

PARISHPinxton Parish

APPLICATION Erection of 2 industrial Buildings for storage associated with existing Railway Maintenance Business
LOCATION Unit 1 60 Brookhill Road Pinxton Nottingham
APPLICANT MLP 60 Unit 1 Brookhill Road Pinxton Derbyshire NG16 6NS
APPLICATION NO. 24/00361/FUL **FILE NO.** PP-13285320
CASE OFFICER Mr Mitchel Smith
DATE RECEIVED 6th August 2024

SUMMARY

On the 22nd of January 2025, Planning Committee deferred the determination of this planning application to allow for a site visit to be undertaken by the Committee Members.

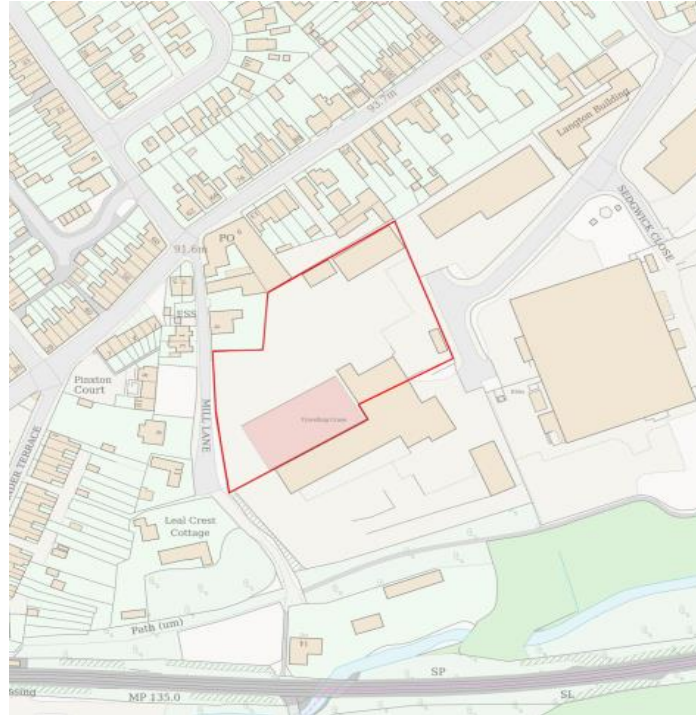
Officers have been made aware that, in line with the request of Planning Committee, the applicants and residents of no.4 Mill Lane have been in correspondence regarding the erection of an appropriate boundary treatment to screen the residential property from the proposed storage units. At the time of the committee report deadline, no comprehensive update had been received on this issue and so any additional information received on this issue will be provided in a Committee Update Report.

This is a full planning application for the erection of two industrial buildings at Unit 1, 60 Brookhill Road, Pinxton. The buildings will be used for storage in association with the Railway Maintenance Business which operates at the site. The units are proposed towards the western side of the site. Revisions to the application were received which resulted in one of the buildings being moved an additional 2m away from the neighbouring boundary.

Cllr Mary Dooley has requested the application be referred to Planning Committee stating the impact of the development will be detrimental to the amenity of the occupants of a property on Mill Lane.

The application is recommended for conditional approval.

Site Location Plan



OFFICER REPORT ON APPLICATION NO. 24/00361/FUL

SITE & SURROUNDINGS

The application site forms part of the Pinxton industrial site to the south of the Bolsover District. The surrounding areas of the application site are made up of industrial sites to the east and residential and commercial properties to the north and west.

There are a number of industrial buildings situated throughout the site which vary in scale and appearance. Hardstanding is present at the site, in which at the time of the site visit, various materials were placed upon throughout. Towards the western side of the site was a travelling crane, which were in operation, loading and unloading various materials.

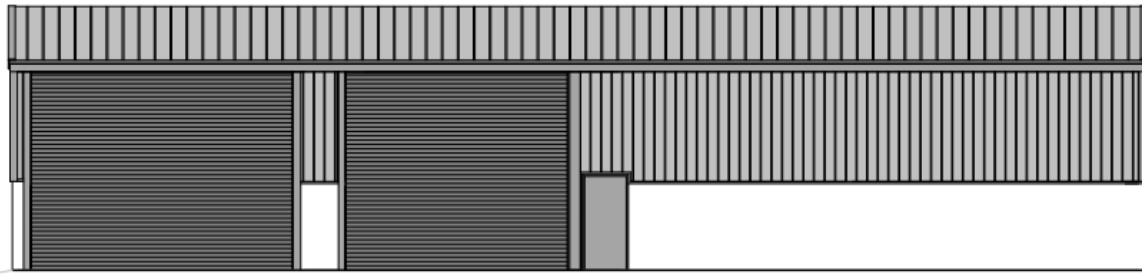
The site borders the amenity space of a residential property which is bound by a tall hedgerow (*Leylandii*) and palisade fencing.



