

Application No: 21/01341/FUL Author: Maxine Ingram
Date valid: 21 May 2021 ☎: 0191 643 6322
Target decision date: 20 August 2021 Ward: Killingworth

Application type: full planning application

Location: Henson Motor Group, Benton Square Industrial Estate, Whitley Road, Benton, NEWCASTLE UPON TYNE

Proposal: Demolition of existing building and erection of a building for use as a builders' merchant. (storage, distribution, trade counter, offices and ancillary retail sales)

Applicant: c/o Agent, Lichfields St. Nicholas Building St. Nicholas Street
Newcastle Upon Tyne NE1 1RF

Agent: Lichfields, Mr Michael Hepburn St Nicholas Building St Nicholas Street
Newcastle NE1 1RF

RECOMMENDATION: Application Permitted

INFORMATION

1.0 Summary Of Key Issues & Conclusions

1.0 This application was considered by Members of Planning Committee on the 3rd August 2021. The application was minded to grant on expiry of consultation. Members are advised that prior to receiving the final comments of the Lead Local Flood Authority (LLFA) objections were received. All amendments to the report are in bold.

1.1 The main issues for Members to consider in this case are:

- The principle of the development,
- The impact on amenity,
- The impact on character and appearance,
- The impact on highway safety, and,
- Other issues.

1.2 Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Members need to consider whether this application accords with the development plan and also take into account any other material considerations in reaching their decision.

2.0 Description of the Site

2.1 The application site is currently in use as a car dealership on the North Tyne Industrial Estate, which is an allocated site (Site E016) for employment uses in the Local Plan (LP) (2017). The site is on the eastern perimeter of the site. To the north east it is bound by an electricity substation, beyond which lies a residential estate (Miller Close). To the north it is bound by a residential estate (Miller Close) and existing commercial uses. To the west it is bound by existing commercial uses. The A191 (Whitley Road) is located to the south of the site, beyond which lies a supermarket.

2.2 Access to the site is from the A191. There is no access (pedestrian or vehicle) from the site into the residential estate to the north.

3.0 Description of the Proposed Development

3.1 Planning permission is sought for the demolition of existing building and erection of a building for use as a builders' merchant. (storage, distribution, trade counter, offices and ancillary retail sales).

3.2 The applicant has advised the proposed building will operate as a builder's merchants. The existing operator (car dealership) will be relocated to a different part of the north east.

3.3 The ground floor of the building is in two parts. The main part will be a full height warehouse, with the smaller part to be used for smaller products as well as offices. The roof will provide a mezzanine floor which will be used for storage.

3.4 The proposed development will support the creation of up to 30 jobs directly on-site.

3.5 It is proposed that staff will arrive for work at 06:30 hours, with the business opening at 07:00 hours. The premises will close at 18:00 hours Monday to Friday and 17:00 hours on Saturdays. At present it is not intended to open on Sundays.

4.0 Relevant Planning History

87/00057/ADV - Advert signs – Permitted 11.03.1987

95/01306/FUL - Improvements to existing buildings and provision of car parking areas – Permitted 31.10.1995

96/00760/FUL - Change of use from roofing contractors depot (part) to car sales showroom and related parking, together with the demolition of frontage offices and creation of new front elevation – Permitted 15.07.1996

05/00420/FUL - Demolition of existing structure. Rationalisation and provision of new car retail space. Provision of new/relocation of existing fencing. Provision of floodlighting – Permitted 20.04.2005

08/00210/FUL - External works to include new windows, principal entrance way and re-cladding to the front and right side elevations – Permitted 14.04.2008

5.0 Development Plan

5.1 North Tyneside Local Plan (2017)

6.0 Government Policies

6.1 National Planning Policy Framework (NPPF) (July 2021)

6.2 National Planning Practice Guidance (NPPG) (As amended)

6.3 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in the determination of all applications. It requires Local Planning Authorities (LPAs) to apply a presumption in favour of sustainable development in determining development proposals. Due weight should still be attached to Development Plan policies according to the degree to which any policy is consistent with the NPPF.

PLANNING OFFICERS REPORT

7.0 Detailed Planning Considerations

7.1 The main issues for Members to consider in this case are:

- The principle of the development,
- The impact on amenity,
- The impact on character and appearance,
- The impact on highway safety, and,
- Other issues.

7.2 Consultations responses and representations received as a result of the publicity given to this application are set out in the appendix to this report.

8.0 Principle of the development

8.1 The Local Plan (LP) was adopted in July 2017 to guide development in the period up to 2032. The council acknowledges that the policies contained within the LP predate the publication of the revised NPPF however, it is clear from paragraph 219 of the NPPF that: "However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)." The council considers that the Local Plan policies set out in this report are consistent with the NPPF and can be afforded significant weight.

8.2 The NPPF makes it clear that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives: an economic objective; a social objective; and an environmental objective. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.

8.3 The NPPF paragraph 11 makes it clear that plans and decisions should apply a presumption in favour of sustainable development. However, the presumption

in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. The NPPF paragraph 12 states “Where a planning application conflicts with an up-to-date development plan permission should not normally be granted. Local Planning Authorities (LPA’s) 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”.

8.4 LP Policy S2.2 ‘Provision of Land for Employment Development’ seeks to ensure an attractive and flexible supply of employment land is available to deliver the Council’s strategy for economic prosperity, job growth and investment over the plan period.

8.5 LP Policy DM2.3 Development Affecting Employment Land and Buildings states “The Council will support proposals on employment land, as shown on the Policies Map, for new or additional development for uses within use classes B1, B2 or B8 or that which is deemed ancillary.

Proposals on identified employment land or other buildings in use-class B1, B2 or B8, for uses that could conflict with the development and regeneration of sites for economic development, will be permitted where these proposals would not:

- a. Result in the unacceptable loss of operating businesses and jobs; and,
- b. Result in an excessive reduction in the supply of land for development for employment uses, taking into account the overall amount, range, and choice available for the remainder of the plan period; and,
- c. Have an adverse impact upon the amenity and operation of neighbouring properties and businesses.”

8.6 The site is currently in use as a car dealership (sui generis use) on the North Tyne Industrial Estate, which is an allocated site (Site E016) for employment uses in Policy S2.2 of the North Tyneside Council Local Plan (2017).

