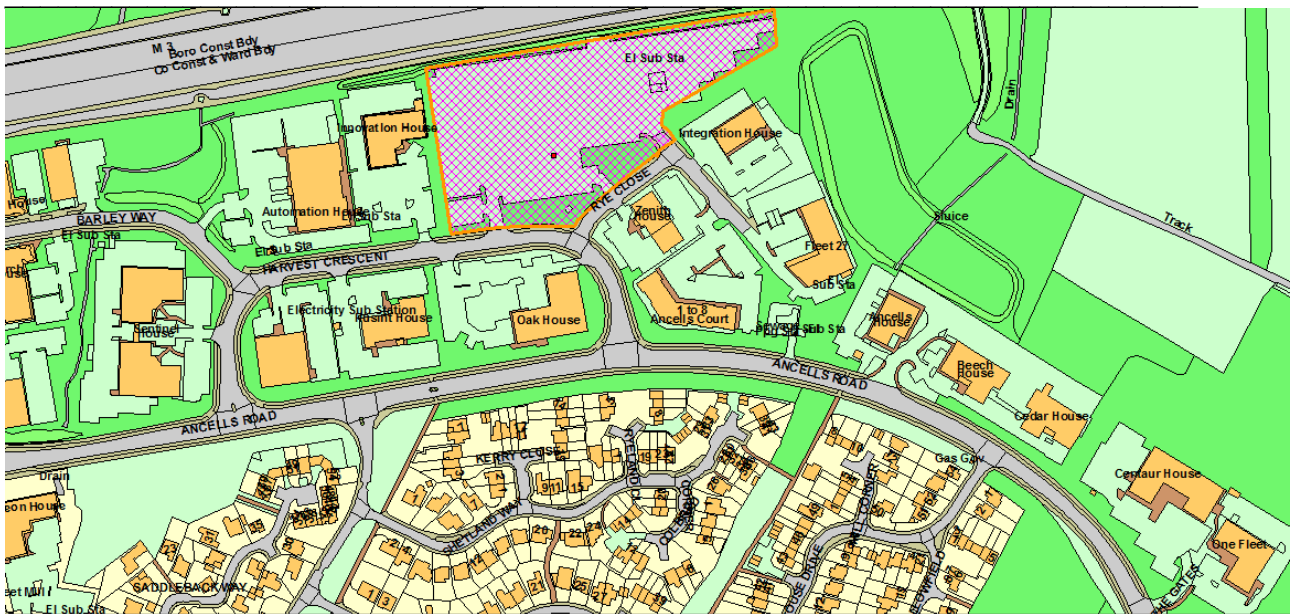


## COMMITTEE REPORT

APPLICATION NO.	22/03029/AMCON
LOCATION	<b>Rye Logistics Park Rye Close Fleet Hampshire GU51 2UY</b>
PROPOSAL	Variation of Condition 7 and the associated removal of Conditions 15 and 16 attached to Planning Permission 21/02894/AMCON dated 01/06/2022
APPLICANT	Caudwell Properties (102) Ltd
CONSULTATIONS EXPIRY	20 <sup>th</sup> January 2022
APPLICATION EXPIRY	28 <sup>th</sup> April (extension of time)
WARD	Fleet East
RECOMMENDATION	<b>GRANT SUBJECT TO COMPLETION OF LEGAL AGREEMENT</b>



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**Please Note: Map is not to scale**

## **BACKGROUND**

This application has been referred to Planning Committee at the discretion of the Executive Director – Place under the Constitution, as it involves the removal of conditions (15 and 16) which were imposed by Planning Committee on the original planning permission 19/02871/FUL.

## **THE SITE**

The site is located on Ancells Business Park which includes a number of purpose-built detached employment buildings with surface level car parking and landscaping. More recently, a number of these buildings have been converted or benefit from permission for conversion to residential use following Prior Approval applications.

Ancells Business Park is on the northeast edge of Fleet. Other than the M3, there is countryside to the north and east, Ancells Farm residential area to the south and the North Hants Golf Club to the west. Fleet Station is approximately 1km to the southwest of the site and Fleet Town Centre approximately 2km to the southwest.