PROPOSAL

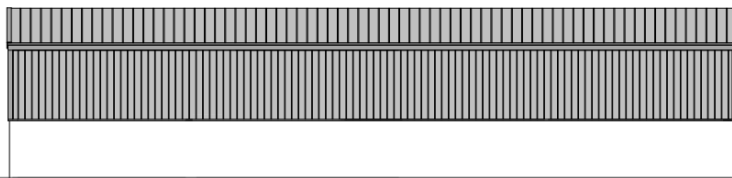
The application is seeking planning permission for the erection of two industrial buildings used for storage in association with the Railway Maintenance Business which operates from the site.

The units are identical in scale, measuring 25m by 9.5m and 5.8m to the ridge of the pitched roof and 4.6m to the eaves. The units differ in the siting on the openings; Unit C1 proposes two shutter doors on the eastern elevation, one opening measure 5.7m in width and the other 4.8m. Unit C2 contains one opening on the eastern elevation which measures 5.8m in width. Both units also contain various pedestrian access doors throughout.

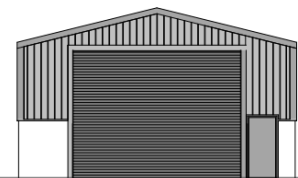


East Elevation
[1:100]

C1 - East Elevation



North Elevation
[1:100]



East Elevation
[1:100]

C2 - North & East Elevations

The units are to be sited towards the north-western site boundary.

The application form states that the walls of the proposed buildings will be steel portal frame with concrete lower push walls, finished in Kingspan cladding (colour to be agreed).

Supporting Documents

- **06/08/2024** – Planning Statement

AMENDMENTS

- Revised elevation and floor plans for buildings C1 and C2 received on the 1st November 2024.
- Revised site layout plan received on the 1st November 2024.
- Revised cross-sections plans received on the 1st November 2024.

The revisions were provided by the applicant as the initial proposal was considered to result in amenity harm to the adjacent residential property.

Summary of Submissions

- 06/08/2024 – Planning Statement
- 01/11/2024 – Revised proposed Unit C1 elevation and floor plans
- 01/11/2024 – Revised proposed Unit C2 elevation and floor plans
- 01/11/2024 – Coal Mining Risk Assessment
- 01/11/2024 – Cross sectional plans
- 01/11/2024 – Revised site layout plans

EIA SCREENING OPINION

The proposals that are the subject of this application are not EIA development.

HISTORY

98/00499/FUL	Granted	Erection of 2.4m high perimeter fence
07/00172/FUL	Granted Conditionally	Stockyard gantry crane and associated framework
07/00350/FUL	Granted Conditionally	Stockyard gantry crane and associated framework
16/00278/FUL	Granted Conditionally	Erection of 2 workshop units (Class B2) including the formation of new vehicular access onto Brookhill Road as amended by drawings received on 23 rd August 2016.
16/00279/FUL	Refused	Erection of 2 workshop units (Class B2)

CONSULTATIONS

Statutory consultees were invited to consider the application on 08/08/2024 requiring comments to be provided by 29/08/2024. As a result of the submission of revised plans, re-consultations were sent to consultees on 01/11/2024 requiring comments by 22/11/2024.

Coal Authority

28/08/2024: the submitted Coal Mining Risk Assessment is not considered to adequately address the impact of coal mining legacy on the proposed development and therefore object to the proposal.

06/11/2024: Based on the revised details, the initial objection is withdrawn subject to the imposing of a number of planning conditions and informative notes.

DCC Highways

22/08/2024: Confirms that there would appear to be no material impact on the public highway and therefore the Local Highway Authority has no comments to make.

12/11/2024: Again, concludes that based on the information provided there would not be an unacceptable impact on Highway Safety or a severe impact on congestion as there would appear to be no material impact on the public highway and therefore the Local Highway Authority has no comments to make.

Engineers

06/09/2024:

1. The sewer records do not show any public sewers within the curtilage of the site. However, the applicant should be made aware of the possibility of unmapped public sewers which are not shown on the records but may cross the site of the proposed works. These could be shared pipes which were previously classed as private sewers and were transferred to the ownership of the Water Authorities in October 2011. If any part of the proposed works involves connection to / diversion of / building over / building near to any public sewer the

applicant will need to contact Severn Trent Water in order to determine their responsibilities under the relevant legislation.

