at various intervals, including early in the morning from 7:30am to allow their transportation ready for use on a construction site elsewhere. As discussed above, there are no mechanisms to require materials to be preloaded the afternoon before to prevent materials from being loaded from 7:30am, or to prevent the 'double handing' of materials. Given the nature of the activities and the close proximity of a number of residential properties, it is not considered that revisions could be undertaken to provide a suitable buffer or to address the amenity concerns arising from the proposals.
87. Taking into account the above, including the public objection received, it is considered that the proposals, through the generation of noise and disturbance, adversely impact upon the amenities of nearby residential properties and that this would be worsened through the extension of the hardsurfaced area to allow greater storage of scaffolding materials on the site. The development is therefore considered contrary to CDP Policy 31 and Parts 12 and 15 of the NPPF.

Highway Safety Issues

88. CDP Policy 21 advises that the transport implications of development must be addressed as part of any planning application. Whilst Policy 21 advises that all development shall deliver sustainable transport, criterion c) appears most

applicable to the proposed development. Criterion c) advises, “ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements.”

89. Part 9 Paragraph 114 of the NPPF advises that in assessing specific applications for development, it should be ensured that, amongst other things, b) a safe and suitable access to the site can be achieved for all users; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
90. Paragraph 115 advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
91. The objector has highlighted concerns regarding traffic, parking and access.
92. The application site is accessed from Coundon Industrial Estate, via an existing access point to the east. The site provides parking for pick-up trucks and car parking (during the day). The proposals seek to extend the area to provide an additional hardstanding area to be used for storage and the parking of vehicles. The applicant has explained that the site is used to store scaffolding and associated materials, with these typically transported to a construction site when required rather than being double handled at the site. However, as above, this could not be guaranteed, particularly as the business grows and more scaffolding materials are kept on the site.
93. Nevertheless, given the nature of the proposed use, the size of the site, and its position within an existing industrial estate, in this context the proposals are not considered to generate a significant amount of traffic or vehicular trips. Parking and pick up space is provided within the site. The Highways Officer has been consulted and provided comments advising that the part retrospective application raises no highway safety concerns.
94. Overall, taking into account the above and objection received, along with the existing operations and whilst recognising the application is seeking to further develop the site, it is not considered that the proposals would have such a significant impact on access and highway safety to sustain refusal. Therefore, no highways objections are raised with the proposals considered to accord with CDP Policy 21 and Part 9 of the National Planning Policy Framework in this regard.

Visual Amenity

95. CDP Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features,

helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.

96. Parts 12 and 15 of the NPPF promote good design and sets out that the planning system should contribute to and enhance the natural and local environment.
97. The objector has highlighted concerns regarding the design, appearance and materials used in the structures on the site.
98. The site features a sheltered rack area built from scaffolding tubes with open sides and metal roof sheets. The structure is 3.4 metres in height, with the smaller side 2.7 metres high. Other containers are positioned within the wider site.
99. The site is enclosed by a 2 metre high closed boarded fence, including gates on the eastern boundary. (Although shown as proposed on the submitted plans a 2 metre fence has now been erected along the southern boundary of the site).
100. It is acknowledged that the development, in particular the racking areas are of a functional appearance. Whilst it is appreciated that the racking is visible above the fencing, the fence does offer some screening of the visual impacts of the development.
101. The proposals are typical of development found within the wider estate. When taken in the round and in the context of the industrial estate to the south, on balance, it is considered that the development does not have such a detrimental visual impact to warrant refusal.

Ecology and Biodiversity Net Gain

102. From the 2nd of April 2024, the requirements of Schedule 14 of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, apply to all planning applications unless falling under one of the listed exemptions. This application was validated before this time so is not legally required to deliver biodiversity net gains of at least 10%.
103. Notwithstanding the above, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks, and NPPF Paragraph 180 d) advises that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. NPPF Paragraph 186 d) also advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
104. The Senior Ecologist has been consulted and advises that whilst it is noted that the application is retrospective, the proposals will still need to attain a net gain in biodiversity in line with Planning Policy and the NPPF. Considering the scale of

the development they consider that either a suitable native species hedgerow, or the planting of additional native trees - would be commensurate with the development. They go on to advise that the chosen compensation will need to be clearly detailed on any proposed site plans (including details of proposed species), in order to give the LPA confidence in its likely implementation, and so it can be secured by condition. No concerns are raised regarding the impact of the proposals on protected species.

105. As the development has resulted in the loss of grassed land, the requirements of CDP Policy 41 are applicable to this application. It is considered that there is scope to be able to plant a hedgerow or trees to the east of the site where an area of grassland would be retained following the increase in the area of hardstanding. Therefore, whilst it would be preferable to have these details prior to determination, it is considered that in this instance further details could be secured via a suitably worded condition. Therefore, there is no conflict with CDP Policy 41 or Part 15 of the NPPF.

Other Matters

106. CDP Policies 35 and 36 relate to flood water management and infrastructure. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). The application site is located within Flood Zone 1. Given the existing use, nature of development and proposals, the application is considered in accordance with CDP Policies 35 and 36 and Part 14 of the National Planning Policy Framework.
107. CDP Policy 32 stipulates that development will not be permitted unless the developer can demonstrate that:
- a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
 - b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
 - c. all investigations and risk assessments have been undertaken by an appropriately qualified person.
108. The application site falls within the defined Development Low Risk Low Area in terms of Coal Mining activity. Colleagues within Environmental Health (Contaminated Land) have provided comments advising that having assessed the historical maps and available information with respect to land contamination, they have no adverse comments to make. There is no requirement for a contaminated land condition, instead informative advice is offered. The proposals are therefore considered acceptable in this regard and in compliance with CDP Policy 32.
109. The proposed site is located in a Mineral Safeguarding Area (Coal Resource Area). CDP Policy 56 seeks to prevent planning permission from being granted

for non-mineral development that would lead to the sterilisation of mineral resources. It sets out where development may be applicable within these areas. Due to the nature of the proposed development, it is considered exempt from a minerals assessment as highlighted in criterion e. The proposals are considered acceptable in this regard.

