

24.09.2021 ADDENDUM

Application No:	21/01618/FUL	Author	Rebecca Andison
Date valid:	4 August 2021	:	
Target decision date:	3 November 2021	☎:	0191 643 6321
		Ward:	Collingwood

Application type: full planning application

Location: Formica Ltd West Chirton Industrial Estate Middle Norham Road North North Shields Tyne And Wear NE29 8RE

Proposal: Extend existing carpark to the north of the site, for staff and visitor overflow with new access from Westmoreland Road. Relocation of existing motorbike shelter and cycle stores to new carpark including additional cycle storage. Erection of new factory to the north of the site to be linked to the existing west factory at two locations with two canopies to the north of the building including new concrete service yard. New access road to the west of the site to link new service yard to the existing road to the south of the west factory. Extending the existing west factory to the west. New sprinkler tanks to be installed to the west of the west factory extension.

Applicant: Mr Grant Newberry, C/o Agents Formica Ltd West Chirton Industrial Estate Middle Norham Road North North Shields Tyne And Wear NE29 8RE

Agent: Mr Mark Quigley, Portland Consulting Engineers 10 Bankside The Watermark Gateshead NE11 9SY

1.0 RECOMMENDATION:

1.1 It is recommended that members indicate that they are minded to approve the application subject to:

- a) the submission of information to satisfy the concerns of the Biodiversity Officer and Landscape Architect;**
- b) the submission of a landscape mitigation plan to demonstrate that that an acceptable level of biodiversity net gain can be achieved within the site and this plan being agreed by the Biodiversity Officer and Landscape Architect; and**

grant plenary powers to the Head of Environment, Housing and Leisure to determine the application subject to the conditions listed in the Officer Report, the additional conditions listed below and the addition, omission or amendment of any conditions considered necessary, providing no further matters arise which in the opinion of the Head of Environment, Housing and Leisure, raise issues not previously considered which justify reconsideration by the Committee.

2.0 Additional Information

2.1 An Arboricultural Impact Assessment (AIA) and Arboricultural Method Statement (AMS) have been submitted. To facilitate the development, it would be necessary to remove 8no. trees which are located along the northern edge of the proposed car park. A small section of 1no. tree group adjacent to the western boundary also requires removal. The AIA recommends that the layout of the car park is revised to allow 6no. of the trees to be retained.

2.2 The applicant has agreed to amend the layout in accordance with this recommendation. An additional condition is therefore recommended requiring that revised plans are submitted for approval.

2.3 A revised Ecological Assessment, which includes updated dingo skipper and bird risk assessments, and a Biodiversity Net Gain (BNG) Assessment have also been submitted. The BNG Assessment states that the development would result in an anticipated habitat loss of 4.12 habit units (-8.98%) but with enhancement of an existing grassland area within the north west part of the site and the provision of hedgerow there would be a predicted net gain of 1.77 biodiversity units (+3.86%) and 1.35 (100%) hedgerow units.

2.4 The additional information has been reviewed by the Landscape Architect and Biodiversity Officer. Their comments are set out below.

2.5 The applicant has requested an early determination of the application so that if permission is granted, they can proceed with the tender process and gain final investment approval. The new warehouse is a strategic investment and will deliver significant and much needed financial savings for the UK business. It is their intention to commence development this year and complete construction in 2022.

3.0 Additional Consultee Comments

3.1 Landscape Architect and Biodiversity Officer

3.2 The following outstanding information is required to support this application:

1) Defra Metric calculations (raw results). These have not been included with the BNG report. A copy of the Metric (i.e. the completed spreadsheet) should be submitted. A summary document outlining the results of this is not sufficient. The information in the metric should correspond directly to the Biodiversity Report and the Proposed Habitats Plan.

2) A proposed Habitats Plan (Landscape Mitigation Plan). The plan should detail what existing habitats are to be retained and enhanced, and any new habitat types that will be created. The plan should ensure that each habitat type is identified, and the area/length of each habitat type should be quantified in hectares (or linear metres if hedgerow). This plan should correspond to the metric spreadsheet and Net Gain report to ensure adequate mitigation and BNG is being delivered in accordance with these documents. Details of how

the existing grassland will be enhanced to achieve a moderate condition would also need to be provided as well as details of the creation of the open mosaic habitat (for dingy skipper)

3) Details of the dingy skipper habitat (Open Mosaic Habitats on Previously Developed Land) that is being provided to mitigate against the loss of suitable dingy skipper habitat and to achieve a net gain will need to be provided

4) Aerial images and site plans appear to show that trees have been removed/cleared recently prior to the application being submitted and the Ecological Assessment being undertaken. These areas include trees removed to the north east boundary for the new access, individual trees that lined the current access road (western boundary) and a tree/woodland planting area of approx. 0.15ha to the north of the large building on the western boundary, which is now shown on the ecological assessment as dense scrub. The areas that have already been removed should be included within the net gain assessment to ensure they are fully accounted for and mitigation is provided for this loss as part of the scheme.