2. All proposals regarding drainage will need to comply with Part H of the Building Regulations 2010. In addition, any connections or alterations to a watercourse will need prior approval from the Derbyshire County Council Flood Team, who are the Lead Local Flood Authority.

Environmental Health

30/08/2024: No objections to the proposals in principle, given the current/previous uses of the site for railway engineering a number of conditions have been recommended.

07/11/2024: Previous comments still apply.

Pinxton Parish Council

05/09/2024: No objection in principle to allowing new buildings on this footprint. However, the proposed height of the new build is objected to, in that it will clearly be unacceptably overbearing on nearby properties, and out of keeping with the roof-line of other buildings.

All consultation responses are available to view in full on the Council's website.

PUBLICITY

The application has been advertised by way of a site notice and neighbour notification letters.

The site notice was posted 13/08/2024 and required comments by 03/09/2024.

Neighbour notification letters posted 08/08/2024. Comments required by 29/08/2024.

Neighbour notification letters posted 01/11/2024. Comments required by 22/11/2024.

A total of three representations have been received, two of which from the same objector.

The representations have been summarised below:

Principle

- The application is contrary to the following local and national policies:
 - NPPF: para 124b, 131, 135f
 - Local Plan for Bolsover District: WC2, SC1, SC3

Residential Amenity

- Due to the height and length of the buildings there will be significant, and adverse impacts on the amenity of the neighbouring property.
- The buildings will result in blank elevations along both boundaries of the neighbouring property, having an overbearing and over dominant impact, and impacting on the enjoyment of the garden.
- The buildings will also have an adverse impact on the sunlight into the garden space, and kitchen and two downstairs rooms of the neighbouring property.
- The development would result in harm to the amenity of dwellings approved in planning permission 23/00195/FUL.

Biodiversity

- The site has an over usage of flood lighting which is probably damaging and confusing to nocturnal animals and other wildlife.

Other Matters

- One comment did not state that they opposed to the proposal as it would not be noticeable from their location however raised concerns with ground water drainage.
- The Leylandii belonging to MLP have been allowed to grow upwards and have not been maintained, the neighbouring Leylandii has grown to its existing height due to the MLP hedge not being maintained and now being unmanageable.
- Considers that the Council will limit the use of the buildings for storage only.
- Questions the location of the units so close to the neighbouring property when there is space elsewhere in the property.
- States that the plans are incorrect and do not show measurements.
- Any fans, filters, vents, air conditioners ducting for expulsion of fumes should fitted to the front of the property to minimise noise, fumes, vapours and smells.
- The objector also provided images of what they consider to be correct plans for the site.

POLICY

Local Plan for Bolsover District (“the adopted Local Plan”)

Planning law requires that applications for planning permission be determined in accordance with policies in the adopted Local Plan, unless material considerations indicate otherwise. In this case, the most relevant Local Plan policies include:

- SS1 Sustainable Development
- WC2 General Principles for Economic development
- SC1 Development within the Development Envelope
- SC2 Sustainable Design and Construction
- SC3 High Quality Development
- SC7 Flood Risk
- SC9 Biodiversity and Geodiversity
- SC11 Environmental Quality (Amenity)
- SC14 Contaminated and Unstable Land
- ITCR11 Parking Provision

National Planning Policy Framework (“the Framework”)

The National Planning Policy Framework sets out the Government’s planning policies for England and how these should be applied. The Framework is therefore a material consideration in the determination of this application and policies in the Framework most relevant to this application include:

- Chapter 2: - Achieving sustainable development.
- Paragraphs 7 - 10: Achieving sustainable development.

- Paragraphs 47 - 50: Determining applications.
- Paragraphs 55 - 58: Planning conditions and obligations.
- Paragraphs 123 - 127: Making effective use of land.
- Paragraphs 131 – 136: Achieving well-designed and beautiful places.
- Paragraph 157, 159 and 162: Meeting the challenge of climate change.
- Paragraph 165 - 175: Planning and Flood Risk.
- Paragraphs 189 - 194: Ground conditions and pollution.

Supplementary Planning Documents

Successful Places: A Guide to Sustainable Housing Layout and Design, Adopted 2013:

The purpose of the Successful Places guide is to promote and achieve high quality residential development within the District by providing practical advice to all those involved in the design, planning and development of housing schemes. The guide is applicable to all new proposals for residential development, including mixed-use schemes that include an element of housing.

