

**Our Ref:** 19NP390  
**Your Ref:** 19/01923/FULMAJ

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5<sup>th</sup> July 2019

Mr Jim Tinsley  
The Secretary  
Tockwith Residents Association  
4 Marston Road  
Tockwith  
York  
YO26 7PR

Dear Mr Tinsley,

**19/01923/FULMAJ | Creation of energetic material storage and distribution place (Use Class B8) with erection of six low level lit earth bunded storage magazines, 4 no. detached storage units, a communications cabin and a re-packing shed, with associated access, hardstanding and landscaping. | Land Adjacent To Arena Display, Minster Hag Business Park, Rudgate, Bilton In Ainsty, York, North Yorkshire, YO26 7QU**

Following our discussions last week, we have now had chance to review in detail the above application as well as the technical consultee comments which have been received to date.

Whilst this letter outlines our thoughts and comments in detail, overall we would summarise that despite the presence of a number of anomalies/inconsistencies within the application submission which should be clarified, we do not feel these are necessarily significant enough to warrant a substantive objection to the proposed development.

Our key observations on the key planning application documents are summarised below:

#### **1. General Information/comments**

The legal requirements for storing explosives are set out in The Explosives Regulations 2014. The storage of explosives requires a licence from the Health and Safety Executive (HSE) who do not issue such licences until planning permission has been granted for a particular site. For safety purposes, these regulations stipulate minimum distances that any 'energetic material' store/magazine needs to be from inhabited buildings as well as each other. Whilst the exact distances depend on the quantity of explosives being stored (and we do not know this), it is believed that application likely meets these requirements as HSE would refuse to grant a licence if these were not met. In our opinion, it would make no sense for the Applicant to apply for permission if the capacity of the proposed development did not at least meet the minimum requirements set out in the Explosive Regulations.

In terms of the principle of the development, the site is (technically) located on brownfield land which is favoured in policy terms for re-use/development over greenfield land. The site does not lie within or adjacent to any international, national or locally designated site nor does it lie within flood zones 2 or 3. Due to the nature of the proposed development i.e. an energetic material store, there is valid justification behind the site being in an open countryside location.

Overall, we consider that objecting to the the principle of development of this site would be difficult.

## **2. Plans/drawings**

There are a few elements regarding the applications plans/drawings which we consider need confirming/clarifying:

- The red line boundary for the application encompasses the access road, the turning area with comms cabin etc. as well as the 6 proposed magazines/stores. However, we consider that there may be a few minor errors/omissions in this:
  - A new access gate is proposed on the south west boundary, but this is not included within the red line.
  - A small area of wildflower mitigation planting is proposed at the site entrance (see drawing 04 of the Landscape and Visual Impact Assessment (LVIA)). This technically should be included in the red line boundary.
- We cannot see any detailed drawings or plans in the application documents relating to the proposed PIR lighting and CCTV cameras/posts which are illustrated on the Proposed Site Plan close to the proposed comms cabin and shipping containers. We suggest that clarification is sought regarding the nature and height of these to ensure that their impact can be properly considered.
- 4 new entrances/access gates are illustrated on the site plan, however there appear to be no plans or elevations illustrating these. The new access gate at the entrance on Rudgate are referred to in para 8.4.8 of Planning Statement. The design/height of these new gates and fences are unclear, therefore it is difficult to ascertain whether these could be classed as permitted development and therefore would not require formal planning permission.
- Rectangular shapes opposite the proposed magazines are illustrated on the proposed site plan. It is unclear what these are. We suspect it may just be a lay-by or another access feature but this matter should be clarified as it has the potential to affect the adjacent tree belt.

## **3. Planning Statement and Contamination Assessment**

Whilst the Planning Statement is comprehensive in nature, as with the application plans there are a few details which we consider need confirming/clarifying.

