

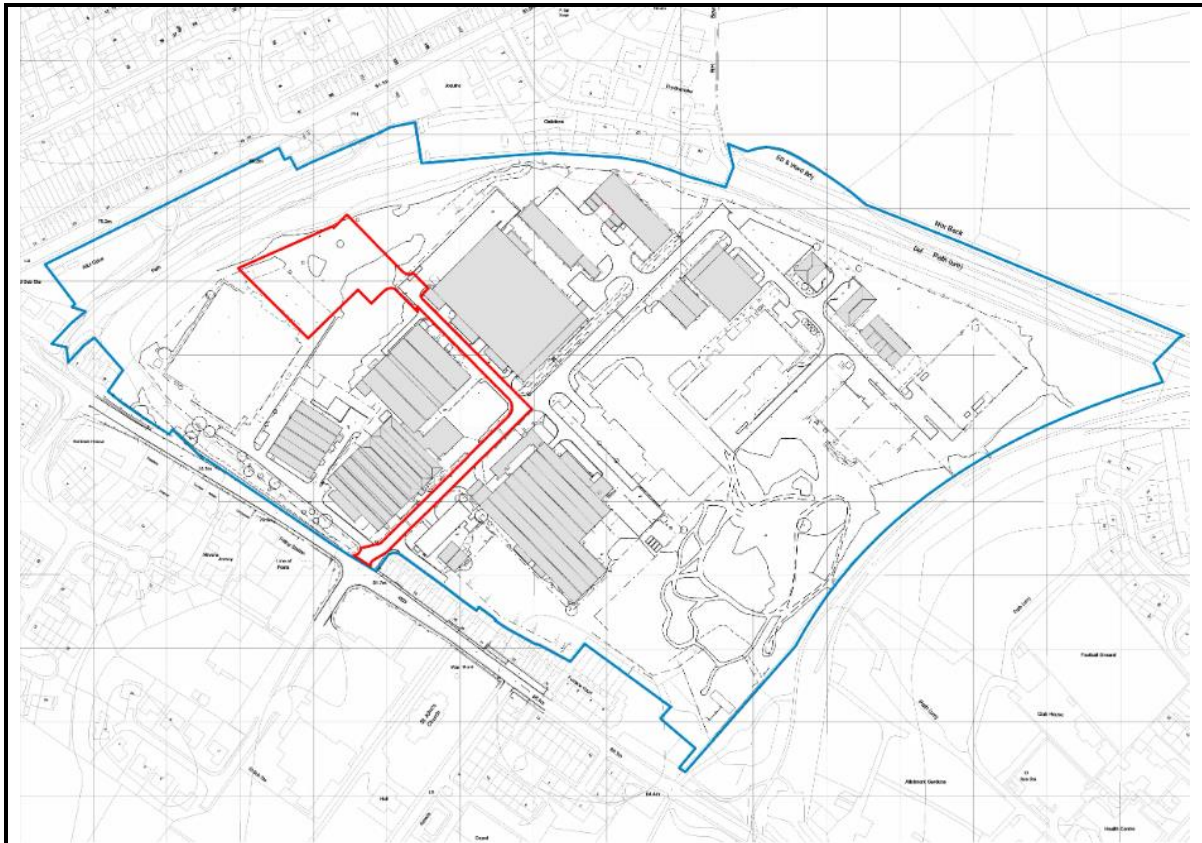


To: PLANNING PANEL

Development Control Section

Date of Meeting: 14/12/2022

Application Number:	4/22/2394/0B1
Application Type:	Amend Condition
Applicant:	Copeland Borough Council
Application Address:	LAND AT LECONFIELD INDUSTRIAL ESTATE, CLEATOR MOOR
Proposal	VARIATION OF CONDITION 5 (TREE PROTECTION MEASURES) OF PLANNING APPLICATION 4/22/2161/0F1 - USE OF LAND AS STORAGE & DISTRIBUTION CENTRE (CLASS B8) FOR BOTTLED GAS TOGETHER WITH THE SITING OF TWO SINGLE STOREY PREFABRICATED CABINS FOR ADMINISTRATIVE USE
Parish:	Cleator Moor
Recommendation Summary:	Approve amendment of condition



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Reason for Determination by Planning Panel

This application is brought for consideration by Members of the Planning Panel as the proposal relates to land which is under the ownership of the Council. This is a requirement of both the Council's Constitution and also under Regulation 3 of the Town and Country Planning General Regulations 1992.