Local Parking Standards:

This document relates to Policy ITCR11 of the Local Plan by advising how the parking standards contained in appendix 8.2 of the local plan should be designed and implemented with development proposals. This SPD does not revise the standards contained in the Local Plan but does provide suggested new standards for parking matters not set out in the Local Plan, such as cycle parking. The design supersedes the parking design section included within the existing Successful Places SPD (2013).

Biodiversity Net Gain Design Note:

In light of the requirement for mandatory 10% biodiversity net gain, the Council has prepared a planning advice note to provide advice on the background to the introduction of mandatory 10% Biodiversity Net Gain, how this statutory provision relates to policy SC9: Biodiversity and Geodiversity in the Local Plan for Bolsover District, and how we will expect those preparing applications to approach this new legal requirement.

ASSESSMENT

Key issues

It is considered that the key issues in the determination of this application are:

- *the principle of the development*
- *the visual impact of the proposed development*
- *residential amenity*
- *whether the development would be provided with a safe and suitable access;*
- *biodiversity net gain*
- *flood risk*
- *unstable land*

These issues are addressed in turn in the following sections of this report

Principle

An objection was received which stated that the proposal was contrary to numerous sections of the NPPF. The objection was received prior to the updated version of the Framework which was released in December 2024. The changes resulted in alterations to some of the paragraph numbers, which have been set out below:

- 124b -> **125b**
- 131: remains the same
- 135f: remains the same

Para. 125b of the Framework states that planning policies and decision should recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production; the objector considers the aim of this is to promote the use of brownfield land for housing, and the acknowledgement of unused floor space within the application site results in an admission that the units could be built elsewhere on the site and not surrounding the residential property.

Section 11 – ‘*Making effective use of land*’ to which para.125b has been taken from, states that decisions should promote the effective use of land in meeting the need for homes and other uses. In this instance, the site and its land has an authorised and well-established use for industrial processes. The overarching aim of this section of the NPPF is to promote suitable and effective uses of land, rather than just using brownfield land for housing as the objector suggests.

Paragraphs 131 and 135f form part of section 12 ‘*Achieving well-designed places*’, formerly ‘*Achieving well-designed and beautiful places*’. The objector questions the ‘claim’ that the buildings are of high quality, beautiful and sustainable. The use of the term ‘beautiful’ has been a longstanding criticism of the previous NPPF, to which the latest version completely removes it as a way to describe development. A focus on the functionality, appropriateness and whether the development is in keeping with its surrounding character and setting is required in order to achieve well-designed places. The development is considered functional and appropriate for storage uses at the site and is in-keeping with the surrounding setting given their proposed industrial appearance.

The objection also stated that the proposal did not accord with provisions a) and b) of policy WC2, given that the units were for storage only. The objection also states that the developments were contrary to a) and c) - of policy SC1 stating the siting of the units was not appropriate.

The development is acceptable in principle given that it is situated within the development envelope of Pinxton and therefore is compliant with policy SC1 of the Local Plan for Bolsover District. The siting of the units was verbally discussed with the applicants during the site visit; it was explained that the proposed location was the only suitable place in which the units could be placed which would not prejudice vehicular movements / manoeuvring of the crane and larger vehicles required to move the materials. The units are also considered to be of an appropriate scale and design for their use and setting. The objection comments appear to have a focus on the residential amenity impact which will be discussed in greater detail in the relevant section of this report.

The site is designated as an Existing Employment Site, in which policy WC2 of the Local Plan aims to protect and enhance employment levels. The proposal maintains the existing

industrial uses of the site, and therefore is considered to accord with the general principles of policy WC2 as the employment use is not impacted by the proposed erection of the two industrial units.

Visual impact of the proposed development

The site is situated within the large industrial area of Pinxton whereby numerous industrial units / buildings of varying scales and appearances are present throughout. The proposal includes the erection of two industrial units towards the south-western side of the site; the units are significantly set back from the highway such that the visual impact on the character and appearance of the streetscene is minimal. The buildings are of a suitable scale, appearance and finished in materials which are typical for their use and setting.

Policy SC3 of the Local Plan states that development is required to achieve a high quality of design in terms of place making, buildings and landscaping; the policy sets out provisions for development proposals to accord with in order to be considered acceptable. Most of the criteria aim to improve housebuilding and street layout, however, in terms of visual impact, the following provisions are relevant to this application:

b) Respond positively to the context and contributes to local identity and heritage in terms of height, scale massing, density layout and materials.

j) Accord with and respond to the established character and local distinctiveness of the surrounding landscape.

