

**Application No:** 22/00755/FUL

Author: Maxine Ingram

Date valid: 4 May 2022

☎: 0191 643 6322

Target decision date: 29 June 2022

Ward: Killingworth

Application type: full planning application

**Location: Unit 14, Wesley Way, Benton Square Industrial Estate, Benton, NEWCASTLE UPON TYNE**

**Proposal: Variation of conditions 1 (approved plans), 10 (holding area) and 11 (height limit) of planning approval 10/00552/FUL - to permit the display of goods externally**

Applicant: Joseph Parr (Tyne & Wear) Ltd, Wesley Way Benton Square Industrial Estate Benton NE12 9TA

Agent: Mario Minchella Architects, Mr Mario Minchella Unit 4 Witney Way Hi-Tech Village Boldon Business Park Boldon NE35 9PE

**RECOMMENDATION:** Application Permitted

## **INFORMATION**

### **1.0 Summary Of Key Issues & Conclusions**

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

- The impact on amenity (visual and residential); and,
- Other issues.

1.1 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 consists of an operational industrial unit located within Benton Square Industrial Estate. It is sited on a corner plot at the junction of Wesley Way and Wesley Drive and the junction of Wesley Way and Whitley Road. The site slopes away from the adjacent highway, Whitley Road. The site is enclosed by mesh fencing.

2.2 Mature trees and shrubs are sited outside the site adjacent to part of its southern boundary.

2.3 To the south of Whitley Road are residential properties.

### 3.0 Description of the Proposed Development

3.1 Planning permission is sought to vary conditions 1 (approved plans), 10 (holding area) and 11 (height limit) of planning approval 10/00552/FUL - to permit the display of goods externally and increase the height of externally stored goods.

3.2 The full wording of the planning conditions imposed on the original grant of planning permission, 10/00552/FUL, are set out below:

Condition 1: The development to which the permission relates shall be carried out in complete accordance with the approved plans and specifications.

Reason: To ensure that the development as carried out does not vary from the approved plans.

Condition 10: The holding area identified on the proposed site plan (Project no. 2556 Dwg No A-01 Rev F) shall not be used to display goods for sale and there shall be no other external storage on the site.

Reason: In order to protect the amenity of the surrounding area having regard to Policy LE1/7 of the North Tyneside Unitary Development Plan 2002.

Condition 11: Any of the goods stored in the holding area shall not exceed a height of two metres.

Reason: In the interest of protecting the amenity of the surrounding area having regard to Policy LE1/7 of the North Tyneside Unitary Development Plan 2002.

3.3 The proposed variations to the above conditions are as follows:

Condition 1: Amend the wording of this condition to substitute the previously approved site plan with the proposed site plan Dwg No. ENF-01 Rev H.

Condition 10: Amend the wording this condition to permit the display of goods as shown on the proposed site plan Dwg No. ENF-01 Rev H.

Condition 11: Amend the wording this condition to permit the display of goods at the height shown on the proposed site plan Dwg No. ENF-01 Rev H.

### 4.0 Relevant Planning History

86/00001/FUL - Erection of external fire escape – Permitted 11.02.1986

91/01244/ADV - Various signage at UB (Ross Youngs) Ltd – Permitted 03.10.1991

10/00552/FUL - Proposed external alterations to install new doors, windows and access ramp. New 2.4m Steel Palisade Fencing to entire perimeter, concrete re-surfacing of site and widening of existing access to 8.1m – Permitted 06.08.2010

17/01472/FUL - Two storey extension to builders merchants providing showroom / offices to both floors and storage to the first floor – Permitted 11.12.2017

19/00856/ADV - 1no post mounted and 1no fence mounted signage to serve existing builders merchant – Refused 19.08.2019

20/00131/ADV - 1no fence mounted signage to serve existing builders merchant. (Resubmission) (Amended plan received 18.03.2020) – Permitted 17.04.2020

21/01510/FUL - Variation of conditions 1 (approved plans), 10 (holding area) and 11 (height limit) of planning approval 10/00552/FUL - to permit the display of goods externally – Refused 29.09.2021. Dismissed at appeal.