Site and Location

The application site is located within Leconfield, an established industrial estate in Cleator Moor, situated some 600m to the north-west of the town centre. It is accessed via a mini roundabout off the B5295 /Leconfield Street.

The estate currently accommodates some 20 industrial and warehouse units of varying sizes of standard commercial construction, including brick, profiled metal cladding and prefabricated steel frames, a number of which are vacant. There are also a number of vacant / cleared plots. This established industrial estate has been in use since the 1940's and more recently suffered from a period of decline.

The site the subject of this application is some 0.34 ha in size and is located adjacent to the western edge of the industrial estate. The nearest residential properties are located some 100m to the west along Bowthorn Road, which are physically separated from the site by intervening allotments and dense scrub.

The site is currently vacant and comprises part hard standing, the legacy of a former industrial building, with the remainder grassland and lightly wooded areas. To the west it is bounded by a grassed area and dense woodland boundary planting, to the east and north by existing industrial buildings with another vacant plot/ hardstanding area to the south.

Relevant Planning History

Planning permission was granted in August this year for the use of the land as a storage and distribution centre for gas bottles, together with the siting of two single storey prefabricated cabins for administrative use on land at Leconfield Industrial Estate. This comprises a relocation of an existing business already operating within the industrial estate to make way for further development as part of the wider Cleator Moor Innovation Quarter development (application 4/22/2161/0F1 refers).

More recently conditions 3, 4 and 10 of the planning permission have been discharged (application 4/22/2385/DOC refers). Applications to discharge the remaining conditions will be submitted separately.

Proposal

This application is made under Section 73 of the Town and Country Planning Act 1990 and seeks to vary condition 5 of planning permission 4/22/2161/0F1.

Condition 5 is a pre-commencement condition and relates to tree protection measures. The existing wording is as follows:

Before development commences all of the tree protection measures detailed in the following report and plans shall be implemented in full and shall remain for the duration of construction until the development is complete:

- Arboricultural Impact Assessment Report, by Barnes Associates Ltd, dated 14/03/2022, ref. BA11303/1-AIA, & ref. BA11303_R CMIQ_BOC Yard Leconfield industrial estate C
- Arboricultural Impact Assessment Plan, by Barnes Associates Ltd, drawing no. BA11303BY_P CMIQ_BOC Yard Leconfield Industrial Estate BOC Yard C-TTP, dated 14/03/22
- Arboricultural Impact Assessment Plan, by Barnes Associates Ltd. drawing no. BA11303_P CMIQ_BOC Yard Leconfield Industrial Estate C-AIA, dated 14/03/2022.
- Tree Protection Plan, BA11303_P CMIQ_BOC Yard Leconfield Industrial Estate BOC Yard C-TTP, scale 1:50, dated 14/03/2022`.

Reason for Application

Since planning permission was granted, it has transpired that additional space/ land is required to construct the concrete slab and access road to facilitate the development than originally envisaged. As a result, it will not be possible to implement the work in accordance with the approved tree protection measures. The amendment will involve the removal of some additional trees and the implementation of new tree protection measures.

This application seeks to amend the approved drawings/ documents to reflect the updated proposal.

Consultation Responses

Cleator Moor Town Council

No objections

Arboriculturist

No objections subject to a condition governing the implementation of the amended tree protection measures.