The buildings are of a suitable scale for their function and given the appearance of the units and the minimal impact they have on the character and appearance of the setting, it is considered that the proposal is in accordance with the provisions of policy SC3 of the Local Plan.

Overall, the visual impact of the proposal is acceptable and therefore accords with the provisions of policies SC2 and SC3 of the Local Plan and the 'Achieving well-designed places' section of the Framework.

Residential Amenity

Objections were received which stated that the units would have an unacceptable impact on residential amenity, and in particular to no.4 Mill Lane, with regard to harmful overshadowing and overbearing impacts, it would also result in an unsightly outlook for this property.

While the application site forms part of the Pinxton industrial site, a number of residential properties border the site to the north and west. The storage units are proposed to be sited to the east and south of the amenity space serving no.4 Mill Lane. The units are considered to be a suitable distance away from all other surrounding residential properties to not result in any harmful amenity impacts and therefore no.4 Mill Lane is the only property which will potentially be impacted by the proposed development.

In assessing residential amenity impacts, policies SC3 and SC11 of the Local Plan and the Council's adopted design guidance 'Successful Places' have been considered.

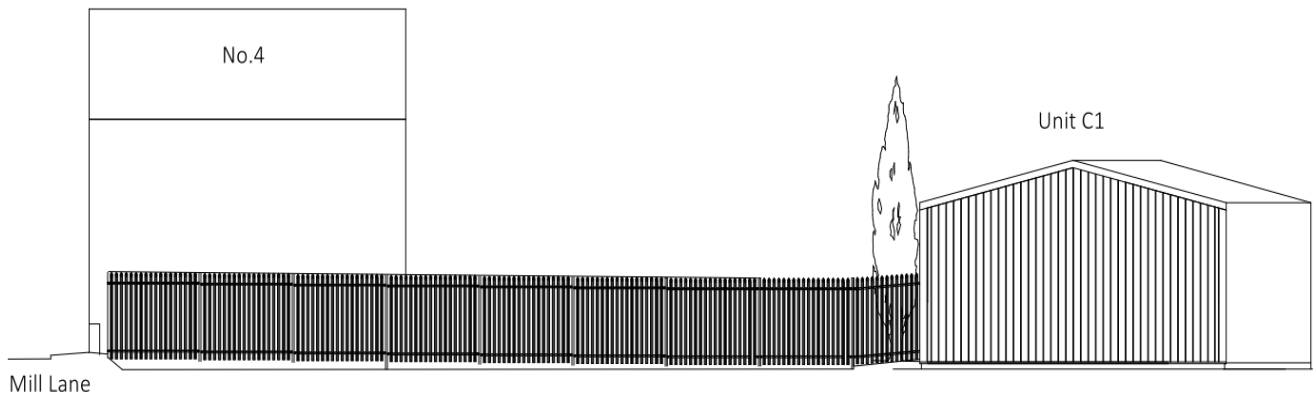
The objection stated that the proposal was contrary to policy SC3 of the Local Plan. Policy

SC3 states that proposals must '*ensure a good standard of amenity is maintained for the occupants of existing neighbouring properties as well as future occupants of new development, including levels of privacy and light, position and avoiding overbearing relationships and the provision of adequate amenity space*'.

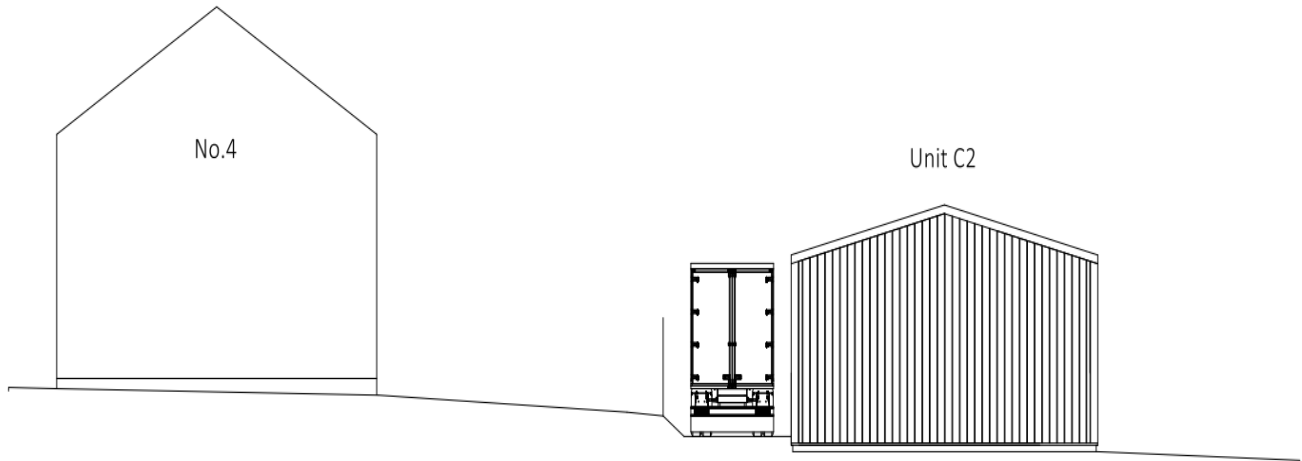
Policy SC11 states that development, which is likely to cause, or experience, a loss of residential amenity as a result of light, noise, dust, odour or vibration, or a loss of privacy must be supported by a relevant assessment and if necessary appropriate mitigation must be put in place.