21/01930/FUL - Variation of conditions 12 and 13 of planning approval 10/00552/FUL - amendments to landscaping layout – Refused 25.10.2021

22/00361/ADV - Erection of wall mounted flush advertising panels – Permitted 25.04.2022

22/00603/FUL - Variation of condition 12 and removal of condition 13 of planning approval 10/00552/FUL - amendments to landscaping layout – Pending consideration

## 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 principle of the works approved via planning application 10/00552/FUL (Proposed external alterations to install new doors, windows and access ramp. New 2.4m Steel Palisade Fencing to entire perimeter, concrete re-surfacing of site and widening of existing access to 8.1m) has already been established as acceptable and this is not for re-consideration as part of the current application.

7.2 Within the current application the applicant is proposing the variation of conditions 1, 10 and 11 in order to make the following amendments:

- List the proposed site plan as an approved document.
- Permit the display of goods externally as shown on Dwg No. ENF-01 Rev H.

-Permit the display of goods externally at a height of 5m as shown on Dwg No. ENF-01 Rev H.

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

- The impact on amenity (visual and residential); and,
- Other issues.

7.4 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 The impact on amenity (visual and residential)

8.1 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.

8.2 Paragraph 126 of the NPPF encourages good design stating that “this is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities”. Paragraph 134 of the NPPF makes it clear that development of a poor design should be refused.

8.3 Paragraph 185 of the NPPF states that planning decisions should 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 amongst other matters; mitigate and reduce to a minimum potential adverse impact resulting from new development – and avoid noise giving rise to significant adverse impacts on health and quality of life.

8.4 LP Policy S1.4 of the Local Plan states that development proposals should be acceptable in terms of their impact upon local amenity for new or existing residents and businesses, adjoining premises and land uses.

8.5 Policy DM5.19 ‘Pollution’ states, amongst other matters, development that may cause pollution will be required to incorporate measures to prevent or reduce pollution so as not to cause unacceptable impacts to the environment, to people and to biodiversity. Potentially polluting development will not be sited near to sensitive areas unless satisfactory mitigation measures can be demonstrated.

8.6 LP Policy DM6.1 of the Local Plan states that proposals are expected to demonstrate a positive relationship to neighbouring buildings and spaces and a good standard of amenity for existing and future residents and users of buildings and spaces.

8.7 LP Policy DM2.3 ‘Development Affecting Employment Land and Buildings’ states that the Council will support proposals on employment lands for new or additional development for uses within use classes B1 (now use class E), B2 and

B8. Amongst other matters this policy will not permit proposals that would have an adverse impact upon the amenity and operation of neighbouring properties and businesses.

8.8 The objections received regarding the impacts on residential and visual amenity are noted.

8.9 In 2010, a planning application was submitted for consideration of external alterations to the building, a new perimeter fence (2.4m high) and resurfacing of the site and widening of an existing access. The plans submitted with this application identified a holding area for the storage of bulk materials along the western boundary only. The 2010 planning application was considered acceptable subject to conditions restricting the holding area to that identified on the proposed site plan and restricting the height of any goods stored in the holding area to no more than 2m.

8.10 Since the grant of planning permission in 2010, the amount of external storage on this site has increased within the site. To regularise the current situation on-site and to take into consideration the recent appeal decision, the applicant has submitted this application to vary conditions 1, 10 and 11 of application 10/00552/FUL. The proposed site plan, Dwg No. ENF01-H, shows external storage areas to the northwest, southwest, part of the northeast and part of the southeast boundaries of the site. The height of the materials to be stored along the southeast, southwest, northwest and adjacent to the building will be 5m. The height of the materials to be stored along the splay closest to the junction with Wesley Drive and Wesley Way will be 2m. No storage is shown on the proposed site plan between the edge of the mature tree belt adjacent to Whitley Road towards the splay closest to the junction of Wesley Way and Whitley Road. No storage is shown on the proposed site plan from the junction of Wesley Way and Whitley Road to the site access.