Firstly, although it is understandable that there is no detail in the publically available application documents regarding the exact type of explosives to be stored in the magazines (there is just brief information stating detonators and materials that are only combustible if mixed with other materials before use will be stored), we feel that assurances should be made with the Applicant regarding:

- The security of the site. A strong legislative and policy framework exists for considering Community Safety as part of the planning process. The Revised National Planning Policy Framework (February 2019) states that planning policies and decisions should aim to ensure that developments create safe environments where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

It is therefore recommended that a request is made that the applicant produces a comprehensive Management Policy. This should demonstrate how they have considered crime and disorder and what measures they intend to put in place to reduce the likelihood of an increase in these levels. It is noted that the Police Architectural Liaison Officer has been consulted on the Application but has yet to provide a response. It would be worth keeping an eye out for this to see if they request such a Management Policy.

- That the relevant explosives licence from HSE for the site will be obtained.

Secondly, paragraph 8.3.7 of the Planning Statement suggests that the loss of 0.25 ha of woodland to facilitate the construction of four of the proposed magazines would be mitigated by recent tree planting which has taken place. However, it is understood from pages 21 and 22 of the Landscape and Visual Impact Assessment that the recent tree planting actually replaces the trees felled sometime post-2016 and therefore, in our opinion does not actually mitigate that proposed to be removed. Expand commentary here?

Thirdly, it is unclear in the application submission what the proposed packing shed will be used for. We suggest that a request is made that the Applicant provides more detail on this, for example will this building be handling explosives?

Regarding the contamination assessment, the submitted report/form indicates that top soil will need to be imported for the proposed development (likely for the bunds surrounding the magazines). We suggest that clarification is sought from the Applicant/Council that the appropriate conditions will be put in place to ensure that the relevant certificates are submitted to the Local Planning Authority (LPA) confirming the soils suitability for use.

#### **4. Landscape and Visual Impact Assessment**

Other than safety concerns landscape impact, in our opinion, is likely to be the main material planning consideration for this application. Generally, we consider that the site is capable of accepting some form of development without adversely affecting the character of the area/countryside. This is due to the fact that it is relatively well screened and, particularly the eastern part of the site, relates to the nearby industrial development e.g. the Rudgate and Marston Business Park.

However, whilst we consider that the LVIA is comprehensive and thorough we do have the following comments to make:

- Page 8 of the LVIA quotes some of the pre-application enquiry response provided by Harrogate Borough Council on 10<sup>th</sup> December 2018. Specific reference is made to the height and direction of proposed security cameras and how they will be a key consideration. However, table 1 on pages 9 and 10 of the LVIA provides a schedule of the proposed buildings/structures and no mention is made of the proposed security cameras and PIR lighting. It is therefore assumed that these have not been included in the assessment of landscape impacts which is an omission that should be rectified or justified.
- There appears to be some inconsistency regarding the proximity of the bridleway which runs alongside the nearby Ainsty Beck (ref 15.135/14/1). Page 16 of the LVIA states at its closest point, the bridleway lies less than 50m from the site boundary but paragraph 8.10.1 of the Planning Statement states it is 140m away at its closest point. It is believed the Planning Statement is correct but this inconsistency should be clarified.
- The Zone of Theoretical Visibility (ZTV) plan provided at Figure 03 indicates that the proposed development will be most visible to the west of the site. This area is more rural in nature and has fewer public vantage points than the eastern side which is more developed. Confusingly, this ZTV plan appears to state that it is based on just the proposed magazines – which are smaller in height than the surrounding bunds, but section 6.1 (page 32) of the LVIA report says the plan uses 6 target points on the earth bunds. Clarification should be requested as if the bunds have not been included in the ZTV analysis, this would affect the overall viewpoint analysis/visual assessment of the proposed development.
- Photomontages have not been supplied with the LVIA. This a well-established technique to illustrate design proposals in the landscape but, whilst beneficial, is not a formal requirement of the LVIA.
- The report indicates that a copy of the pre-application response from Harrogate Borough Council is provided at Appendix B. This appendix however does not appear to have been uploaded to the Public Access database. Whether or not this is due to personal details etc. is unclear and we suggest that questions should be asked of the Council whether a copy of this Appendix can be provided.
- The Landscape Mitigation Plan (Drawing 04) details the landscaping strategy to mitigate the impacts of the proposed development on the surrounding area. On review of this, much of the proposed landscaping works are considered appropriate and acceptable. However, the ecological appraisal recommends a number of mitigation measures to be included in landscaping terms which do not appear to have been included on this plan:
  - Paragraph 7.1.2 recommends that the mature ash tree at the site entrance should be retained if possible. It is unclear if this will be retained or removed.