Considerable weight has been afforded to the well-established industrial use of the application site. The introduction of two units, used for storage will not result in harmful noise, dust, odour or vibration implications to the surrounding dwellings. Environmental Health were consulted on the application and raised no objections in terms of amenity impacts. A condition will be imposed limiting the use of the units to storage purposes only, as set out in the supporting information received with the application; this will maintain an acceptable amenity impact with regard to noise and vibration.

Officers raised concerns with the agent, that the initial proposal resulted in harmful overshadowing and overbearing impacts to no.4 Mill Lane. The agent responded with a revised proposal which resulted in siting Unit C2 an additional 2m away from the neighbouring boundary; cross-sectional plans (set out below) were also provided which showed the relationship of the proposed storage units with no.4.



Relationship between Unit C1 and no.4 Mill Lane, as viewed looking at no.4



As Viewed From Mill Lane

Relationship of Unit C2 and no.4 Mill Lane, as viewed from Mill Lane

The above cross-sectional plans show the relationship between each unit and no.4 Mill Lane. The plans show that Unit C1 would be screened by the existing hedgerow which is situated between the application site and boundary of the amenity space of no.4. The agent suggested that a condition could be imposed which ensured the hedgerow would remain in place and be maintained to a height of 4.8m in order to screen the units from no.4. While this would mitigate the presence of the units, a constant 4.8m hedgerow would result in greater, more significant overshadowing and overbearing harm to no.4 and therefore would not be suitable.

Given the nature of the developments and their intended use, the proposal does not introduce any harmful impacts on the privacy provision.

The Successful Places guidance states that reasonable daylight and sunlight should be provided to property interactions and therefore relevant tests have been conducted assessing the potential levels of overshadowing in which the proposed buildings could introduce. The results demonstrated that the dwellinghouse would be unaffected by the storage units. A slight level of overshadowing would be present to the amenity space of no.4; however, this would not be of a level which is considered significantly harmful as per the Successful Places guidance and Building Research Establishment (BRE) document (2011). On this basis, the level of overshadowing is considered acceptable.

The Successful Places SPD does not specifically reference industrial sites adjacent to residential properties, however similar provisions can be applied to this application as with the relationship between an existing and proposed dwelling. In this instance, the introduction of a single storey dwelling in the same siting as the proposed storage units, would be acceptable with regard to the separation distances of the Successful Places guidance and therefore is not considered to be overbearing.

An objection states that the outlook of no.4 would be onto blank elevations of the units and therefore impacts on the enjoyment of the garden space. The outlook of a property is not a material planning consideration and as previously mentioned, considerable weight is given to the application site and its well-established industrial use.

It is also assumed that no.4 Mill Lane experiences some form of disruption through the daily activities of the railway maintenance operations. The siting of the units would provide a suitable screening to these operations, which would likely mitigate some of the noise disturbance experienced by the residents.

Overall, it is considered that the proposal would not introduce a harmful relationship between the application site and surrounding residential property with regard to overlooking, overbearing and overshadowing impacts. On this basis, the proposed development is compliant with policies SC3 and SC11 of the Local Plan for Bolsover District, and the relevant sections of the Successful Places guidance.

Highway Access/Safety

The proposed buildings are sited a significant distance away from the Brookhill Road and therefore the impact on highway access and safety is minimal. The Local Highway Authority (LHA) have been consulted on the application and confirmed that the proposal has no material impact on the public highway and therefore the LHA has no comments to make. The developments also do not result in the need for additional parking provisions.

On this basis, and due to the LHA raising no concerns, the proposal is compliant with policy ITCR11 of the Local Plan for Bolsover District.