Planning Policies

Planning law requires applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

Development Plan

Copeland Local Plan 2013 – 2028 (Adopted December 2013) (CLP)

Core Strategy

Policy ST1 Strategic Development Principles

Policy ST2 Spatial Development Strategy

Policy ST3 Strategic Development Priorities

Policy ER4 Land and Premises for Economic Development

Policy ER5 Improving the Quality of Employment Space

Policy ER6 Location of Employment

Policy T1 Improving Accessibility and Transport

Policy ENV1 Flood Risk and Risk Management

Policy ENV3 Biodiversity and Geodiversity

Development Management Policies (DMP)

Policy DM10 Achieving Quality of Place

Policy DM11 Sustainable Development Standards

Policy DM22 Accessible Developments

Policy DM24 Development Proposals and Flood Risk

Policy DM25 Protecting Nature Conservation Sites, Habitats and Species.

Policy DM26 Landscaping

Policy DM28 Protection of Trees

Other Material Considerations

National Planning Policy Framework (2021)

National Planning Policy Guidance

The Conservation of Habitats and Species Regulations 2017 (CHSR).

Emerging Local Plan (ECLP)

The emerging Copeland Local Plan 2017-2038 comprising the Publication Draft (January 2022) and Addendum (July 2022) have recently been submitted for examination by the Planning Inspector.

As set out at Paragraph 48 of the National Planning Policy Framework (NPPF), Local Planning Authorities may give weight to relevant policies in emerging plans according to the stage of preparation of the emerging plan; the extent to which objections to relevant policies have been resolved; and the degree to which emerging policies are consistent with the NPPF.

Given the stage of preparation of the emerging Copeland Local Plan 2017-2038 some weight can be attached to policies where no objections have been received or objections have been resolved. The Publication Draft (January 2022) and Addendum (July 2022) provides an indication of the direction of travel of the emerging planning policies, which themselves have been developed in accordance with the provisions of the NPPF.

The following ECLP policies are relevant to this proposal:

Strategic Policy DS1PU: Presumption in favour of Sustainable Development

Strategic Policy DS2PU: Reducing the impacts of development on Climate Change

Strategic Policy DS6PU: Design and Development Standards

Strategic Policy DS7PU: Hard and Soft Landscaping

Strategic Policy DS8PU: Reducing Flood Risk

Strategic Policy DS9PU: Sustainable Drainage

Strategic Policy N1PU: Conserving and Enhancing Biodiversity and Geodiversity

Strategic Policy E1PU Economic Growth

Strategic Policy E2PU Location of Employment

Strategic Policy E4PU of the emerging Copeland Local Plan (2021-2038) allocates Leconfield Industrial Estate and adjacent land to accommodate the Cleator Moor Innovation Quarter

business cluster. The primary uses on the Cleator Moor Innovation Quarter development will be limited to Use Class B2, Use Class B8 and Use Class E(g) only.

However, it should be noted that the CLP currently carries the primary weight in relation to decision making.

The Planning Practice Guidance (NPPG)

This web-based resource was launched in March 2014 by the Department for Communities and Local Government (DCLG). This outlines that an application can be made under Section 73 of the Town and Country Act 1990 to vary a condition associated with a permission. One of the uses of a Section 73 application is to seek a minor material amendment, where there is a relevant condition that can be varied. The effect of an application under Section 73 is the issue of a new permission sitting alongside the original permission which remains intact and unamended. To assist with clarity, it states that decision notices should also repeat the relevant conditions from the original permission unless they have already been discharged. As a Section 73 application cannot be used to vary the time limit for implementation this condition must remain unchanged from the original permission.

Assessment

Impact on Trees

A new Tree Protection Plan and Arboricultural Impact Assessment accompanies the application which identifies the alterations required to the area originally approved for the tree protection measures.

Extending the area, which is situated adjacent to the new concrete slab for the development, will involve the removal of a small number of additional trees. It forms the outer edge of a dense woodland strip on the western edge of the site. Our consultant arborist is satisfied that these trees are relatively small in size and of low quality and as a result, will have a negligible impact on the visual amenity of the area. He recommends that a new condition is imposed requiring that the amended tree protection measures are implemented in full for the duration of the construction activity. This will ensure that the remaining retained woodland trees in the affected area are protected during construction.

This aligns with CLP policies DM26 and DM28 regarding landscaping and protection of trees on the site.