8.11 The site is located in a prominent location in a mixed-use area of Benton (residential and commercial). It is sited on a corner plot at the junction of Wesley Way and Wesley Drive and Wesley Way and Whitley Road. Whitley Road is located to the southeast of the site. To the southeast side of Whitley Road are residential properties, Nos. 1, 3, 9, 11, 13, and 15 Whitley Road afford direct views of the application site. Nos. 5, 7, 17 and 19 Whitley Road afford less direct views of the application site. Commercial units are located to the southwest of the site, to the northwest beyond Wesley Drive and to the northeast beyond Wesley Way. The commercial units fronting onto Wesley Drive are set back from the road and the areas immediately to the front of the buildings are primarily used for parking. The site opposite the application site, beyond Wesley Way, is relatively open when travelling along Whitley Road towards the site. When travelling in the opposite direction the site is screened by an existing commercial unit and the trees sited adjacent to part of the site's southeast boundary. It is noted that these existing trees offer greater screening during the summer rather than the winter. The site is also visible when viewed from Wesley Way and Wesley Drive.

8.12 Members are advised that the previous application to vary the conditions subject of this application was refused and dismissed at appeal. This recent

appeal decision is a material planning consideration in assessing this application. The following extracts from this appeal decision are considered to be important:

*“The open forecourts to the front of the industrial sites adjacent to Whitley Road and the lower ground level of these sites reduces the visual significance of the industrial buildings from the Whitley Road frontage. In addition, the mature trees, hedges and grass verges along Whitley Road contribute positively to the character and appearance of the area and the setting of the residential and commercial buildings.*

*The trees within the verge adjacent to Whitley Road next to the rear and side of the appeal site are densely planted and filter views from the residential properties opposite. The outside storage area behind the trees is not a prominent or intrusive feature of the Whitley Road street scene.*

*Further, the contemporary shelving visible from Wesley Drive is seen in the context of other industrial development and located where the street is dominated by car parking and hard surfaced areas. The temporary shelving is not out of place and does not harm the adjacent industrial environment.*

*Nevertheless, because of the appeal site’s prominent corner location at the edge of the industrial estate, the height and amount of outside storage on the forecourt between the buildings and Wesley Way, is openly viewed from Whitley Road. The storage draws the eye and is an unsightly and conspicuous addition to the street scene.*

*The appellant considers that the site is not within a mixed-use area, rather, Whitley Road is the interface zone between the residential and commercial uses along it. However, even though land uses of different types are located adjacent to Whitley Road, the outside storage on the exposed forecourt area influences the overall character of Whitley Road and is detrimental to the adjacent residential environment and the character and appearance of the Whitley Road frontage. Residential properties on the corners of Whitley Road and St Aidans Avenue overlook the site and due to the nature of the storage and its effects on the area’s character and appearance, their outlook is detrimentally affected”.*

8.13 It is clear from the appeal decision that the siting and height of the storage behind the existing tree belt and the temporary shelving adjacent to Wesley Drive is acceptable. Regarding the storage between the building and Wesley Way the applicant has significantly reduced the amount of storage to a small amount along the splay that is closest to the junction of Wesley Drive and Wesley Way. The height of this storage is area shown as 2m. Given the distance that exists between this storage area and the residential properties on the corners of Whitley Road and St Aidans Avenue it is officer opinion that it will not significantly affect their outlook or detract from the character and appearance of the area when viewed from Whitley Road.

8.14 Members need to determine whether the variations to the conditions as set out in paragraph 3.3 of this report are acceptable in terms of their impact on the amenity of the area (visual and residential). It is officer advice the variation to the conditions are acceptable. The proposed variations would not significantly impact

on the amenity of the area (visual and residential). As such, it is officer advice, that the proposed variations to the conditions comply with the advice in the NPPF and LP Policies DM6.1 and DM2.3.

## 9.0 Other Issues

### 9.1 Impact on highway safety

9.2 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.

9.3 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.