8.7 Policy S2.2 of the Local Plan defines employment uses as those in the former use class of B1 (now part of the wider definition of the E Class) and the extant use class B2 and B8. The proposed use of the site for storage and distribution purposes would be defined as a B8 use class. The applicant has advised within their supporting documents that a small element of the proposal will include sales to the general public, which would be classed as general retail (Use Class E), but the majority of the operator’s business is for wholesale purposes.

8.8 Policy DM 2.3 of the Local Plan aims to support proposals for B8 uses on employment sites, but it does also allow for uses not within the use classes of B1 (now Use Class E), B2 or B8 if the use is ancillary. Based on the information provided, it is considered that the sales to members of the public will be ancillary and therefore the proposed development would be in accordance with Policy DM2.3 of the Local Plan. A condition is recommended to ensure that the overall floor area for the ancillary retail does not exceed 10% of the overall floor area.

8.9 The proposed development would support economic prosperity and job growth in the Borough supporting Policy S2.1 of the Local Plan and would be

supporting business investment of a nature congruent to the allocated employment site.

8.10 The objections received regarding the need for this type of business are noted. However, this is not a material planning consideration.

8.11 The proposed development meets the requirements of Policies S2.2 and DM2.3. Members need to determine whether the principle of the proposed development is acceptable. It is the view of officers that the principle of the proposed development is considered to be acceptable, subject to all other material considerations set out below being addressed.

9.0 Impact on amenity

9.1 Paragraph 185 of the NPPF states “Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life; b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational amenity value for this reason; and c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation”.

9.2 LP Policy S1.4 “General Development Principles” states “ Proposals for development will be considered favourably where it can be demonstrated that they would accord with the strategic, development management or area specific policies of this Plan.” Amongst other matters this includes: be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses; and be accommodated by, and make best use of, existing facilities and infrastructure, particularly in encouraging accessibility and walking, cycling and public transport, whilst making appropriate provision for new or additional infrastructure requirements”.

9.3 LP Policy DM5.19 Pollution states “Development proposals that may cause pollution either individually or cumulatively of water, air or soil through noise, smell, smoke, fumes, gases, steam, dust, vibration, light, and other pollutants will be required to incorporate measures to prevent or reduce their pollution so as not to cause nuisance or unacceptable impacts on the environment, to people and to biodiversity.

Development proposed where pollution levels are unacceptable will not be permitted unless it is possible for mitigation measures to be introduced to secure a satisfactory living or working environment.

Development that may be sensitive (such as housing, schools and hospitals) to existing or potentially polluting sources will not be sited in proximity to such sources. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

Proposals for development should have regard to the noise impacts arising from the Newcastle International Airport flight path as shown on the Policies Map.”

9.4 The objections received regarding the impact on residential amenity, including noise and disturbance are noted. The objections raised regarding noise impacts from existing businesses are noted. However, the Local Planning Authority (LPA) can only assess the impacts of this proposal.

9.5 The Manager for Environmental Health has been consulted. She has raised concerns with regards to noise arising from the new development (delivery and collections at the site, storage operations and noise from any external plant and equipment installed at the site) and the impacts this may have on the residential properties at Miller Close. The closest property is some 12m from the north west boundary.

9.6 The Manager for Environment Health has reviewed the noise assessment report. This has considered noise arising from deliveries only with two points sources for the modelling located near the entrance of the delivery yard. The noise monitoring has determined that noise arising from deliveries will give rise to low to minor adverse impacts for neighbouring residents. The noise assessment has not considered activities within the storage area adjacent to No. 37 Miller Close. It is noted that a 2.6m high existing fence is provided but storage racking within this area will be up to 5m high. Operational activities within this area may give rise to potential disturbance. The proposed site layout also shows that vehicle movements will take place in this area. These vehicle movements will generate noise that would be similar to that of the existing site operations. However, the noise assessment indicates that the main noise generating activities will arise from the loading and unloading of deliveries which will occur nearer to the entrance of the yard. The noise levels are not considered to give rise to significant adverse impacts. Internal noise levels within bedrooms at the first-floor will meet the World Health Organisation guidelines.

9.7 The NPPF, paragraph 55 states “Local Planning Authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.” Paragraph 56 states “Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.” Although concerns have been raised by the Manager of Environmental Health it is clear from her comments that she does not object. Members are advised that it is clear from their comments set out in paragraphs 1.7-1.9 of the appendix to this report that appropriate mitigation to reduce the impacts arising from noise can be secured by conditions.

9.8 Members need to determine whether the proposed development is acceptable in terms of its impact on the amenity of neighbouring and nearby properties. It is officer advice that the proposed development is, subject to the imposition of the suggested conditions. As such, it is officer advice that the proposed development accords with the advice in paragraph 185 of the NPPF and LP policies DM5.19 and DM6.1.

10.0 Impact on character and appearance

10.1 Paragraph 134 of the NPPF states that development that is not well designed should be refused.

10.2 LP Policy DM6.1 'Design of Development' makes it clear that applications will only be permitted where they demonstrate high and consistent design standards. Amongst other matters proposed developments are responsive to their location, including topography, wildlife habitats, site orientation and existing buildings; ensuring a positive relationship to neighbouring buildings and spaces; ensuring sufficient parking is well integrated into the layout; and a good standard of amenity for existing and future residents.

10.3 LDD11 'Design Quality' SPD applies to all planning applications that involve building works.

10.4 The objections received regarding unacceptable design are noted.

10.5 The overall size and design of buildings vary within the wider industrial estate.

10.6 The proposed building will be approximately 8.1m to ridge. This height is considered to be commensurate to the buildings located on the wider industrial estate and the footprint is in-keeping with the scale of the local area. The proposed materials (composite cladding and brick) are considered to be appropriate.

10.7 New 2.4m high Nylofor high security powder coated fencing is to be installed to the south of the site. To the remaining boundary, the existing fencing is to be retained. The use of Nylofor fencing to the southern boundary is appropriate as it maintains security whilst still allowing views into the site. The use of this type of fencing accords with the advice set out in the Design Quality SPD.