5) The scheme appears to impact on additional trees which will require removal to facilitate the development, particularly in relation to the creation of the new access (T13 and T12) with a small area of existing trees removed from the western boundary of the site due to the proximity of the new construction. A landscape plan will help understand how this additional tree loss will be mitigated for and meets Local Plan policy DM5.9

3.2 The scheme has not provided sufficient information to assess the scheme (i.e.detailed mitigation/net gain plans) and is therefore not in accordance with planning policy DM5.5 or DM5.9.

3.3 Coal Authority

3.4 As you are aware, the application site falls within the defined Development High Risk Area. More specifically, the Coal Authority's information indicates that a number of coal seams outcrop at or close to the surface of the site, which may have been worked in the past. In addition, the potential zone of influence/instability associated with off-site recorded mine shaft 432568-003 encroaches into the western part of the site.

3.5 You will recall that the Coal Authority objected to this planning application in our initial consultation response letter of 9 September 2021. Our concerns related to the assessment of the safety and stability risks posed by the recorded off-site mine entry.

3.6 We note that the LPA has now received additional information in support of the application in the form of an email from Mark Grant of Portland Consulting Engineers, which includes a sketch drawing showing the proposed development relative to the recorded mine shaft and a copy of a Geoenvironmental Appraisal (December 2016, prepared by Dunelm

Geotechnical & Environmental). We note that the Appraisal is missing its associated drawings and the majority of its appendices.

3.7 Recorded mine shaft 432568-003:

Mr Grant has indicated that his sketch shows the position of the recorded mine shaft based on the Coal Authority's co-ordinates. Taking into account the results of a borehole investigation detailed in the Geoenvironmental Appraisal, he has calculated that the zone of influence of an off-site collapse of the recorded shaft would extend 25m from the shaft. The sketch drawing indicates that new building will be a minimum of 32.4m from the centre point of the shaft.

3.8 The Coal Authority notes the additional information provided, however, as we highlighted in our initial consultation response letter, due to potential plotting inaccuracies, the actual position of the recorded shaft could depart/deviate from its plotted position by several metres and could therefore be located much closer to the building than shown on the sketch plan. This matter has not been considered by Mr Grant.

3.9 As such, taking into account the potential departure distance (c.10m), the potential radius that could be affected by a collapse as calculated by Mr Grant (25m), the assumed diameter of the shaft (2.5m), the potential zone of influence/instability could encroach across the access road and slightly within the footprint of the proposed building.

3.10 As we highlighted in our initial consultation response letter, the Coal Authority has adopted a policy where, as a general precautionary principle, the building over or within the influencing distance of a mine entry should wherever possible be avoided. In this instance, however, we note that due to the scale of the proposed building and site constraints, there may be difficulties in revising the layout of development to avoid the edge of the zone of influence of the shaft. We also note that your reconsultation email highlights the importance of the proposed development in terms of job creation and investment into the area.

3.11 The Coal Authority is therefore satisfied that in this particular instance our concerns can be addressed through the imposition of a planning condition to secure the undertaking of measures in the design and construction of the development to mitigate the risk posed by an off-site shaft collapse. These could include deepened foundation solutions for the building and the use of geogrid reinforcement beneath access roads in the affected part of the site.

3.12 Unrecorded shallow mine workings:

You will be aware, that the applicant's Phase I Geo-environmental Site Assessment (July 2021, prepared by ERGO) identified that recorded and possible unrecorded mine workings in a number of shallow coal seams posed a risk to the development. It went on to recommend that these should be investigated by means of intrusive site investigations.