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

9.5 The Highways Network Manager has been consulted. He has advised that an additional condition would be required to ensure all turning and manoeuvring areas are retained. On this basis, he has recommended approval subject to all previous conditions and informatives being re-imposed.

9.6 Members need to consider whether the proposed site layout is acceptable in terms of its impact on highway safety. It is officer advice that it is.

### 9.7 Other matters

9.8 The Manager of Environmental Health has raised no objections to this application.

9.8 This application can only consider material planning considerations and not the objections raised relating to other alleged breaches of planning control. Any alleged breaches of planning control will need to be investigated as a separate matter by planning enforcement.

9.9 The applicant has submitted a revised proposed site plan during the course of the application. This plan confirms the height of the proposed storage areas and their locations. On this basis, it was not considered necessary to re-consult.

9.10 Should this application be approved and planning application 22/00603/FUL be approved, it is considered necessary to impose the revisions to the conditions on both applications to ensure consistency.

## 10.0 Local Financial Considerations

10.1 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). It is not considered that the proposal results in any local financial considerations.

## 11.0 Conclusion

11.1 Members need to determine whether the proposed variations to the conditions are acceptable in terms of their impact on amenity (visual and residential). It is the view of officers that the proposed variations are 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 approved plans and specifications:
  - Ordnance survey Dwg No. A-00
  - Proposed site plan including external storage areas Dwg No. ENF-01 Rev H
  - Existing elevations Dwg No. A-04
  - Existing plan showroom Dwg No. A-02
  - Proposed elevation Dwg No. A-05
  - Proposed plan showroom Dwg No. A-03
  - Unit existing plan Dwg No. A-06
  - Unit proposed plan Dwg No. A-07
  - Proposed fencing Dwg No. A-15 B

Reason: To ensure that the development as carried out does not vary from the approved plans.
  
2. The scheme for parking and manoeuvring and cycle storage shall be laid out in full accordance with the approved plans 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 DM2.3 of the North Tyneside Local Plan (2017).
  
3. Restrict Hours No Construction Sun BH     HOU04     \*
  
4. External storage shall be restricted to the areas shown on the Proposed site plan including external storage areas Dwg No. ENF-01 Rev H only.

Reason: In order to protect the amenity of the surrounding area having regard to Policy DM2.3 of the North Tyneside Local Plan (2017).
  
5. Any of the goods stored in the storage areas shall not exceed the height and locations shown on the Proposed site plan including external storage areas Dwg No. ENF-01 Rev H only.

Reason: In order to protect the amenity of the surrounding area having regard to Policy DM2.3 of the North Tyneside Local Plan (2017).