Ecological Impact

The original application for the development was accompanied by an Ecological Assessment which informed that the site generally has the potential to host protected species such as badgers, reptiles and amphibians and also nesting birds. The grassland and scrub habitats on the site are particularly suitable. There was no evidence of bats although the site does have foraging potential and there are bats within the vicinity of the site.

Although this application seeks the removal of additional trees on the site, comprising a narrow strip on the outer edge of what is otherwise a fairly dense area woodland, it involves only a relatively small number of trees and area. As a consequence, it is considered unlikely

to adversely affect the existing woodland area and its potential to provide ecological habitat/ foraging areas to any significant degree. It is also more than adequately compensated for by the mitigation measures which are conditioned. Such measures continue to protect and enhance the site's ecological interests and are considered acceptable in line with Policy ENV3 and DM25 of the CLP and N1PU of the ECLP.

Planning Balance and Conclusion

This application seeks a variation of condition 5 of the original planning permission for the use of the site as a storage and distribution yard for LPG cylinders and liquid nitrogen which involves extending the area affected by the approved tree protection measures and the felling of an additional number of small trees.

Although there will be some loss of additional trees and subsequent ecological habitat/ foraging areas it is considered that this is more than compensated for by the existing mitigation measures and landscaping proposed which will be governed by retained conditions.

The application raises no other relevant issues.

The proposal is therefore considered acceptable in planning terms in accordance with the Copeland Local Plan, Emerging Copeland Local Plan and relevant national planning guidance and particularly the overarching objective of the NPPF to deliver sustainable development.

In accordance with the requirements of S73 of the Town and Country Planning Act 1990 a new planning permission will now be issued for the use of land as storage & distribution centre (Class B8) for bottled gas together with the siting of two single storey prefabricated cabins for administrative use development 4/22/2161/0F1 and this will set out the new wording of condition 5 as varied and for clarity restate the conditions imposed on the original planning permission 4/22/2161/0F1 but excluding those that have already been discharged retaining those that continue to have an effect. It should be read alongside the original permission which remains intact and un-amended.

Recommendation:-

Approve, subject to the following conditions:

Conditions

1. -
2. Permission shall relate to the following plans and documents as received on the respective dates and development shall be carried out in accordance with them: -

Documents

Design and Access Statement, by NORR, March 2022, ref. BOC D&A_08-03-22.

Planning Statement by Avison Young, dated March 2022.

Arboricultural Impact Assessment, Report, by Barnes Associates Ltd, BA11303_R CMIQ_BOC Yard Leconfield industrial estate D, dated 26/09/2022.

Ecological Appraisal, by Tetra Tech, ref. B034202 CMIQ BOC Yard Summary Report V2 FINAL, dated March 2022.

Plans and Drawings

Arboricultural Impact Assessment, by Barnes Associates Ltd. BA11303BY_P CMIQ_BOC Yard Leconfield Industrial Estate BOC Yard_AIA_G, dated 06/09/2022.

Tree Protection Plan by Barnes Associates Ltd, BA11303BY_P CMIQ_BOC Yard Leconfield Industrial Estate BOC Yard_G-TPP, dated 06/09/2022.

Site- Proposed Landscape, by One-Environment, drawing no. N1045-ONE-ZZ-XX-DR-L-0201-P02_PlantingPlan, scale 1:200, dated 2/03/2022.

Externals Plan, by bgp, drawing no. CMIQ-BGP-04-XX-DR-C-90.4-04110_P01, scale 1:250, dated March 2022.

Drainage Plan, by bgp, drawing no. CMIQ-BGP-04-XX-DR-C-52.04130_P02, scale 1:500, dated January 2022

Flood Exceedance Flow Path, by bgp, drawing no. CMIQ-BGP-04-XX-DR-C-52-04102_P02, scale 1:1000, dated January 2022.

Impermeable Areas Plan, by bgp, drawing no. CMIQ-BGP-04-XX-DR-C-52-04101_P02, scale 1:500, dated January 2022.

Elevation Layout,(portacabin), by Elliott, drawing no. C0109A-CA25 Cleator Moor - Elevation Layout Rev D. scale 1:50, dated 17.01.2022.