Land Stability

Policy SC14 of the Local Plan states that development proposals will not be permitted unless it can be demonstrated that any contaminated or unstable land issues will be addressed by appropriate mitigation measures to ensure that the site is suitable for the proposed use and does not result in unacceptable risks which would adversely impact on human health and the built and natural environment.

The site is situated within a high-risk development area for historic recorded and unrecorded coal workings. As such, the Coal Authority have been consulted on the application. The initial comments received objected to the proposal stating that the Coal Mining Risk Assessment (CMRA) report which accompanied the application did not adequately address the impact of coal mining legacy on the proposed development. As such, the applicant provided a revised CMRA on the 1st November 2024 and the Coal Authority were re-consulted.

Based on the revised details the Coal Authority withdrew their initial objection but concluded that the coal mining legacy poses potential risks to the proposed development and therefore further investigations along with potential remedial measures are required in order to ensure the safety and stability of the proposed development. Therefore, a series of planning conditions relating to intrusive site investigations and potential remediation and mitigation measures have been recommended.

Environmental Health (EH) were also consulted on this application and confirmed no objections to the proposal in principle. A series of planning conditions were however recommended due to the industrial use of the site; the conditions relate to contamination assessments and remediation / mitigation schemes, should contaminants be identified.

As such, in order to ensure the land is suitable to accommodate the storage units, and to

satisfy the provisions of policy SC14, the conditions and informative notes which have been recommended will be imposed on any approved planning permission.

Overall, subject to the aforementioned conditions, the proposal is compliant with policy SC14.

Biodiversity

The proposal accords with the 'de minimis' development exemption reason for biodiversity net gain enhancements. This is because the proposed storage units do not impact on more than 25m² of on-site habitat.

A representation was received which referred to an overuse of floodlighting at the application site which therefore impacted on the surrounding wildlife. While this comment is noted, the floodlighting at the site does not form part of the planning application and therefore cannot be considered as part of the determination.

Drainage

Drainage concerns were raised by a neighbouring site who stated that the buildings would not be visible from their location, but water often flowed from the application site and therefore they would like assurance that suitable water drainage has been included within the application. In terms of planning considerations, suitable drainage would be covered under separate legislations, controlled by Building Control. The introduction of two storage containers is not considered to result in significant water displacement that would result in additional undue harm to the surrounding residential and industrial units.

Issues Raised by Residents

Comments have been made throughout the above assessment which consider the issues raised by the residents, however additional comments are made in respect of the following:

- The Leylandii belonging to MLP have been allowed to grow upwards and have not been maintained, the neighbouring Leylandii has grown to its existing height due to the MLP hedge not being maintained and now being unmanageable.
 - The maintenance of the hedgerow is not relevant to the planning application for the erection of two storage buildings; this would be a private matter between the resident and applicants.
- Considers that the Council will limit the use of the buildings for storage only.
 - A condition has been recommended which ensures the buildings will be used for storage only in order to maintain an acceptable level of residential amenity.
- States that the plans are incorrect and do not show measurements.
 - The plans provided are not required to show measurements provided they can be accurately measured, which in this instance was possible.
- Any fans, filters, vents, air conditioners ducting for expulsion of fumes should fitted to the front of the property to minimise noise, fumes, vapours and smells.
 - The plans provided do not demonstrate any of the above details and therefore this comment has not been considered towards the recommended outcome of the application.

- The objector also provided images of what they consider to be correct plans for the site.
 - The provided plans were noted but as there were no issues with the plans provided by the applicants it was not necessary to afford the objector's plans with significant weighting in determining the application.

CONCLUSION / PLANNING BALANCE

In conclusion, the proposal is considered to be a suitable scheme which benefits the site by providing needed storage space for materials. The buildings compliment the context and appearance of the application site and have an acceptable amenity impact on the surrounding residential properties.

On balance, given the established industrial use of the site and consideration to the siting and scale of the proposed buildings, a recommendation for approval has been put forward.