10.8 The applicant has advised that many of the goods supplied by a builder's merchant will be permanently exposed to the elements. Therefore, there is no practical need for them to be stored under cover. The open storage area which also serves as an HGV parking area, circulation space and delivery area is the larger part of the site. Some materials such as timber and lintels are stored in specialist racking. These will be 5m high. Other materials such as brick can be stacked on top of each other.

10.9 The applicant has advised that the yard area will be laid out to enable easy access to all goods and to ensure the health and safety of all staff and customers is not compromised.

10.10 Nos. 36 and 37 Miller Close are sited in close proximity to the north west boundary. There are no habitable windows sited in the gables of these properties. Obscure views of the proposed external storage areas will be afforded from these properties, including No. 31 Miller Close, and more direct views will be afforded from their rear gardens. However, it is not considered that their

residential amenity will be significantly affected to such an extent that will sustain a recommendation of refusal.

10.11 The site is currently hard surfaced with no existing landscape features.

10.12 Members need to consider whether the impact on the character and appearance of the immediate surrounding area is acceptable. It is officer advice that, the proposed development would not result in a significant visual impact on the character or appearance of the immediate surrounding area. As such, the proposed development accords with national and local planning policies.

11.0 Impact on highway safety

11.1 The NPPF paragraph 111 makes it clear that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

11.2 The NPPF paragraph 112 states, amongst other matters, that applications for development should give priority first to pedestrian and cycle movements both within the scheme and with neighbouring areas and address the needs of people with disabilities and reduced mobility in relation to all modes of transport.

11.3 LP Policy DM7.4 'New Development and Transport' makes it clear that the Council will ensure that the transport requirements of new development, commensurate to the scale and type of development, are taken into account and seek to promote sustainable travel to minimise environmental impacts and support resident's health and well-being.

11.4 The Council's maximum parking standards are set out in the Transport and Highways SPD (LDD12).

11.5 The objections received regarding the impacts on pedestrian and highway safety are noted.

11.6 The site will be accessed from the A191 (Whitley Road) as per the existing arrangement. Parking provision will be provided within the site.

11.7 The Highways Network Manager has been consulted. He has reviewed the submitted Transport Statement (TS). He has advised that the impact on the adjacent highway network will not be severe. He has also advised that the site has good links with public transport and parking and cycle parking have been provided to meet the needs of the site. **It is clear from the Highways Network Manager's comments that he has raised no objections to the proposed development on highway safety grounds.** On this basis, he has recommended conditional approval.

11.8 Members need to determine whether the proposed development is acceptable in terms of its impact on the highway network and existing parking provision. It is officer advice that it is. The proposed development accords with both national and local planning policies.

12.0 Other Issues

12.1 Contaminated Land

12.2 NPPF paragraph 183 seeks to ensure that planning decisions have regard to ground conditions and any risks arising from land instability and contamination.

12.3 NPPF paragraph 184 states “Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner”.

12.4 LP Policy DM5.18 “Contaminated and Unstable Land” seeks to ensure that the future users or occupiers of a development would not be affected by contamination or stability issues.

12.5 The Contaminated Land Officer has been consulted. She has recommended conditional approval.

12.6 Members need to consider whether the proposed development is acceptable in terms of its impact on ground conditions. It is officer advice that it is.

12.8 Flooding

12.9 The NPPF paragraph 159 makes it clear that development should not increase flood risk elsewhere and only consider development in appropriate areas.

12.10 LP Policy “DM5.12 Development and Flood Risk” states that all major developments will be required to demonstrate that flood risk does not increase as a result of the development proposed, and that options have been taken to reduce overall flood risk from all sources, taking into account the impact of climate change over its lifetime.

12.11 The Lead Local Flood Authority (LLFA) has been consulted. They have raised no objections to the proposed development. The proposed development would incorporate an underground storage tank to provide attenuation within the site and will restrict the surface water discharge rate from the site to 46 l/s. The LLFA has advised that this would provide betterment from the existing sites surface water drainage system, so the development will not increase the flood risk within the site or the surrounding area.

12.12 Members need to determine whether the proposed development is acceptable in terms of flood risk. It is officer advice that it is and it would accord with both national and local planning policies.

12.13 Minerals

12.14 LP DM5.17 ‘Minerals’ sets out guidance on minerals extraction. However, this development relates to an existing largely hard surfaced site.

12.15 Aviation

12.16 Newcastle International Airport Limited (NIAL) have been consulted. They have raised no objection to the proposed development.

12.17 Police

12.18 Northumbria Police have been consulted. They have raised no objection to the proposed development. They have provided comments regarding site security. Informatives are suggested to advise the applicant of their comments.

12.19 Archaeology

12.20 The Tyne and Wear Archaeology Officer has been consulted. She has raised no objections to the proposed development.

13.0 Local Financial Considerations

13.1 Local financial considerations are defined as a grant or other financial assistance that has been, that will or that could be provided to a relevant authority by the Minister of the Crown (such as New Homes Bonus payments) or sums that a relevant authority has received, or will or could receive in payment of the Community Infrastructure Levy (CIL). The proposal is CIL liable and therefore Members need to take this into account as part of their decision.

14.0 Conclusion

14.1 Members need to determine whether the proposed development is acceptable in terms of the principle of the development, its impact on amenity, its impact on the character and appearance of the area and all other issues including its impact on highways and ground conditions. It is the view of officers that the proposed development is acceptable. As such, officers consider that the proposed development does accord with national and local planning policies. Approval is recommended.

RECOMMENDATION: Application Permitted

Conditions/Reasons

1. The development to which the permission relates shall be carried out in complete accordance with the following approved plans and specifications:
 - Location plan
 - Proposed roof plan Dwg No. NEB BC 007A
 - Proposed layout plan Dwg No. NEB BC 003A Rev A
 - Proposed site layout plan Dwg No. NEB BC 001 A Rev A
 - Proposed elevations Dwg No. NEB BC 004A Rev A
 - Proposed on site drainage Dwg No. NT 1537-002 Rev AReason: To ensure that the development as carried out does not vary from the approved plans.