Consultants Coal Mining Report, by Wyg, Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part9

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part8

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part7

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part6

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part5

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part4

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part3

Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part2

Geo Environmental Desk Top Study, Appendix 1 - A114312 WYG Leconfield Industrial Estate DTS Report December 2019_Part1

WYG Phase 2 site wide_Part14

WYG Phase 2 site wide_Part13

WYG Phase 2 site wide_Part12

WYG Phase 2 site wide_Part11

WYG Phase 2 site wide_Part10

WYG Phase 2 site wide_Part9

WYG Phase 2 site wide_Part8

WYG Phase 2 site wide_Part7

WYG Phase 2 site wide_Part6

WYG Phase 2 site wide_Part5

WYG Phase 2 site wide_Part4

WYG Phase 2 site wide_Part3

WYG Phase 2 site wide_Part2

WYG Phase 2 site wide_Part1

Unit drawings, by Elliott, 0711 32 x 10 Canteen Toilet, Rev A, scale 1:25.

Unit drawings, by Elliott, 0711 32 x 10 2 office, scale 1:25

Tank technical drawing

Draft Phase 2: Site Investigation Site A, Leconfield Industrial Estate, Cleator Moor S220141, Solmek Ltd.

Plot Plan BOC SELLAFIELD-Model

Relocation Plan CMIQ-NOR-BOC-00-DR-A-90004 - RELOCATION PLAN_P06, dated 21/12/2021

Proposed Plan, CMIQ-NOR-BOC-00-DR-A-90002 - SITE - PROPOSED PLAN_P07, dated 21/12/2021

Existing Plan, CMIQ-NOR-BOC-00-DR-A-90001 - SITE - EXISTING PLAN_P06, dated 21/12/2021

Location Plan, CMIQ-NOR-BOC-00-DR-A-90000 - SITE - LOCATION PLAN_P06, dated 21/12/2021

SUDS Management Plan, CMIQ-BGP-04-XX-RP-C-SMP004_002, dated 4/03/2022

Flood Risk Assessment, CMIQ-BGP-04-XX-RP-C-FRA004_002, dated 4/03/2022

Drainage Philosophy, CMIQ-BGP-04-XX-RP-C-DP004_002, dated 4/03/2022)

Reason

To conform with the requirement of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved shall be carried out in accordance with the highway design and drainage details required by condition 3 (above) of 4/22/2161/OF1 which have been approved and discharged via application ref 4/22/2385/DOC, itemised as follows:

- CMIQ-BGP-04-XX-DR-C-52-04137_P02 - Petrol Interceptor Details

- CMIQ-BGP-04-XX-DR-C-52-04150_P02 - Section through Nor Beck Culvert
- CMIQ-BGP-04-XX-DR-C-90.4-04110_P04 - Externals Plan
- CMIQ-BGP-04-XX-DR-C-90.4-04111_P02 - White Lining Plan
- CMIQ-BGP-04-XX-DR-C-90.4-04112_P02 - Highway Longsections
- CMIQ-BGP-04-XX-DR-C-90.4-04115_P02 - BOC - External Works Details
- CMIQ-BGP-04-XX-DR-C-90.4-04116_P02 - BOC - External Works Details Sheet 2 of 2
- CMIQ-BGP-04-XX-DR-C-90.4-04120_P02 - Externals Bottle Store Slab

Development shall be carried out in accordance with the approved details and maintained as such thereafter.

Reason

To ensure a minimum standard of construction in the interests of highway safety.

4. The development hereby approved shall be implemented in accordance with the requirements of the approved `Construction Traffic Management Plan` by Warden Construction Limited, dated August 2022 (including the General Arrangement Plan ref. CMIQ-NOR-BOC-00-DR-A-90002_SITE - PROPOSED PLAN P08) submitted to comply with the above condition 4 of planning permission 4/22/2161/0F1 and discharged via application reference 4/22/2385/DOC for the duration of construction.