- Paragraph 7.4.1 suggests that new roosting provision for bats could be incorporated into the scheme with bat boxes erected in retained trees. There is no evidence of this on the Landscape Mitigation Plan although it is noted that the Principal Ecologist's consultee response to the application has recommended a condition to the application for both an Ecological Management Plan and an Ecological Enhancement scheme. These documents would include the provision for the numbers and locations of bat boxes.
- Paragraph 7.5.4 suggests that artificial bird nesting sites could be incorporated into the scheme with bird boxes in retained trees. There is no evidence of this on the Landscape Mitigation Plan although it is noted that the Principal Ecologist's consultee response to the application has recommended a condition to the application for both an Ecological Management Plan and an Ecological Enhancement scheme. These documents would include the provision for the numbers and locations of bird nesting boxes.

The Landscape Officer has been consulted on the application but this response is not yet available on the Public Access website. It is noted however that the Principal Ecologist makes reference to comments from Council's Landscape Architect. A request to the Council asking that this response is made publically available should therefore be made.

## **5. Trees**

The application is accompanied by an arboricultural assessment which indicates the condition of the trees as well as those likely to require removal as a result of the proposed development. In any planning application, all trees proposed to be removed for the development should be clearly identified on site plans submitted with the Application. Likewise, it is important that the existing trees are recorded with their Root Protection Areas (RPAs) on the relevant plan/s to illustrate the relationship/proximity of the proposed development to the RPAs. Paragraph 5.2.1 of the relevant British Standard (BS 5837:2012 Trees in Relation to Design, Demolition and construction – Recommendations) confirms this point, with paragraph 5.3.1 stating that the default position should be that structures are located outside the RPAs of trees to be retained.

Whilst it is appreciated that the existing trees provide beneficial screening to the proposed development and it would be difficult to establish the RPA's of the group of trees closest to the proposed magazines (G2, G3, G4, G5 and G6), clarity regarding the number of trees to be lost in the groups should be requested. Section 4.4 of the Arboricultural Assessment just loosely states that '*it is suggested that any tree be removed where ground alteration will take place within 12 times its diameter*'. This is noted together with paragraph 7.1.1 of the Ecological Appraisal which states that '*all trees should as far as possible be retained in the scheme*'.

In addition to the above, we note that a number of individual trees are identified relatively close to the area for the proposed shipping containers and comms cabin (T1.1 Oak, T1.2 Hawthorn and T1.3 Hazel). The RPA's of these trees have not been illustrated and it is not clear whether any proposed

works are required to the access road adjacent to these trees. Clarification on this matter should be requested.

The Arboricultural Officer has been consulted on the application but has yet to provide a response. Again, it is worth keeping an eye out for this to see if he agrees with the conclusions made in the arboricultural assessment.

## **6. Highways**

The Transport Statement submitted with the application indicates that HGV and LGV's will require access to the site for the purposes of delivering the energetic materials and picking up the materials. No swept-path plans have been provided indicating that the existing access is suitable and safe for these types of vehicles to manoeuvre. It is suggested that the Applicant confirms that the access is suitable and safe for these sizes of vehicles.

No comments have to date been received from North Yorkshire County Council (NYCC) highways. Comments from this authority are notoriously late but the application should be monitored for their response.

In conclusion, as a result of the above observations, it is our professional opinion that even though there are a number of anomalies/inconsistencies within the application submission that should be addressed by the Applicant, we do not feel these are necessarily significant enough to warrant a formal objection to the scheme. However, we would suggest that it is important to seek clarity and reassurances from the Applicant on the several points raised above.

We hope this review is helpful and please do not hesitate to get in touch should you wish to discuss this further.

Yours sincerely,

Sophie Cattlin MRTPI

Chartered Town Planner