3.13 We note that the Geoenvironmental Appraisal (December 2016, prepared by Dunelm Geotechnical & Environmental) provided by Mr Grant indicates that three boreholes were drilled at the site to investigate the shallow coal mining situation. The report confirms that no coal was recorded within the boreholes within at least 35m of the site surface and concludes that shallow mining does not pose a significant risk to development at the site. The results of the site investigations referenced in the Geoenvironmental Appraisal were not used to inform the Phase I Geo-environmental Site Assessment.

3.14 Given its submission by Mr Grant, we assume that the study area for the Geoenvironmental Appraisal covers the current application site, however, this is not entirely clear as none of the drawings associated with the report have been made available to view. Nevertheless, providing that the LPA is satisfied that the study area covers the current application site boundary, and based on the professional opinions expressed by the report author in respect of the risk posed by shallow coal mining legacy, the Coal Authority would not insist upon further intrusive site investigations in this regard.

3.15 If the LPA is uncertain on this matter, a condition may be imposed on any permission granted which requires the undertaking of the further investigation of the shallow coal mining situation at the site and, if necessary, the undertaking of remedial works, prior to the commencement of development.

3.16 Mine Gas:

It should be noted that wherever coal resources or coal mine features exist at shallow depth or at the surface, there is the potential for mine gases to exist. These risks should always be considered by the LPA. The Planning & Development team at the Coal Authority, in its role of statutory consultee in the planning process, only comments on gas issues if our data indicates that gas emissions have been recorded on the site. However, the absence of such a comment should not be interpreted to imply that there are no gas risks present. Whether or not specific emissions have been noted by the Coal Authority, local planning authorities should seek their own technical advice on the gas hazards that may exist, and appropriate measures to be implemented, from technically competent personnel.

3.17 SuDS:

It should be noted that where SuDS are proposed as part of the development scheme consideration will need to be given to the implications of this in relation to the stability and public safety risks posed by coal mining legacy. The developer should seek their own advice from a technically competent person to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

3.18 The Coal Authority Recommendation to the LPA:

The applicant's supporting information confirms that recorded mine shaft 432568-003 lies outside the application site. However, it does not definitively

demonstrate that the proposed development will be located outside the zone of influence of the mine entry and does not demonstrate that the development will not be at risk of instability in the event of an off-site shaft collapse.

3.19 As such, should planning permission be granted for the proposed development, we would recommend that the following conditions are included on the Decision Notice:

1. No development shall commence until the zone of influence of recorded off-site 432568-003 has been calculated, taking into account the Coal Authority's potential departure distance for the shaft, the potential radius that could be affected by a collapse based on proven depth to rockhead in the vicinity, and the assumed diameter of the shaft.

2. A scheme of measures to mitigate the risk of land instability arising from an off-site shaft collapse, within the part of the site which falls within the zone of influence of recorded off-site 432568-003 (as established under Condition 1), shall be implemented prior to, or during the construction of the development, as necessary.

These measures shall accord with authoritative UK guidance.

3. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of any mitigation necessary to address the risks posed by past coal mining activity.

3.20 The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of the above conditions. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

Additional Conditions

25) No development shall commence until the zone of influence of recorded off-site 432568-003 has been calculated, taking into account the Coal Authority's potential departure distance for the shaft, the potential radius that could be affected by a collapse based on proven depth to rockhead in the vicinity, and the assumed diameter of the shaft.

Reason: This needs to be pre-commencement condition to ensure that to ensure that the coal mining legacy of the site is properly investigated and its implication for the development approved fully taken into account having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

26) A scheme of measures to mitigate the risk of land instability arising from an off-site shaft collapse, within the part of the site which falls within the zone

of influence of recorded off-site 432568-003 (as established under Condition 25), shall be implemented prior to, or during the construction of the development, as necessary. These measures shall accord with authoritative UK guidance.

Reason: To ensure that the coal mining legacy of the site is properly investigated and its implication for the development approved fully taken into account having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

27) Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of any mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure that the coal mining legacy of the site is properly investigated and its implication for the development approved fully taken into account having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

28) Prior to commencement of development revised plans shall be submitted to and approved in writing by the Local Planning Authority to amend the layout of the development to allow 6no. trees along the north edge of the proposed car park to be retained in accordance with Figure 2 of the submitted Arboricultural Impact Assessment.

Reason: This needs to be pre-commencement condition to ensure that important features are protected and retained in the interests of amenity and to ensure trees and hedges to be retained are adequately protected from damage during the execution of the works hereby permitted, in the interests of visual amenity having regard to policy DM5.9 of the North Tyneside Local Plan (2017).