
Delegated report Officer: James Norton

Application ref. DMPA/2023/1496

The variation of Condition 2 (relating to approved plans) of permission DMPA/2022/1345 (relating to the erection of storage and distribution buildings (use class B8) (units DC2 and DC3) at ATL Warehousing, Hanger House, Woodyard Lane, Foston, Derby, DE65 5DJ ATL Warehousing, Hanger House, Woodyard Lane, Foston, Derby, DE65 5DJ

Valid date: 22/11/2023

Consults expired: 05/01/2024

EIA development? No

Section 106 agreement? Not required

This decision is delegated to officers under the terms of the current Scheme of Delegation.

Relevant planning history

DMOT/2023/1289 - Approval of details required by conditions 9 (Landscaping) and 10 (LEMP) relating to DMPA/2022/1345 for the erection of storage and distribution buildings (use class B8) (units DC2 and DC3)) - Approved 15/12/2023

DMPA/2022/1345 - The variation of Condition 2 (relating to approved plans) of permission 9/2016/1271 (relating to the erection of storage and distribution buildings (use class B8) (units DC2 and DC3)) - Approved 17/01/2023

DMPA/2022/0999 - The variation of condition no. 2 (relating to approved plans) of permission ref. 9/2016/1271 (relating to the erection of storage and distribution buildings (use class B8) (Units DC2 and DC3)) - Approved 9/11/2022

DMOT/2021/0980 - Approval of details required by conditions 4, 5-8, 12 and 13 attached to ref. 9/2016/1271 (the erection of storage and distribution buildings (Units DC2 & DC3)) Granted 20 May 2022

9/2016/1271 – The erection of storage and distribution buildings (use class B8) – Granted 17/07/2019

9/2019/0368 - Retention of emergency access and concrete approach apron – Granted 04/11/2019

9/2016/1299 - The variation of condition 5 of planning permission ref: 9/2016/0828 – Granted 15/02/2017

9/2016/0473 - New security gatehouse/offices, vehicle wash/refuelling facilities, tank enclosure and car lorry/trailer parking areas - Granted 29/07/2016

9/2016/0828 - Retention of secure perimeter fence, construction of emergency vehicle access to replace existing field-gate and proposed landscaping - Granted 30/09/2016

9/2016/0304 - The removal of condition 2 of planning permission ref: 9/2014/0424 (relating to the erection of new warehouse buildings, the erection of garage/maintenance building and the creation of an open storage area and associated works) - Granted 14/07/2016

9/2015/0793 - The variation of conditions attached to planning permission 9/2014/0424 consisting of the variation of condition 4 to amend the timescale to provide rough grassland; condition 5 to amend the timescale to provide a landscape management plan and condition 22 to amend the timescale to provide a habitat management and monitoring plan for the erection of new warehouse buildings, the erection of garage/maintenance building and the creation of an open storage area and associated works - Withdrawn 11/03/2016

9/2014/0842 - Retention of temporary offices - Granted 03/11/2014

9/2014/0424 - The erection of new warehouse buildings, the erection of garage/maintenance building and the creation of an open storage area and associated works - Granted 12/03/2015

9/2013/0352 - Provision of a compressed natural gas (CNG) filling station - Granted 05/07/2013

9/2011/0889 - The erection of a warehouse extension & associated offices and warehouse/light industrial units - Granted 20/09/2013

9/2011/0890 - Outline application all matters reserved (except for access and layout) for extension of logistics / warehouse depot - Granted 20/09/2013

9/2008/0707 - The erection of storage building, construction of access road & use of land for outside storage - Granted 07/07/2009

9/2007/0135 - Change of use from poultry farm to use for storage and distribution - Granted
18/09/2007-

Responses to consultations and publicity

County Highways - There are no highway objections to the planning application.

Relevant policy, guidance and/or legislation

The relevant Development Plan policies are:

- 2016 Local Plan Part 1 (LP1): S1 (Sustainable Growth Strategy), S2 (Presumption in Favour of Sustainable Development), S5 (Employment Land Need), S6 (Sustainable Access), E2 (Other Industrial and Business Development), E7 (Rural Development), SD1 (Amenity and Environmental Quality), SD1(Flood Risk), SD3 (Sustainable Water Supply, Drainage and Sewage Infrastructure), SD4 (Contaminated Land and Mining Legacy), BNE1 (Design Excellence), BNE3 (Biodiversity), BNE4 (Landscape Character and Local Distinctiveness), INF2 (Sustainable Transport), INF7 (Green Infrastructure).
- 2017 Local Plan Part 2 (LP2): BNE5 (Development in Rural Areas), BNE7 (Trees, Woodland and Hedgerows).