2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

3. The development hereby permitted shall not be constructed above damp proof course level until the details of a scheme of site investigation and assessment to test for the presence and likelihood of gas emissions from underground workings, historic landfill, unknown filled ground or made ground has been submitted to and agreed in writing by the Local Planning Authority.

Upon approval of the method statement:

a) A detailed site investigation should be carried out to establish the degree and nature of the gas regime, and whether there is a risk likely to arise to the occupants of the development. The results and conclusions of the detailed site investigations should be submitted to and the conclusions approved in writing by the Local Planning Authority. The Ground Gas Assessment Report should be written using the current government guidelines.

b) In the event that remediation is required following the assessment of the ground gas regime using current guidelines, then a method statement must be submitted to and approved in writing by the Local Planning Authority.

The detailed design and construction of the development shall take account of the results of the site investigation and the assessment should give regard to results showing depleted oxygen levels or flooded monitoring wells. The method of construction shall also incorporate all the measures shown in the approved assessment.

This should provide details of exactly what remediation is required and how the remediation will be implemented on site; details including drawings of gas protection scheme should be included.

c) Where remediation is carried out on the site then a validation report will be required. This report should confirm exactly what remediation has been carried out and that the objectives of the remediation statement have been met.

The validation report should include cross sectional diagrams of the foundations and how any gas protection measures proposed in the remediation method statement are incorporated. In the event that integrity testing of membranes is required then any test certificates produced should also be included.

A verification report shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied/brought into use.

d) In the event that there is a significant change to the ground conditions due to the development, for example grouting or significant areas of hard standing; then additional gas monitoring should be carried out to assess whether the gas regime has been affected by the works carried out. In the event that the gas regime has been altered then a reassessment of remediation options shall be submitted to the Local Planning authority to be agreed in writing before the development is occupied/brought into use.

Thereafter the development shall not be implemented otherwise than in accordance with the scheme referred to in c) above.

Reason: In order to safeguard the development and/or the occupants thereof from possible future gas emissions from underground and or adverse effects of landfill gas which may migrate from a former landfill site having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

4. Any spoil arising from foundations will require Waste Acceptance Criteria testing carried out to ensure that it is disposed of at a suitably licensed facility.

Reason: To ensure all materials are disposed of correctly having regard to policy DM5.18 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

5. Notwithstanding condition 1, prior to the commencement of the development hereby approved above ground level details of the height, position, design and materials of any chimney or extraction vent to be provided in connection with the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented before any unit is first occupied in accordance with the approved details and permanently retained.

Reason: In order to safeguard the amenities of adjoining properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

6. Notwithstanding condition 1, prior to the commencement of the development hereby approved above ground level details of any air ventilation systems shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented before any unit is first occupied in accordance with the approved details and permanently retained.

Reason: In order to safeguard the amenities of adjoining properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

7. Notwithstanding condition 1, prior to the commencement of the development hereby approved above ground level a noise scheme shall be submitted to and approved in writing by the Local Planning Authority, in accordance with BS4142 to determine the noise rating level of any new external plant and equipment operating at the site, including noise levels expected to be created by their combined use, and appropriate mitigation measures taken where necessary to ensure the rating level of plant and equipment does not exceed the existing daytime background noise level of 46 dB LA90 at Miller Close. Thereafter the development shall be carried out in accordance with these agreed details and verification details pursuant to condition 8.

Reason: In order to safeguard the amenities of adjoining properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

8. Within one month of the installation of any plant and equipment acoustic testing shall be undertaken to verify compliance with condition 7. These details shall be submitted to and approved in writing by the LPA prior to the operation of the plant and equipment being brought into permanent use. Thereafter the plant and equipment shall be operated and maintained in full working order.

Reason: In order to safeguard the amenities of adjoining properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

9. No sound reproduction equipment which is audible outside the curtilage of the premises shall be operated on the site.

Reason: In order to protect the amenities of occupiers of nearby properties having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

10. The premises shall only be open for business between the hours of 07:00 and 18:00 Monday to Friday and 07:00 - 17:00 on Saturdays. The premises shall not be open on any Sunday.

Reason: To safeguard the occupiers of adjacent properties from undue noise of other associated disturbance having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

11. Prior to installation of any floodlighting or other form of external lighting, a lighting scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include the following information:

- a statement of frequency of use, and the hours of illumination;
- a site plan showing the area to be lit relative to the surrounding area, indicating parking or access arrangements where appropriate, and highlighting any significant existing or proposed landscape or boundary features;
- details of the number, location and height of the proposed lighting columns or other fixtures;
- the type, number, mounting height and alignment of the luminaires;
- the beam angles and upward waste light ratio for each light;
- an isolux diagram showing the predicted illuminance levels at critical locations on the boundary of the site and where the site abuts residential properties or the public highway to ensure compliance with the institute of lighting engineers Guidance Notes for the reduction of light pollution to prevent light glare and intrusive light for agreed environmental zone ; and
- where necessary, the percentage increase in luminance and the predicted illuminance in the vertical plane (in lux) at key points.

The lighting shall be installed and maintained in accordance with the approved scheme.

Reason: In the interest of visual amenity and/or highway safety having regard to policy DM5.19 of the North Tyneside Local Plan (2017).

12. The construction site subject of this approval shall not be operational and there shall be no construction, deliveries to, from or vehicle movements within the site outside the hours of 0800-1800 Monday - Friday and 0800-1400 Saturdays with no working on Sundays or Bank Holidays.

Reason: To safeguard the amenity of nearby residents having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

13. There shall be no demolition activity or vehicle movements to, from or within the site outside the hours of 0800-1800 Monday to Friday, 0800-1400 Saturday with no working on Sundays or Bank Holidays.

Reason: To safeguard the amenities of neighbouring residents having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

14. There shall be no burning of any materials on the site at any time.

Reason: To safeguard the amenities of neighbouring occupants and land having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

15. Storage of any dust generating building materials at the yard must be suitably covered to minimise dusts offsite.

Reason: To safeguard the amenities of neighbouring occupants and land having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

16. Deliveries and collections must not be permitted between the hours 23:00 and 07:00 hours Monday to Saturdays. There shall be no deliveries or collections to the premises on any Sunday.