CONCLUSION

110. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
111. In this instance, it is concluded that in terms of general principle, the application site is included within an area designated as a protected employment site and therefore could garner 'in principle' support under CDP Policy 2.
112. However, the development needs to demonstrate compliance with the remaining CDP policies of relevance, in particular CDP Policy 31 relating to amenity and pollution. Given the nature of the activities undertaken and the proximity of the site to neighbouring residential properties, in particular the bungalows within Holberry Terrace, it is considered that the development currently results in unacceptable levels of noise and disturbance, to the detriment of the amenity of nearby residents, which would be worsened through the extension of the hardsurfaced area allowing additional materials to be stored on the site and loaded to and from vehicles for transportation elsewhere. This is contrary to CDP Policies 29 and 31 and Parts 12 and 15 of the National Planning Policy Framework. Despite considering possible revisions it is not considered that amendments to the site layout, acoustic fencing or conditions can overcome the concerns raised.
113. In terms of highway safety, the proposal is considered to provide a suitable access and parking area in accordance with CDP Policy 21 and Part 9 of the National Planning Policy Framework.
114. Although functional in terms of design and appearance, on balance, taking into account the site context it is not considered that the development has such a detrimental visual impact to sustain a reason for refusal.
115. In respect of ecology it is noted that the proposals have not attained a net gain in biodiversity in line with Planning Policy and the NPPF. However, had the application as a whole been considered acceptable it is considered that this could have been achieved.
116. It is appreciated that the development provides a valued source of employment to the local area and that a refusal of the application would have economic impacts. However, this is not considered to outweigh or justify the harm identified to the amenity of neighbouring residents. Overall, in assessing the conflicts of the development against its benefits, in this instance it is considered that the

benefits of the proposal do not outweigh the identified harm and policy conflict(s) and so the application is recommended for refusal.

Public Sector Equality Duty

117. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
118. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That the application be **REFUSED** for the following reason:

1. The development is considered to generate significant noise and disturbance to the detriment of the amenity of nearby residents, contrary to Policies 10 r) and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- o Residential Amenity Standards SPD (2023)

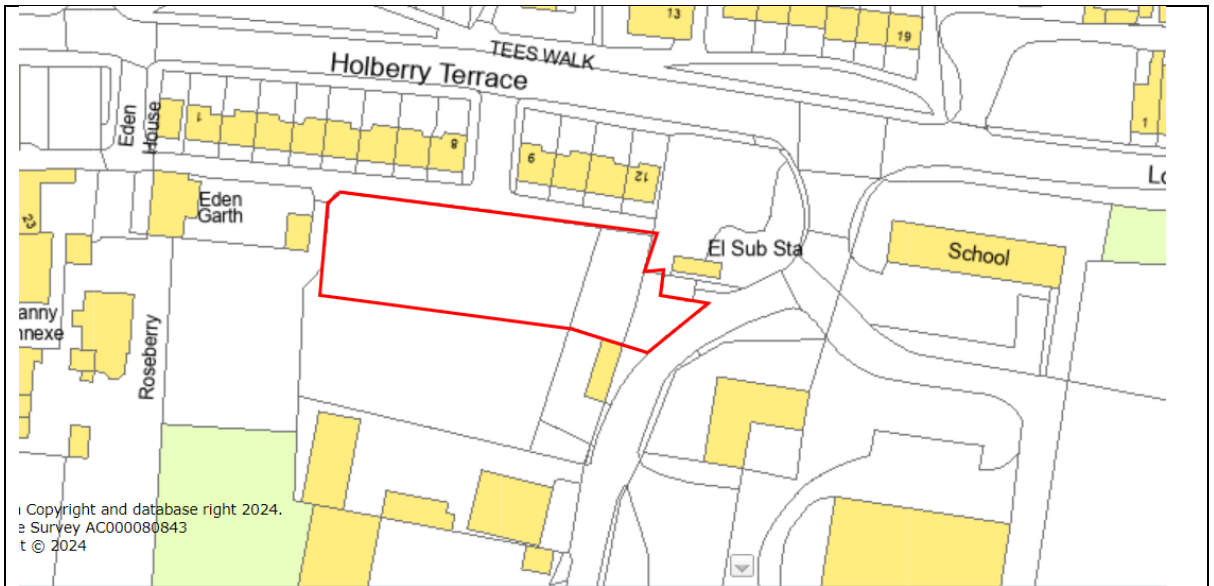
- o Parking and Accessibility SPD (2023)

- o Durham County Council Employment Land Review Update Final Report (2018)

Statutory consultation responses

Internal consultation responses

External consultation responses



| | | |
|---|--|---|
| <p>Planning Services</p> | <p>Part retrospective application for the change of use of land as storage facility (Class B8) in association with scaffolding business, associated structures, fencing and hard surfacing, Land North of Unit 13, Coundon Industrial Estate, Coundon DL14 8NR</p> | |
| <p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2024</p> | | |
| | <p>Date:</p> | <p>12th of November 2024</p> |