The relevant national policy and guidance is:

- 2021 National Planning Policy Framework (NPPF).
- Planning Practice Guidance (PPG).

Planning considerations

The main issues central to the determination of this application are:

- Design, character and appearance; and
- Residential amenity.

Planning assessment

The original permission was granted in 2016 but a Section 73 application to vary the permission was granted in November 2022. Condition 2 of this application states:

'The development hereby permitted shall be carried out in accordance with Plan Drawing Nos:

22/426-1001,

22/426-1002,

22/426-1003,

151111-01 Rev D,

151111-02 Rev D

Revised Site Location Plan (1001)

unless as otherwise required by condition attached to this permission or allowed by way of an approval of a non-material minor amendment made on application under Section 96A of the Town and Country Planning Act 1990 (as amended)'.

A subsequent Section 73 application was submitted to again vary condition 2 (approved plans) which made amendments to the approved scheme which included the addition of a covered annexe and holding area to DC2 and an increase in the floor area by 2900 Sq m. Now this latest Section 73 application seeks to again vary condition 2 and proposes the following changes:

- Increase the height of DC3 from 13.5m to 15m;

- Alter the internal office and welfare provision and correct the alignment of the personnel doors on the northern elevation of DC3.

The development has been lawfully implemented in line with the earlier permission granted in January 2023. Although the application now proposes an increase in height to built development to DC3, the proposal effectively represents a minor material alteration to the approved scheme, in the context of DC2 and DC3 being substantially smaller buildings than the completed DC1 and smaller overall to the original buildings approved in the original permission on this site, and the established principle of development is not disputed. Highway safety and drainage matters do not require reconsideration, given the technical reports submitted as part of the approved host application evaluate the impact of a greater amount of development than previously required by both the approved and revised scheme. There would therefore be no change in the result of the assessments made. Other matters considered within the host application are noise, biodiversity and trees. There will be no material change to the impact on these via the revised scheme and the existing conditions are considered to adequately cover off these matters as necessary. Where conditions have been discharged conditions have been amended accordingly.

Design, character and appearance

As referred to above the main reason for the application is the increase in height to DC3 - an increase of 1.5m to 15m in total giving a clear 12m internal clearance. The change is required to maximise operational efficiency of the building and following changes to the design of the internal racking system. There are no further changes to the layout of the buildings nor any increase in footprint. Given the broader context of established industrial surroundings, the minor increase in building height will not create undue negative impact on the surrounding landscape. Indeed, the height of the building is still lower than the previously approved scheme from 2016. The internal changes to the office and welfare provision have no impact on the external appearance and are simply noted. The adjustment of the door openings will barely be noticeable from inside the site and not visible from the public realm. These alterations are therefore considered to be of a minor material nature, in this specific context, and are appropriate in relation to the setting of the site and conducive to the aims of sustainable economic growth and development and therefore considered to comply with BNE1.

Residential amenity.

Whilst DC3 is closest to residential dwellings, the increase in height is modest and will not have any adverse effect on the the dwellings on Hay Lane as the proposed building is set back from the highway and there is no decrease in the intervening separation distance and the existing mature landscaping buffer is maintained. For these reasons there would be no discernible increase in impact on the amenity of this development in terms of overbearing or overshadowing, compared to that approved. The conditions attached to the approved scheme ensure the scheme would not result in any material harmful impacts in terms of noise and disturbance and overall, the proposal would create no increase in adverse impacts on the residential amenity of surrounding dwellings beyond that what is permitted.

Conclusion

The proposal therefore conforms with the policy requirements of the Local Plan and Condition 2 (which will become condition 1 as the development has commenced and therefore no time limit condition is required) can be varied to reflect the revised scheme.

Recommendation

Approve with Conditions

None of the other matters raised through the publicity and consultation process amount to material considerations outweighing the assessment of the main issues set out above, noting that conditions or obligations have been attached where meeting the tests for their imposition. Where relevant, regard has been had to the public sector equality duty, as required by section 149 of the Equality Act 2010 and to local finance considerations (as far as it is material), as required by section 70(2) of the Town and Country Planning Act 1990 (as amended), as well as climate change, human rights and other international legislation.

Recommendation made:	21/02/2024
Report agreed:	21/02/2024
Authorised officer:	Steffan Saunders