Reason: To safeguard the amenities of neighbouring occupants and land having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

17. No development shall commence until a Construction Method Statement for the duration of the construction period has been submitted to and approved in writing by the Local Planning Authority. The approved statement shall: identify the access to the site for all site operatives (including those delivering materials) and visitors, provide for the parking of vehicles of site operatives and visitors; details of the site compound for the storage of plant (silos etc) and materials used in constructing the development; provide a scheme indicating the route for heavy construction vehicles to and from the site; a turning area within the site for delivery vehicles; dust suppression scheme (such measures shall include mechanical street cleaning, and/or provision of water bowsers, and/or wheel washing and/or road cleaning facilities, and any other wheel cleaning solutions and dust suppressions measures considered appropriate to the size of the development). The scheme must include a site plan illustrating the location of facilities and any alternative locations during all stages of development. The approved statement shall be implemented and complied with during and for the life of the works associated with the development.

Reason: This information is required pre development to ensure that the site set up does not impact on highway safety, pedestrian safety, retained trees (where necessary) and residential amenity having regard to policies DM5.19 and DM7.4 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

18. Notwithstanding Condition 1, prior to the commencement of any part of the development hereby approved above ground level details of facilities to be provided for the storage of wheeled refuse, including recycling if necessary, shall be submitted to and approved in writing by the Local Planning Authority. The refuse facilities shall be provided in accordance with the approved details, prior to the occupation of each unit and thereafter permanently retained.

Reason: In order to safeguard the amenities of the area having regard to policies DM6.1 of North Tyneside Local Plan (2017).

19. The scheme for parking and manoeuvring indicated on the approved plans shall be laid out prior to the initial occupation of the development hereby permitted and these areas shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off, park and turn clear of the highway to minimise danger, obstruction and inconvenience to users of the adjoining highway having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

20. No part of the development shall be occupied until a scheme for the provision of secure undercover cycle parking has been submitted to and approved by in writing the Local Planning Authority. Thereafter, this scheme shall be implemented in accordance with the approved details before the development is occupied.

Reason: In the interests of highway safety having regard to Policy DM7.4 of the North Tyneside Local Plan (2017).

21. No part of the development shall be occupied until an area has been laid out within the site for heavy goods vehicles to turn in accordance with the approved drawing and that area shall not thereafter be used for any other purpose.

Reason: To enable vehicles to draw off and turn clear of the highway thereby avoiding the need to reverse onto the public highway having regard to policy DM7.4 of the North Tyneside Local Plan (2017).

22. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order), the development hereby approved shall only be used only for the purposes applied for:

-B8 Storage and Distribution (this includes open air storage, and which, for the avoidance of doubt includes the builder's merchant use described in the submitted application) including no more than 10% of the floorspace of the building hereby approved to be used for the small product store, and shall not be used for any other purpose within the Town and Country Planning (Use Classes) Order 1987 (or any Order revoking or re-enacting that Order).

Reason: To enable the Local Planning Authority to retain control over the use in a designated employment site having regard to Policy DM2.3 of the North Tyneside Local Plan (2017).

23. External products shall only be stored in the areas identified on the proposed site layout plan (Dwg No. NEB BC 001 A). All stacked products shall not exceed a height of four metres, all pallet or cantilever racking shall not exceed a height of five metres and all other products stored outside shall not exceed a height of four metres unless first agreed in writing by the Local Planning Authority. Reason: To safeguard the amenities of neighbouring occupants and land having regard to policy DM5.19 of the North Tyneside Local Plan (2017) and National Planning Policy Framework.

24. Notwithstanding Condition 1, prior to the commencement of any construction works on the site details showing the existing and proposed ground

levels and levels of thresholds and floor levels of the proposed new build and the existing levels of the adjacent footpath shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed and known datum point. Thereafter, the development shall not be carried out other than in accordance with the approved details.

Reason: This information is required pre-commencement to ensure that the work is carried out at suitable levels in relation to adjoining properties and highways, having regard to amenity, access, highway and drainage requirements and protecting existing landscape features having regard to the NPPF and policy DM6.1 of the North Tyneside Local Plan (2017).

25. Prior to construction above damp proof course the details specifying how the applicant intends to offer opportunities to local unemployed people during the construction phase shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, it shall be implemented in accordance with the agreed details.

Reason: To enable the Council to put forward local eligible unemployed people with a view to securing work and training opportunities to encourage employment in accordance with policy S2.1 of the North Tyneside Local Plan (2017).

Statement under Article 35 of the Town & Country (Development Management Procedure) (England) Order 2015):

The proposal complies with the development plan and would improve the economic, social and environmental conditions of the area. It therefore comprises sustainable development and the Local Planning Authority worked proactively and positively to issue the decision without delay. The Local Planning Authority has therefore implemented the requirements in Paragraph 38 of the National Planning Policy Framework.

Informatives

Building Regulations Required (I03)

Consent to Display Advertisement Reqd (I04)

Contact ERH Construct Highway Access (I05)

No Doors Gates to Project Over Highways (I10)

Do Not Obstruct Highway Build Materials (I13)

Take Care Proximity to Party Boundary (I21)