## **PROPOSAL**

The proposal seeks the Variation of Condition 7 and the associated removal of Conditions 15 and 16 attached to Planning Permission 21/02894/AMCON dated 01/06/2022.

## **RELEVANT PLANNING HISTORY**

19/02871/FUL - Demolition of an existing office building and erection of new industrial units for flexible uses falling within Research and Development (Use Class E(g)(ii)), light industry (Use Class E(g)(iii)), general industry (Use Class B2) and storage and distribution (Use Class B8) with ancillary offices. Approved 18/12/2020.

21/02894/AMCON - Variation of Conditions 2, 3, 4, 5, 6, 11, 12 and 18 attached to Planning Permission 19/02871/FUL dated 18/12/2020. Approved 01.06.2022.

## **RELEVANT PLANNING POLICY**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan comprises the Hart Local Plan: Strategy and Sites 2016-2032 (HLP32), the saved policies of the Hart District Local Plan (Replacement) 1996-2006 (HDLP06) which locates the application site within the Settlement Policy Boundary for Fleet and Ancells Business Park Locally Important Employment Site and the Fleet Neighbourhood Plan.

National Planning Policy Framework (NPPF) (July 2021)

Section 2 (Achieving Sustainable Development)  
Section 4 (Decision-making)  
Section 6 (Building a strong, competitive economy)  
Section 9 (Promoting sustainable transport)  
Section 11 (Making effective use of land)  
Section 12 (Achieving well-designed places)  
Section 15 (Conserving and enhancing the natural environment)

Hart Local Plan (Strategy and Sites) 2032 (HLP32)

SD1 Sustainable Development  
SS1 Spatial Strategy and Distribution of Growth  
ED1 New Employment  
ED2 Safeguarding Employment Land and Premises (B-Use Classes)  
NBE4 Biodiversity  
NBE5 Managing Flood Risk  
NBE9 Design  
NBE11 Pollution  
INF1 Infrastructure  
INF2 Green Infrastructure  
INF3 Transport

Saved Policies of the Hart District Council Local Plan (Replacement) 1996 - 2006 (DLP06)

GEN1 General Policy for Development  
GEN6 Policy for Noisy/Un-neighbourly developments  
CON8 Trees, Woodland and Hedgerows: Amenity Value

Fleet Neighbourhood Plan 2018-2032 (FNP32)

10 General Design Management Policy  
18 Cycling Network

Other relevant material considerations

Planning Practice Guidance (PPG)  
Planning Technical Advice Note: Cycle and Car Parking in New Development (August 2022)  
Hart's Climate Change Action Plan  
Hart's Equality Objectives for 2021 – 2023

## **CONSULTEE RESPONSES**

### **Fleet Town Council**

Major issue is changing the times of operation that HGVs will be allowed to enter and leave the site and the direction of traffic being restricted as coming from the Minley Road direction and not from Cove Road.

There would appear to be nothing to stop vehicles coming along Cove Road and proceeding to the junction with Minley Road turning right and right again into Ancells Road if this restriction is applied. Who will monitor it?

The current restriction will force HGVs coming off the M3 to go via the Minley Road towards the A30 and then turn down Minley Road towards Fleet at the roundabout adjacent to the A30 bringing HGV down a narrow winding road, totally unsuitable for HGVs.

The primary intention is to stop vehicles passing the playground and the Ancells Farm Drive junction.

If the traffic results are to be believed up to 100 HGVs travel in an easterly direction now and around 20 in a Westerly direction. They do operate 24 hours a day with very limited movements between midnight and 6am. The figure of 100 HGVs east and 20 West is not supported by experience. Have all vehicles over 3.5 tonnes been classed as HGVs? The number of 85 vehicle movements that involve 40 tonne articulated units is not stated. It is these larger units that cause concern.

This development would add around 85 HGV movements a day roughly split 50/50 east and westbound. So, around a 40% increase in the east bound flow and 200% increase in the west bound flow, but this only equates to 2 trips/hour but allowing for say 6 hours with no flow at night say 3 trips per hour in the day again diminishing after around 6pm.

Main issues will be for site users. Hart imposed the conditions, we defer to their judgement.