RECOMMENDATION

The current application be APPROVED subject to the following conditions:

1. The development must be begun before the expiration of three years from the date of this permission.
2. The development must be carried out in accordance with the following plans submitted with the application:
 - Revised 'UNIT C1 – Proposed Elevation and Floor Layout' plans received on the 1st November 2024.
 - Revised 'UNIT C2 – Proposed Elevations and Floor Layout' plans received on the 1st November 2024.
 - 'Cross Sections through the Site' plans received on the 1st November 2024.
 - Revised 'Block Plan' received on the 1st November 2024.
3. No development must take place until details of the materials to be used in construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development must be carried out in accordance with the approved details.
4. The two buildings hereby approved must only be used for storage purposes in association with the primary use of the site and not for other industrial manufacturing or industrial operations.
5. Prior to the commencement of the development (excluding demolition of existing structures and site clearance):

a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity; and

b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

6. Prior to the buildings hereby by approved being brought into use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.
7. Prior to the commencement of the buildings hereby approved:

a) A Phase I land contamination assessment (desk-study) shall be undertaken and approved in writing by the local planning authority.

b) The land contamination assessment shall include a desk-study with details of the history of the site use including:

- the likely presence of potentially hazardous materials and substances,
- their likely nature, extent and scale,
- whether or not they originated from the site,
- a conceptual model of pollutant-receptor linkages,
- an assessment of the potential risks to human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments,
- details of a site investigation strategy (if potential contamination is identified) to effectively characterise the site based on the relevant information discovered by the desk study and justification for the use or not of appropriate guidance. The site investigation strategy shall, where necessary, include relevant soil, ground gas, surface and groundwater sampling/monitoring as identified by the desk-study strategy.

The site investigation shall be carried out by a competent person in accordance with the current U.K. requirements for sampling and analysis. A report of the site investigation must be submitted to the local planning authority for approval.

8. Prior to the commencement of the development hereby approved:

Where the site investigation identifies unacceptable levels of contamination, a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment shall be submitted to and approved in writing by the local planning authority. The submitted scheme shall have regard to CLR 11 and other relevant current guidance. The approved scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The developer shall give at least 14 days notice to the local planning authority (Environmental Health) prior to commencing works in connection with the remediation scheme.

9. No buildings hereby approved shall be brought into use until:

a) The approved remediation works required by 8 above have been carried out in full in compliance with the approved methodology and best practice.

b) If during the construction and/or demolition works associated with the development hereby approved any suspected areas of contamination are discovered, which have not previously been identified, then all works shall be suspended until the nature and extent of

the contamination is assessed and a report submitted and approved in writing by the local planning authority and the local planning authority shall be notified as soon as is reasonably practicable of the discovery of any suspected areas of contamination. The suspect material shall be re-evaluated through the process described in 7b to 8 above and satisfy 9a above.

c) Upon completion of the remediation works required by 8 and 9a above a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority. The validation report shall include details of the remediation works and Quality Assurance/Quality Control results to show that the works have been carried out in full and in accordance with the approved methodology. Details of any validation sampling and analysis to show the site has achieved the approved remediation standard, together with the necessary waste management documentation shall be included.

Notes to Applicant:

1. Ground Investigations

Under the Coal Industry Act 1994 any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) require the prior written permission of the Coal Authority since these activities can have serious public health and safety implications. Such activities could include site investigation boreholes, excavations for foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain permission to enter or disturb our property will result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property

2. Shallow coal seams

In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

3. Requirement for Incidental Coal Agreements

If any future development has the potential to encounter coal seams which require excavating, for example excavation of building foundations, service trenches, development platforms, earthworks, non-coal mineral operations, an Incidental Coal Agreement will be required from the Coal Authority. Further information regarding Incidental Coal Agreements can be found here –

<https://www.gov.uk/government/publications/incidental-coal-agreement/guidance-notes-for-applicants-for-incidental-coal-agreement>

Statement of Decision Process

Officers have worked positively and pro-actively with the applicant to address issues raised during the consideration of the application. The proposal has been considered against the policies and guidelines adopted by the Council and the decision has been taken in accordance with the guidelines of the Framework.

Equalities Statement

Section 149 of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (i.e., “the Public Sector Equality Duty”).

In this case, there is no evidence to suggest that the development proposals would have any direct or indirect negative impacts on any person with a protected characteristic or any group of people with a shared protected characteristic.

Human Rights Statement

The specific Articles of the European Commission on Human Rights (‘the ECHR’) relevant to planning include Article 6 (Right to a fair and public trial within a reasonable time), Article 8 (Right to respect for private and family life, home and correspondence), Article 14 (Prohibition of discrimination) and Article 1 of Protocol 1 (Right to peaceful enjoyment of possessions and protection of property).

It is considered that assessing the effects that a proposal will have on individuals and weighing these against the wider public interest in determining whether development should be allowed to proceed is an inherent part of the decision-making process. In carrying out this ‘balancing exercise’ in the above report, officers are satisfied that the potential for these proposals to affect any individual’s (or any group of individuals’) human rights has been addressed proportionately and in accordance with the requirements of the ECHR.