

ITEM 1.1 DMPA/2024/0051 Updated recommendations

Recommendation

Approve subject to the following conditions, which have been updated to reflect additional consultee responses:

1. The development hereby approved shall be commenced before the expiration of three years from the date of this permission.

Reason: To conform with Section 91 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall be carried out in complete accordance with the following plans and drawings: Proposed changing rooms, MUGA and outdoor gym, Site location and block plans, Drawing No: J23-005 A-100, Rev A, dated 20/11/2023, received 16/02/2024, Existing site layout, Drawing No: J23-005 A-102, dated 21/11/2023, received 16/02/2024, Proposed changing room pavilion and football pitches, Drawing No: J23-005 A-101, Rev D, dated 25/07/2023, received 16/02/2024, Proposed Key Site Sections, Drawing No: J23-005 A-301, dated 21/11/2023, received 16/02/2024, Proposed Changing Room Units, Drawing No: J23-005 A-120 Rev B, dated 21/11/2023, received 16/02/2024, Proposed MUGA & City Gym, Drawing No: J23-005 A-125, dated 21/11/2023, received 16/02/2024, Proposed Changing Room Units, Drawing No: J23-005 A-121, received 16/02/2024 unless as otherwise required by condition attached to this permission or following approval of an application made pursuant to Section 96A of the Town and Country Planning Act 1990.

Reason: For the avoidance of doubt and in the interests of achieving sustainable development.

3. **Updated**

Before the development hereby approved is commenced

- a) The Phase II contaminated land site assessment, ground gas results shall be provided as an addendum to the report by Solmek Ltd, dated February 2024, reference M23-062.

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

- b) Should the existing hard standing or building be disturbed as part of the scheme, due to the likelihood of made ground in these areas, soil testing shall be necessary as per the requirements of the Phase II report by Solmek Ltd dated February 2024, reference M23-062
- c) As per section 7.2.2 of the Phase II report by Solmek Ltd dated February 2024, reference M23-062, the developer must consult the water company to ensure the proposed water pipes are suitable. The results shall be submitted to the local planning authority in writing for approval.
- d) 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 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 Division) prior to commencing works in connection with the remediation scheme.

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it in accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

4. No above ground development shall commence until:
- a) a scheme of further intrusive site investigations has been carried out on site to establish the risks posed to the development by past shallow 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.

Reason: To ensure the risks associated with mining legacy are properly addressed in the interests of safety and in accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework

5. **Updated**

The development hereby approved shall not be brought into first use until:

- a) The approved remediation works required by 3 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 below and in 3 above and satisfy 5a above.

The contaminated land 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 shall be submitted to the local planning authority for approval.

- c) Upon completion of the remediation works required by 3 and 5a 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.

Reason: To protect the health of the public and the environment from hazards arising from previous uses of the site and/or adjacent land which might be brought to light by development of it, recognising that failure to address such matters prior to development commencing could lead to unacceptable impacts even at the initial stages of works on site it in accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework..

Reason: To protect the health of the public and the environment from hazards arising from previous contamination of the site which might be brought to light by development of it in accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

6. New Condition

Prior to the commencement of the development hereby approved, including any site clearance, demolition or storing of any plant or materials at the site, the findings of the Preliminary Ecological Appraisal, and details of any further survey or assessment work together with details of any proposed methods of working or required mitigation identified therein, shall be submitted to and approved by the local planning authority.

The development shall thereafter be undertaken in complete accordance with the approved details.

Reason: In order to safeguard the ecological interests of the site in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

7. During the period of construction, no ground, construction or fitting out works shall take place and no deliveries shall be taken at or dispatched from the site other than between 0800 and 1800 hours Monday to Friday and 0900 and 1300 hours on Saturdays. There shall be no construction works (except for works to address an emergency) or deliveries on Sundays or Bank Holidays.

Reason: In order to adequately safeguard the amenity of neighbouring residents in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

8. No development shall commence until a scheme of intrusive site investigation for coal mining legacy has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be carried out in accordance with the approved details and a report of the findings arising from the intrusive site investigations, along with any remedial works required (including a timetable for the carrying out of such works), shall be submitted to and approved in writing by the Local Planning Authority prior to any construction works commencing. The approved remedial works shall thereafter be implemented in accordance with the approved timetable.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night.

9. Before the development hereby approved is commenced a scheme to safely manage areas of development in or adjacent to Public Rights of Way shall be submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and to ensure construction activities are properly managed to prevent harm to users of the public footpath network.

10. Before the commencement of the development hereby approved a noise management plan, to include but not be restricted to the points raised in the noise impact assessment ref 40845-RI, points 5.9 and 5.14 as well as proposed hours of use, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented throughout the construction period.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers, recognising that initial preparatory works could cause unacceptable impacts and in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

11. **Updated condition**

Before the development hereby approved is commenced a Habitat Management and Monitoring Plan (HMMP) shall be submitted to, and be approved in writing by the LPA. This shall identify the habitats to be retained, created and / or enhanced on the site and specify the appropriate management prescriptions to secure the predicted condition targets, as per the approved biodiversity metric for the application. The HMMP shall also set out a monitoring schedule to ensure targets are met and remedial actions to take if not. Guidance on producing a HMMP can be found here: <https://www.gov.uk/guidance/creating-a-habitat-management-and-monitoring-plan-for-biodiversity-net-gain>

The approved plan shall be implemented in complete accordance with the approved details for the lifetime of the plan.

Reason: In order to encourage enhancements in biodiversity and habitat, in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

12. **New Condition**

Before the development hereby approved is commenced (including demolition, ground works, vegetation clearance and movement of plant, machinery and materials) a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall include the following.