### **Local Highway Authority (Hampshire County Council)**

Conditions 15 and 16 relate to restricting the number of lorries being generated during certain hours of the night and the route all lorries should take. Neither of these restrictions were requested by the Highway Authority and therefore I confirm the position has not changed. I confirm the Highway Authority has no objection to the removal of Conditions 15 and 16 on the basis that the local road network has sufficient capacity to accommodate them and there is no evidence to suggest the road safety record on the network will be significantly impacted by this approved development.

**Drainage Engineer (Internal)**

No objection.

**Ecology Officer (Internal)**

No objection.

**Environmental Health Officer (Internal)**

No objection to the variation of condition 7. Recommend the slight amendment to the applicant's proposed revised condition, as follows:

Notwithstanding any information submitted with this application, operation activities between 2300 hrs - 0700 hrs on any day and between 0700 hrs - 2300 hrs on Sundays and Bank Holidays in external areas of the development hereby approved shall strictly follow the requirements below:

- a) The loading/unloading of any goods that may occur should take place within designated internal loading bays only, with any goods being transferred directly between vehicles and the buildings.
- b) The engines to any vehicles that come into the site shall be switched off, particularly those loading/unloading or when waiting to carry out such activities.
- c) Any vehicle-mounted refrigeration units shall be switched off whilst loading and unloading or when waiting to carry out such activities.
- d) Drivers shall be instructed to use smart broadband noise reversing alarms.
- e) The use of forklift trucks and any other machinery relating to the loading and unloading of goods is prohibited.
- f) All roller shutter doors shall be kept closed when not in use.
- g) Personnel shall be reminded to keep noise to an absolute minimum at all times except where Health & Safety issues need to prevail.
- h) No Public Address (PA) Systems shall be used outside of the approved buildings.

With regards to the removal of conditions 15 and 16, I cannot comment on this issue as these conditions were not recommended by Environmental Health based on the previous review of the technical reports, although the applicant has justified the removal of condition 15 through their updated Acoustic Design Note by Applied Acoustic Design reference number 19179/007/js/a dated December 2022.

## **Thames Water**

No comments received.

## **Local Lead Flood Authority (Hampshire County Council)**

No comments received.

## **PUBLIC COMMENTS**

The 21-day public consultation expired on 20.01.2023. Letters were sent out to 69 addresses and no representations were received during that time.

However, 144 public objections were received after the 21-day consultation period, raising concerns in relation to HGVs, traffic, neighbouring amenity, safety.

## **ASSESSMENT**

### **Principle of Development**

This application is made under Section 73 of The Town and Country Planning Act 1990 to vary conditions imposed upon a decision already granted planning permission by the Local Planning Authority.

Section 73 of the Act instructs Local Planning Authorities (LPAs) to consider the variation to, or relief of conditions that are applied for, stating that, "if the [the LPA] decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted... they shall grant permission accordingly". (s.73(1)(a)).

As such, the LPA can either grant permission unconditionally or subject to different conditions, or alternatively refuse the application if it is deemed that the original condition(s) should remain in place.

The variation to the planning permission would not revoke the original permission, however, the grant of a planning permission under Section 73 provides a new standalone planning permission.

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the development plan for the area is the Hart Local Plan (Strategy and Sites) 2016-2032 and the saved policies of the Hart District Local Plan (Replacement) 1996-2006.

At a national level, the National Planning Policy Framework (NPPF) 2021 constitutes guidance which the Local Planning Authority (LPA) must have regard to. The NPPF

does not change the statutory status of the development plan as the starting point for decision making but it is a material consideration in any subsequent determination.

The principle of development on the site has been established following the grant of planning permission 19/02871/FUL on 18<sup>th</sup> December 2020. It is not proposed to reproduce the assessment which relates to that application here because there has been no significant change in relevant planning policy since that permission, albeit the NPPF was updated a year later.