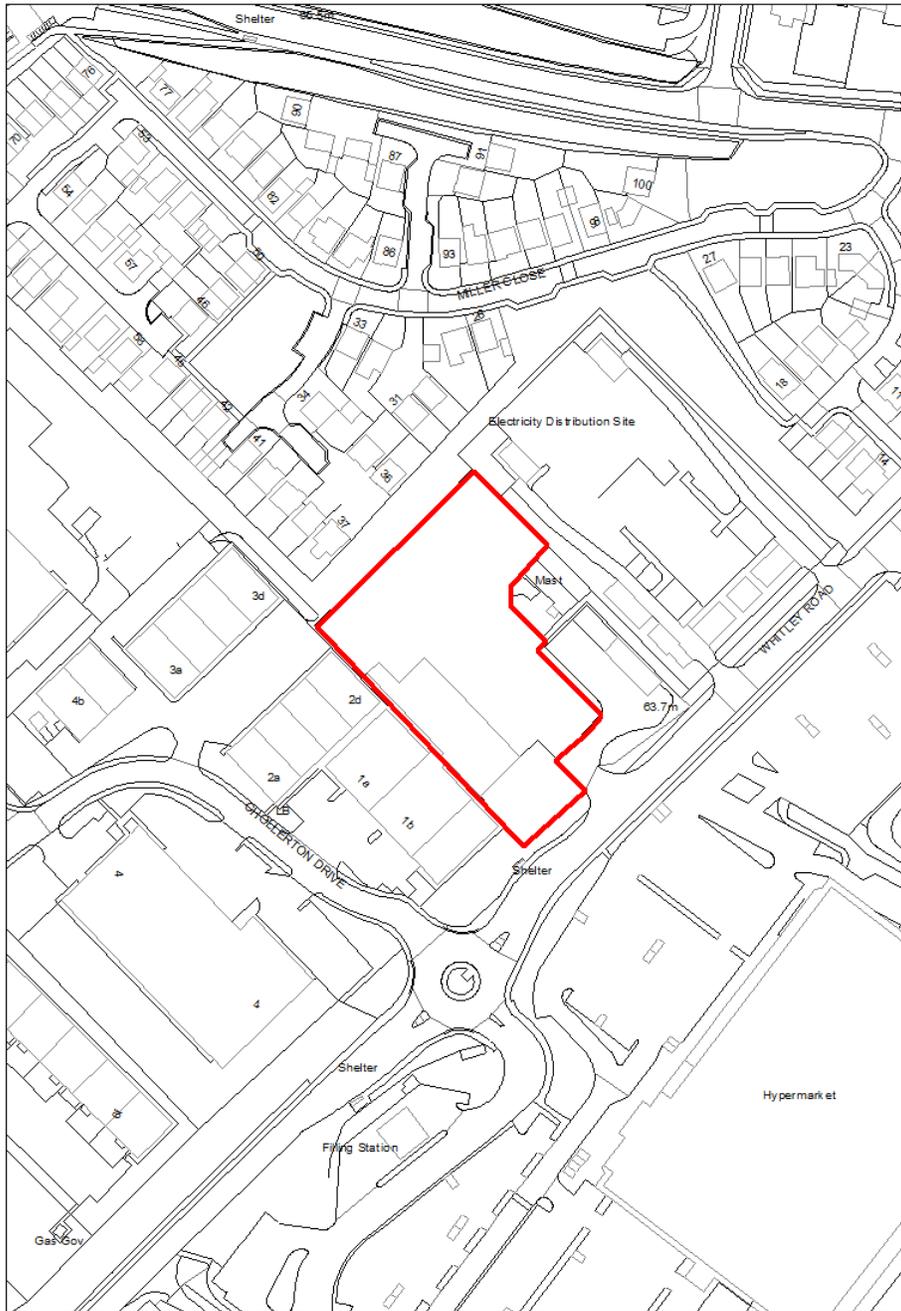
Advice All Works Within Applicants Land (I29)

Coal Mining Standing Advice (FUL,OUT) (I44)

Street Naming and numbering (I45)

Highway Inspection before dvlpt (I46)

Northumbria Police have advised that builders merchants can be a target for theft, as generally once the store is closed there is limited informal surveillance as per the proposed site layout plan, products are left in situ outside and often placed up against the fence line making them an easy target for theft. From the proposed site layout out, there are a number of pallet and cantilever racking systems, these should be located away from the perimeter fence which would deter and help prevent them being used as a climbing aid and the products being an easy target for theft. A general security plan should be developed and adopted for the site, to include external lighting, comprehensive CCTV and overall site security operating procedures, such as gate security and general maintenance of the site to include regular checks of the boundary fence.



Application reference: 21/01341/FUL

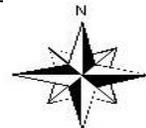
Location: Henson Motor Group, Benton Square Industrial Estate, Whitley Road, Benton

Proposal: Demolition of existing building and erection of a building for use as a builders' merchant. (storage, distribution, trade counter, offices and ancillary retail sales)

Not to scale

Date: 13.10.2021

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**Appendix 1 – 21/01341/FUL
Item 2**

Consultations/representations

1.0 Internal Consultees

1.1 Highways Network Manager

1.2 A Transport Statement (TS) was submitted as part of the application and it is considered that the impact on the adjacent highway network will not be severe. The site has good links with public transport, parking & cycle parking have been provided to meet the needs of the site and conditional approval is recommended.

1.3 Recommendation - Conditional Approval

1.4 Conditions:

ACC25 - Turning Areas: Before Occ

PAR04 - Veh: Parking, Garaging before Occ

REF01 - Refuse Storage: Detail, Provide Before Occ

SIT06 - Construction Method Statement (Minor)

No part of the development shall be occupied until details of secure & undercover cycle parking provision has been submitted to and approved by in writing the Local Planning Authority. This will be implemented in accordance with the approved details and retained thereafter

Reason: To accord with Central Government and Council Policy concerning sustainable transport.

1.5 Informatives:

I05 - Contact ERH: Construct Highway Access

I10 - No Doors/Gates to Project over Highways

I13 - Don't obstruct Highway, Build Materials

I45 - Street Naming & Numbering

I46 - Highway Inspection before dv/pt

1.6 Manager for Environmental Health (Pollution)

1.7 The premises are located on a dedicated industrial estate but are adjacent to residential properties at Miller Close, with the façade of the nearest property located some 12 metres from the north west boundary. I have concerns with regard to noise arising from the new development, specifically noise arising from delivery and collections at the site, storage operations and noise from any external plant and equipment installed at the site.

1.8 I have reviewed the noise assessment report. This has considered noise arising from deliveries only with two point sources for the modelling located near the entrance of the delivery yard. The noise monitoring has determined that noise arising from deliveries will give rise to low to minor adverse impacts for neighbouring residents. However, the noise assessment has not considered activities within the storage area adjacent to 37 Miller Close. A 2.6m high existing fence is provided but storage racking within this area will be up to 5 m high and operational activities within this area may give rise to potential disturbance from clattering and banging when loading and unloading building

materials from the racking. The site layout plan also shows that vehicle movements will take place within this area but such noise would be similar to that of the existing site which consists of vehicle storage. However, the noise assessment indicates that the main noise generating activities will arise from the loading and unloading of deliveries which will occur nearer to the entrance of the yard. The noise rating level calculated from the operating was determined as 46 dBLAeq against an existing background of 46 dBLA90. Although identified as minor adverse, noise levels are not considered to give rise to significant adverse impacts. Internal noise levels within bedrooms at the first floor were calculated as 35 dBLAeq, and would meet the World Health Organisation guidelines for community noise for internal bedrooms during the daytime period.