Reason

To ensure the undertaking of the development does not adversely impact upon the fabric or operation of the local highway network and in the interests of highway and pedestrian safe.

Pre-commencement – Trees

5. Before development commences all of the tree protection measures detailed in the following report and plans shall be implemented in full and shall remain for the duration of construction until the development is complete:
 - Arboricultural Impact Assessment, Report, by Barnes Associates Ltd, BA11303_R CMIQ_BOC Yard Leconfield industrial estate D, dated 26/09/2022.
 - Arboricultural Impact Assessment, by Barnes Associates Ltd. BA11303BY_P CMIQ_BOC Yard Leconfield Industrial Estate BOC Yard_AIA_G, dated 06/09/2022.
 - Tree Protection Plan by Barnes Associates Ltd, BA11303BY_P CMIQ_BOC Yard Leconfield Industrial Estate BOC Yard_G-TPP, dated 06/09/2022.

Reason

To ensure all the remaining trees are adequately protected during construction

Highways

6. The development site shall not be occupied until a means of vehicular access has been constructed in accordance with the approved plans.

Reason

To ensure a suitable standard of vehicular access in the interests of highway safety.

Landscaping

7. The development shall implement all of the landscaping proposals set out in the Site-Proposed Landscape, by One-Environment, drawing no. N1045-ONE-ZZ-XX-DR-L-0201-P02_PlantingPlan, scale 1:200, dated 2/03/2022.

Reason

To ensure an adequate landscaping scheme is provided in the interests of general amenity.

Ecology

8. The development shall implement all of the recommendations set out in the Ecological Appraisal by Tetra Tech, dated March 2022, and submitted as part of the planning application.

Reasons

To protect the ecological interests evident on the site.

Drainage

9. Prior to occupation the drainage for the development hereby approved, shall be carried out in accordance with the principles set out in the submitted Foul & Surface Water Drainage Design Drawing CMIQ-BGP-04-XX-DR-C-52-04130, Rev P02, dated 04.03.2022. For the avoidance of doubt no surface water will be permitted to drain directly or indirectly into the public sewer. The drainage schemes shall be completed in accordance with the approved details and retained thereafter for the lifetime of the development.

Reason

To ensure a satisfactory form of development and to prevent an undue increase in surface water run-off and to reduce the risk of flooding.

10. The development shall be implemented in compliance with the approved SuDs Management Plan ref. CMIQ-BGP-04-XX-RP-C-SMP004 - 21T2034 – Cleator Moor Innovation Quarter - BOC Yard, submitted to satisfy the requirements of condition 10 (above) of 4/22/2161/0F1 and discharged via application ref. 4/22/2385/DOC.

Reason

To ensure that management arrangements are in place for the sustainable drainage system in order to manage the risk of flooding and pollution during the lifetime of the development.

Contamination

11. In the event that contamination on the site is found, no development other than that required to be carried out as part of an approved scheme of remediation shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notice of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and be approved in writing by the Local Planning Authority.

Reason

To ensure that risks from land contamination both during the construction phase and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Artificial Lighting (External)

12. Artificial lighting to the development must conform to requirements to meet the Obtrusive Light Limitations for Exterior Lighting Installations for Environmental Zone E2 within the Institute of Light Engineers Guidance Notes for the Reduction of Obtrusive Lighting GN01 dated 2005.

Reason

To safeguard the amenities of nearby residential occupiers.

Informative Notes

Environment Agency – Environmental Permitting

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption to be obtained for any activities which will take place:

- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk. The applicant/developer should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

HSE – Hazardous Substances Consent

As this proposal involves the storage of LPG and nitrogen tanks that an application for Hazardous Substances Consent may be required by yourselves. Further information and guidance is available HSE: Land use planning - Hazardous substances consent

Highways – Access Gates

Access gates if provided, to the development shall be hung to open inwards away from the highway.

Coal mining

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: www.gov.uk/government/organisations/the-coal-authority

Statement

The Local Planning Authority has acted positively and proactively in determining this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received, and subsequently

determining to grant planning permission in accordance with the presumption in favour of sustainable development as set out in the National Planning Policy Framework