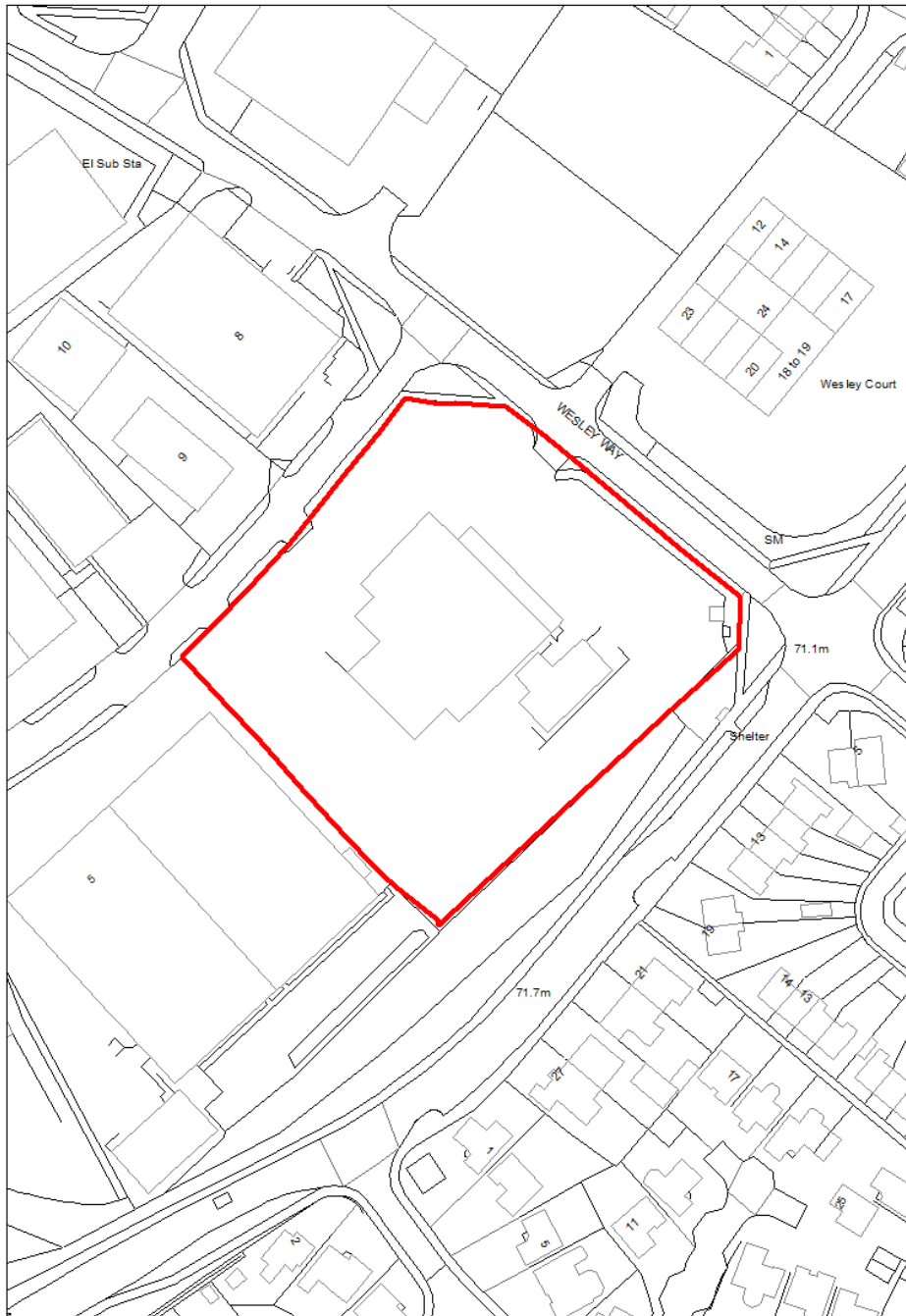


6. All planting works shall be carried out in full accordance with the landscape details as shown on the approved 'Proposed Landscaping Site Dwg No. ENF-02 Revision D' and to a standard in accordance with the relevant recommendations of British Standard 8545:2014. The landscaping works shall be carried out during the next planting season (November 2022) and managed and maintained thereafter. Any trees or plants that, within a period of 12 months and within a period of five years after planting, are removed, die or become seriously damaged or defective, shall be replaced with others of species, size and number as originally approved, by the end of the first available planting season thereafter.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping having regard to policy DM5.9 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.



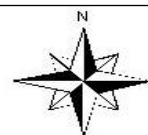
**Application reference: 22/00755/FUL**

**Location: Unit 14, Wesley Way, Benton Square Industrial Estate, Benton**  
**Proposal: Variation of conditions 1 (approved plans), 10 (holding area) and 11 (height limit) of planning approval 10/00552/FUL - to permit the display of goods externally**

Not to scale

Date: 18.08.2022

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**Appendix 1 – 22/00755/FUL**  
**Item 4**

**Consultations/representations**

1.0 Internal Consultees

1.1 Highways Network Manager

1.2 Approval is recommended on the current variation application, all other conditions and informatives should be retained.