- a) *Risk **assessment** of potentially damaging construction activities.*
- b) *Identification of "biodiversity protection zones".*
- c) *Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.*
- d) *The location and timing of sensitive works to avoid harm to biodiversity features.*
- e) *The times during construction when specialist ecologists need to be present on site to oversee works.*
- f) *Responsible persons and lines of communication.*
- g) *The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- h) *Use of protective fences, exclusion barriers and warning signs.*

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority.

Reason: In order to safeguard the ecological interests of the site in accordance with the requirements of Policy BNE3 of the Local Plan and the National Planning Policy Framework.

13. **New Condition**

Before the development hereby approved is commenced a detailed design and associated management and maintenance plan of the surface water drainage for the site shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the proposed development does not increase flood risk and that the principles of sustainable drainage are incorporated into this proposal, and sufficient detail of the construction, operation and maintenance/management of the sustainable drainage systems are provided to the Local Planning Authority in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

14. **New Condition**

Before the development hereby approved is commenced a detailed assessment shall be submitted to and approved in writing by the Local Planning Authority, to demonstrate that the proposed destination for surface water accords with the drainage hierarchy as set out in paragraph 56 Reference ID: 7-056-20220825 of the planning practice guidance.

Reason: To ensure that surface water from the development is directed towards the most appropriate waterbody in terms of flood risk and practicality by utilising the highest possible priority destination on the hierarchy of drainage options. The assessment should demonstrate with appropriate evidence that surface water runoff is discharged as high up as reasonably practicable in the following hierarchy:

- I *into the ground (infiltration);*
- II *to a surface water body;*
- III *to a surface water sewer, highway drain, or another drainage system;*
- IV *to a combined sewer.*

15. **New Condition**

Before the development hereby approved is commenced details indicating how additional surface water run-off from the site will be avoided during the construction phase. The applicant may be required to provide collection, balancing and/or settlement systems for these flows. The approved system shall be installed and operating as described within the approved details before the commencement of any works, which would lead to increased surface water run-off from site during the construction phase.

Reason: To ensure surface water is managed appropriately during the construction phase of the development, so as not to increase the flood risk to adjacent land/properties or occupied properties within the development in accordance with the requirements of Policy SD3 of the Local Plan and the National Planning Policy Framework.

16. Prior to the first use of the development, 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.

Reason: In accordance with the requirements of Policy SD4 of the Local Plan Part 1 and the National Planning Policy Framework.

17. Prior to the first use of the facilities hereby approved, the existing access to Oversetts Road shall be modified in accordance with the approved plans.

Reason: In accordance with the applicant's stated intentions and to ensure the site is served by appropriate access in accordance with requirements of Policy S6 and Policy BNE1 of the Local Plan and the National Planning Policy Framework.

18. Prior to commencement of the permitted use, an acoustic barrier constructed in line with the specification referenced in sections 5.7, 5.8 and figure 2 of the noise impact assessment reference 40845-RI shall be erected. Upon completion of the barrier required by noise assessment reference 40845-RI, a validation report prepared by a competent person shall be submitted to and approved in writing by the local planning authority.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

19. **Updated condition**

Prior to the installation of any external lighting a detailed lighting strategy (designed in accordance with the guidelines issued by the Institute of Lighting Engineers, or any equivalent guidelines which may supersede such guidelines) which shall include precise details of the position, height, intensity, angling and shielding of lighting, as well as the area of spread/spill of such lighting, and any mitigating features such as dimmers, PIR sensors and timers. has been submitted to and approved in writing by the Local Planning Authority. Dependent on the scale of proposed lighting, a lux contour plan may be required to demonstrate acceptable levels of lightspill to any sensitive ecological zones/features. Guidelines can be found in Guidance Note 08/23 - Bats and Artificial Lighting at Night (BCT and ILP, 2023).

All lighting shall be installed in accordance with the approved strategy and thereafter retained in conformity with them.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and/or transport routes from undue illumination impacts or distraction, and to minimise light pollution at night in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

20. **New Condition**

Prior to the installation of plant or equipment, full specifications of the plant or equipment shall be submitted to and approved in writing by the Local Planning Authority. The specification shall include details of noise levels as predicted at the boundary of the site with any sensitive receptors and include mitigation measures to reduce noise levels at those receptors to acceptable levels. The located plant or equipment, along with any mitigation measures required, shall be implemented prior to first use of said plant or equipment and thereafter maintained in accordance with the agreed levels.

Reason: In the interests of protecting the amenity of the area and adjoining occupiers and in accordance with the requirements of Policy SD1 of the Local Plan and the National Planning Policy Framework.

Informatives:

- a. The County Councils Definitive Map of Public Rights of Way shows Swadlincote FP 45, Swadlincote FP 46 and Swadlincote FP 106 (footpaths) within and adjacent to the site. The attention of the applicant shall be drawn to the existence of these routes and to the requirement that any planning permission given does not construe the right to divert, extinguish or obstruct any part of the public path.
- b. There is a public right of way running through the site which must remain open, unobstructed and on its legal alignment at all times. There should be no disturbance to the surface of the route

without prior authorisation from the Rights of Way Inspector for the area. Consideration should be given to members of the public using the route at all times. A temporary closure of the route may be granted to facilitate public safety subject to certain conditions. Further information may be obtained by contacting the Rights of Way Section: ETC.PROW@derbyshire.gov.uk.

- c. Ground Investigations and groundworks: 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.
- d. 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
- e. **New informative**

The applicants attention is drawn to the informative notes set out in the response of the lead local flood authority dated 25/04/2024.