1.9 I would therefore recommend the following conditions if planning consent is to be given:

Installation of New External Plant and Equipment:

A noise scheme must be submitted in accordance with BS4142 to determine the noise rating level of new external plant and equipment operating at the site and that appropriate mitigation measures are taken where necessary to ensure the rating level of the plant and equipment does not exceed the existing daytime background noise level of 46 dB LA90 at Miller Close. It will be necessary following installation of the plant and equipment that acoustic testing is undertaken to verify compliance with this condition within one month of its installation and submitted for written approval prior to the operation of the plant and thereafter maintain in working order.

NO104 this will include details of the noise levels expected to be created by the combined use of external plant and equipment to ensure compliance with the noise rating level.

There shall be no burning of materials on the site.

Reason: In the interests of protecting the amenities of the occupiers of surrounding land and properties.

Storage of any dust generating building materials at the yard must be suitably covered to minimise dusts offsite.

Deliveries and collections must not be permitted between the hours 23:00 and 07:00 hours Monday to Saturdays.

NOI02

EPL01 for any external vents and chimneys

EPL02

HOU03 to those on application

HOU04

HOU05

SIT03

LIG01 for any new external lighting

1.10 Manager for Environmental Health (Contaminated Land)

1.11 The site lies c. 100m south of a former mine, and lies c250m north of three known landfills. The Design and Access Statement indicates that

"The existing overlying structures will be demolished as part of the scheme. The existing building is dated, and the current layout is not suitable for the proposed use. The existing hardstanding will be retained and repaired where required."

1.12 If this is the case then a full site investigation will not be required as there will be no pathways for contamination and therefore no contaminant linkage. However, any spoil arising from foundations will require Waste Acceptance Criteria testing carried out to ensure that it is disposed of at a suitably licensed facility.

1.13 Due to the close proximity of potential landfill and mine gas sources an investigation into the ground gas regime will be required. Recommend conditional approval

1.14 Condition:
Gas 006

1.15 Planning Policy

1.16 The site is currently trading as a car sales area (sui generis use) on the North Tyne Industrial Estate, which is an allocated site (Site E016) for employment uses in Policy S2.2 of the North Tyneside Council Local Plan (2017). The site is on the eastern perimeter of the industrial estate with an electrical substation to the east, housing to the north, a supermarket to the south and further industrial development to the west. The site is in a prominent location of the industrial estate, fronting the A191, which is a key link road running west to east across the Borough.

1.17 Policy S2.2 of the Local Plan defines employment uses as those in the former use class of B1 (now part of the wider definition of the E Class) and the extant use class B2 and B8. The proposed use of the site for storage and distribution purposes would be defined as a B8 use class. The facility will include sales to the general public, which would be classed as general retail (Use class E), but the majority of the operator's business is for wholesale purposes.

1.18 Policy DM 2.3 of the Local Plan aims to support proposals for B8 uses on employment sites, but it does also allow for uses not within the use classes of B1, B2 or B8 if the use is ancillary. In this instance the agent suggests that less than 10% of the sales from the operation would be from sales to members of the public (use class E) and therefore the proposed development would be in accordance with Policy DM2.3 of the Local Plan.

1.19 The proposed development would support economic prosperity and job growth in the Borough supporting Policy S2.1 of the Local Plan and would be supporting business investment of a nature congruent to the allocated employment site.

1.20 Conclusion:

1.21 The proposed development would support sustainable economic prosperity in the Borough. The proposed development would be in accordance with Policy DM2.3 and support Policy S2.2 and S2.1 of the Local Plan (2017). A condition to limit the ancillary sales area of the site to no more than 10% would be advised to ensure the general retail sales element of the development remains ancillary.

1.22 Lead Local Flood Authority

1.23 I can confirm the surface water drainage proposals for this application are acceptable. The development will incorporate an underground storage tank to provide attenuation within the site and will restrict the surface water discharge rate from the site to 46 l/s. This proposal will provide betterment from the existing sites surface water drainage system so the development will not increase the flood risk within the site or the surrounding area.

2.0 Representations

Five objections have been received (three objector's have provided details of their property addresses and two objections are from a resident of the estate). These objections are summarised below:

-Inappropriate design

-Loss of privacy

-Loss of residential amenity

-Loss of visual amenity

-Nuisance: disturbance, dust/dirt, fumes, noise.

-Poor traffic/pedestrian safety

-Poor/unsuitable vehicular access

-Traffic congestion

-Will result in visual intrusion

-Lack of public consultation with local residents most affected by this proposal. If residents were aware of this proposal through a mail notification, the number of objections would increase. Before a decision is taken on this application, local residents should be properly consulted about this development as it feels like the proposer has tried to slide the proposal through, without it being noticed.

-There is simply no equivalence to be drawn between the current use and the proposed use. The current use is of a car showroom with a limited number of staff and limited visitors, particularly at peak am time. The transport planning document seeks to draw an equivalence between the two that is simply not valid.

-Submitted documents to no acknowledge that Whitley Road currently experiences difficulties sustaining the current level of traffic. Queues can be lengthy in both directions. In addition, the road widening has exacerbated problems at the roundabout with lane change confusion. To increase the number of vehicles at peak times, particularly larger or large commercial vehicles can only have an adverse impact on what is already a problematic road.

-At present, the distance between the gaps in the pavement is already difficult to navigate for pedestrians. You have to go across at speed in the hope that no one is going to turn with a late signal. The mitigating factor is the lack of vehicles entering the showroom. If that changes, that only increases the existing risk. Again, the planning documents don't seem to

acknowledge the existence of this risk, let alone deal with the exacerbation of this risk.