1.3 Recommendation - Conditional approval

1.4 Manager for Environmental Health (Pollution)

1.5 No objection in principle to this application.

1.6 Manager for Environmental Health (Contaminated Land)

1.7 No objection.

2.0 Representations

2.1 One objection has been received. This is set out below:

We would like to submit our objection to the planning application 22/00755/FUL which proposes a variation of the conditions 10 and 11 of planning approval 10/00552/FUL. We feel strongly that there should have been more oversight from the planning department at NTC when dealing with this business and guiding them in their most current application as to remind them and encourage them to work within the parameters, guidelines and conditions that have already been set forth by NTC and the planning inspectorate upon submitting a new application proposal for variations of conditions. However, this does not seem to be the case, and once again we are left objecting to, what we strongly feel, are the same problems with negative visual amenity that we (and NTC) has had with the last few applications by this business. As such, we wrote to the planning department to query why this application was able to be put forth by Joseph Parr when it still clearly violates the conditions that were put forth by both NTC and the Planning Inspectorate, and how this whole application appears to be a waste of everyone's time. Unfortunately, we have not heard back from NTC regarding these questions/concerns that we have put forth to them. Obviously, we are disappointed not to hear back from your office (NTC planning department) regarding our email about the redundancy and continuing breaches of previously ruled on items in this application, but since we have not had any word that this application is being amended by the applicant, we submit to you the following objection:

This objection boils down to the fact that the applicant's proposal, once again fails to take into consideration the visual amenity of the local residents and surrounding community by not adhering to conditions set forth in their previous (approved, 2010) planning application, not adhering to the guidelines set forth by NTC in their previous application (2021) that was denied by the NTC planning department and not adhering to the guidelines set forth by the Planning Inspectorate in their submitted appeal, which was also denied. All of these applications and the appeal had one basic thing in common, that the property

owned by the applicant (Joseph Parr) and their prohibited outdoor storage and displays were having a negative impact on the residential properties (which are in near proximity to the business) and the surrounding local community. The original planning application (in 2010 stated very clearly in its list of conditions that the applicant was not to store building materials or have displays in the front part of their property, but could only do so in the designated area which was located in the back of their property. Since that time, both NTC and the planning inspectorate have also agreed with this condition (in more recent applications for variations of conditions by Joseph Parr) and both not only denied Joseph Parr's 2021 application for outdoor storage around the entire property but also upheld this decision on appeal. It is clear to us, because of these rulings that the visual amenity for both individual residents and the overall community is paramount when deciding issues of planning requests which will have a negative impact on both local residents and the neighbouring community.

However, we do understand and believe that the Planning Inspectorate left open the possibility for Joseph Parr to expand their outdoor storage area to some additional outdoor areas of their property that are satisfactory shielded from local residential properties and the surrounding village area. And additionally, that the tall (already existing) 5M high storage shelves that are currently located in the back of the Joseph Parr property do not pose any negativity to the amenity of the surrounding areas/resident, and we agree. That being said, the current application not only has dedicated outdoor areas both around the perimeter fencing and in front of the warehouse that clearly breach the conditions laid out by both NTC and the planning inspectorate, therefore we, once again object to this proposal. Additionally, the applicant has also applied to have display areas (already in place) approved as part of this application.

Despite the applicant's submitted site plan which suggests that the storage areas and display "shelves" located in the front portion of their property are tidy, non-offensive and well contained it is clear to anyone who visits this site that this is not the case. Please see some examples of this in the attached photos. In this same vein, we contend that these storage areas, shelving and display units are too tall, too visually unappealing, appear in multiple areas that are not listed on their submitted site map and are not only visible to local residents but are also visible to pedestrians, passing traffic on Whitely Road and anyone passing by or near this property on their way to the metro or nature trails at the other end of this estate. As such, we also object to these display "shelves" and storage shelves that are being requested on this planning application 22/00755/FUL. We contend that these have already been considered and rejected by the council on multiple occasions and have been deemed as contributing to a negative amenity to the surrounding area by the planning inspectorate. We would also like to add that there are no other businesses within the Industrial Estate, that we have seen, that have outdoor storage in the front of their businesses.

And finally, we would like to pose the question as to why more of the building materials that are currently being stored outdoors on the Joseph Parr property not going into the huge storage facility that they have secured behind their current property? It was relayed to us by the head of the planning department that the excess building materials that was in view of the local community/residents was going to be moved to this location.

3.0 External Consultees

3.1 None