-With regard to local business objectives, this type of business is already in the local area, with sufficient level of competition. Those businesses are located on industrial estates, including with traffic light provision and don't access directly the main road.

-Whitley Road is currently a problem, particularly at peak times. Unless the application is prepared to acknowledge that problem and appropriately mitigate it, then the application is flawed and should not be taken further.

The housing estate contains lots of families with young children, who are likely to be most affected by noise disturbance, particularly on an evening or early in morning, given the proposed opening/delivery hours.

-The industrial estate adjacent to the housing estate is already working extended hours and there can be excessive noise and some vibrations nuisance at varying hours of the day and night. The units causing this noise (Liquiform and Northumbria Blow Moulding, which seem to be operating 24/7) is significantly further away than the proposed plot. There is also some noise disturbance from Asda accepting deliveries and operating forklift trucks around the clock so having another heavy industrial unit, a builder's merchant, a matter of metres from properties will add to this.

-The plans show that there will be large stacks of goods on the rear of the plot, right next to the houses, meaning that there is significant potential for noise disturbance (clattering of pallets, forklift noise, lorry engines running, reverse sirens etc) for 11 hours per day, between 07:00 and 18:00, and that's if the facility doesn't operate outside of these times for deliveries. The noise impact survey doesn't really take this into consideration, and I note that environmental health had reservations about the survey. It's worrying that the environmental health responder has indicated that deliveries could take place up to 23:00 on an evening, which would be completely unacceptable.

-Within a one mile radius of the current Henson's site, there are already at least four builders merchants (Joseph Parr, F E Maughan, Keyline Civil Specialists and Travis Perkins), in addition to the likes of Screwfix, Toolstation and The Range which all sell building/home improvement supplies. Within a ten minutes commute, there is also B&Q, Wickes, Tradepoint, Jewsons, JT Dove. How many more builders merchants does North Tyneside really need?

-The transport survey is bewildering and seems more focused on how staff and customers currently get to/from the existing car showroom, which has limited footfall, rather considering the impact that a builders merchant will have, which is likely to create far greater traffic volumes. I can't understand how the author believes that a busy builder's merchant won't have any impact. The entrance to the site from the traffic lights has a very tight left hand turn off an extremely busy main road; I'm not sure how a heavy goods vehicle would be able to make this turn without causing a tailback.

Approaching the site from the Wheatsheaf roundabout, the current road layout doesn't really cater for the right hand turn into the site and would cause significant tailbacks or vehicles swerving into other lanes etc if the turn cannot be made immediately. I've witnessed a number of near misses for both drivers and pedestrians when cars suddenly brake to turn into

garage from both directions and the risk would only increase if the site became a busy builder's yard. Similarly, cars struggle to get out of the current site due to turning onto such a busy road. This needs to be looked at again, with road usage figures based on normal road usage, not reduced usage as we have witnessed during Covid lockdowns, and realistic visitor figures for the business in question.

-Surely a better place for an heavy industrial unit would be within the existing industrial estate, adjacent to the proposed site? Are there really no vacant existing units in the Bellway, North Tyne or Benton Square, that this business could move into, which would have a far lower impact on residents and reduce the pressure on an already congested road network?

-If this development is accepted it would be more palatable if the heavy goods storage and lorry unloading areas are moved away from the houses on Miller Close, perhaps swapping places with customer parking at the front of the site, next to Whitley Road. If the existing property is being demolished and rebuilt from scratch, this concession shouldn't add any cost to the build but would greatly assist with potential noise pollution.

-The entire Miller Close estate already suffers from noise problems due to the multiple distribution businesses in Benton Square Industrial Estate. Those business require HGVs, forklifts and other heavy machinery to function which greatly increase the noise levels in all areas of the estate. This is an unfortunate but accepted reality as those businesses operated as such before the estate was built, however there is no logical explanation to still allow new noise & traffic polluting business to be created next to the estate now.

-Furthermore, the redesign of the Wheatsheaf roundabout with the additional traffic lane and no pedestrian crossings is already dangerous enough for people on foot or on bikes. I was recently involved in a small traffic collision on the same portion of road caused by a speeding heavy goods vehicle coming from the Holystone bypass. Allowing another venue where high HGV traffic is expected will be the final nail in the coffin for the local residents. This is especially dangerous as based on the plans provided, there is no separate access to the premises therefore traffic will turn into the premises directly from Whitley Road.

-Consider those objections from residents who have lived in the area since the estate was built and have since been struggling with the existing noise and traffic pollution caused by the adjacent Benton Square industrial estate (especially the former PMP nameplates/Plastic metal and profiles which operates heavy machinery 24/7). We believe this application will significantly add to the existing pollution while not contributing to the area by any means, considering the range of similar business operating in the area.

-We are all monitoring the progress of the application and are looking forward to hearing from you before a final decision is made.

Officer note: The Local Planning Authority (LPA) have complied with the statutory consultation requirements. The LPA issued neighbour notification letters to immediate adjacent properties, displayed a site notice and a press notice.

3.0 External Consultees

3.1 Northumbria Police

3.2 We have no objections to the proposals, however we would like to make the following comments:

Builders Merchants can be a target for theft, as generally once the store is closed there is limited informal surveillance as per the proposed site layout plan, products are left in situ outside and often placed up against the fence line making them an easy target for theft.

Can it be clarified as to the height and specification of the perimeter fence, from looking at the site on Google Maps, there appears to be a mix of palisade and welded mesh fencing. Where a crime risks dictates there is a realistic chance of theft, I would recommend welded mesh fencing with a height of 2.4m for this boundary treatment.

From the proposed site layout, there are a number of pallet and cantilever racking systems, these should be located away from the perimeter fence which would deter and help prevent them being used as a climbing aid and the products being an easy target for theft.

A general security plan should be developed and adopted for the site, to include external lighting, comprehensive CCTV and overall site security operating procedures, such as gate security and general maintenance of the site to include regular checks of the boundary fence.

3.3 Newcastle International Airport Limited (NIAL)

3.4 No comments.

3.5 Tyne and Wear Archaeology Officer

3.6 I have checked the site against the HER and historic maps, and consider that the proposals will not have a significant impact on any known archaeological heritage assets, and no archaeological work is required.