The changes within the NPPF have no implications for the determination of this application. Reference should be made to the officer's report relating to that application, particularly in relation to the principle of development which remains unchanged. This application seeks permission to further amend the scheme as set out above, including;

- variation of condition 7
- removal of condition 15
- removal of condition 16

Condition 7 reads as follows:

*Notwithstanding Condition 2, prior to occupation of the development hereby approved, a Noise Management Plan for the control of noise emanating from the site shall be submitted to and approved, in writing, by the Local Planning Authority. The Plan shall include details of:*

- a) White noise reversing sounders;*
- b) External fixed plant noise control criterion;*
- c) Break out from buildings noise control criterion;*
- d) Measures to minimise noise from site employees and visitors;*
- e) Measures to require vehicles loading and unloading at the facility to turn off engines and refrigeration units whilst loading and unloading and whilst stationery at the site;*
- f) Contact details and procedures for site occupiers for any noise related queries from local residents or businesses.*

*The operation of the development hereby approved shall take place in accordance with the Noise Management Plan.*

**REASON:** *To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan*

*(Replacement) 1996-2006 and First Alterations to the Hart District Local Plan  
(Replacement) 1996-2006 Saved Policy GEN1.*

Condition 15 reads as follows:

*No Heavy Goods Vehicles, i.e., those over 7.5 tonnes Gross Weight, shall operate from the site between the hours of 20:00 and 06:00 hours Monday to Friday and between midnight and 08:00 hours on Saturday and no movements shall take after 12:00 hours on Saturday, nor on Sundays and Bank Holidays.*

REASON:

*To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.*

Condition 16 reads as follows:

*Heavy Goods Vehicles, i.e., those over 7.5 tonnes Gross Weight, shall only access the site from a westerly direction via Ancells Road, Harvest Crescent and Rye Close from the Minley Road roundabout and shall only egress the site in a westerly direction via Ancells Road to the Minley Road roundabout. No HGV's shall enter or leave the site to the east along Ancells Road.*

REASON: *In the interests of highway safety and neighbouring amenity and to avoid any potential conflict between HGV's and vulnerable users of the Ancells Children's Playground and surrounding public open space.*

Impact on the character of the area/ design

The design would not be altered as a result of the proposed changes. The proposal is acceptable in design and visual respects in line with Policy GEN1 of the HLP06, Policy NBE9 of the HLP32, Policy 10 of the FNP and Section 12 of the NPPF 2021.

Impact on neighbouring amenity

The original application (Ref: 19/02871/FUL) was supported by evidence on potential noise impacts which were reviewed and ultimately accepted by the Council's Environmental Health Officer (EHO). From the formal consultation comments, the Council's EHO raised no concern with any potential noise impacts associated with HGVs driving to or accessing the site. They did however request the use of white noise reversing sounders to be secured within the Noise Management Plan via condition.

In support of this application, the applicant submitted a further Acoustic Design Note (December 2022) which provides an up-to-date assessment of the potential noise



impacts associated with HGV movements. The document takes into account the current site conditions and other material changes in circumstances, since the original grant of planning permission. The document notes that, at that time there was an extant prior approval allowing for the office to residential conversion of Zenith House (Ref: 19/00336/PRIOR and 19/00311/PRIOR) which lies adjacent to the site (to the east of Rye Close). These approvals have not been completed and have subsequently expired and concludes that it is not therefore necessary to treat this building as a residential building for the purposes of the updated noise assessment. However, Zenith House had a legal challenge against the Inspector's decision which was upheld and the Inspector's decision quashed and as such the LPA cannot discount that Zenith House could be occupied in future for residential purposes.

Opposite the site to the south is Oak House which is in residential occupation (which has been referenced in the submitted Acoustic Design Note). Other buildings immediately surrounding the site (Innovation House, Automation House, Russint House, Ancells Court and Integration Court) are not occupied for residential purposes.

Notwithstanding the above, the Acoustic Design Note identifies an increase in ambient noise level of 1 dB based on 24 HGV trips during the night which would indicate a "none/not significant" impact on residential amenity (see Table 3 and paragraph 3.5).

The EHO notes within their comments that the applicant has justified the removal of condition 15 through their updated Acoustic Design Note by Applied Acoustic Design reference number 19179/007/js/a dated December 2022.

Turning to condition 7, it is proposed to be amended from:

*Notwithstanding Condition 2, prior to occupation of the development hereby approved, a Noise Management Plan for the control of noise emanating from the site shall be submitted to and approved, in writing, by the Local Planning Authority. The Plan shall include details of:*

- a) White noise reversing sounders;*
- b) External fixed plant noise control criterion;*
- c) Break out from buildings noise control criterion;*
- d) Measures to minimise noise from site employees and visitors;*
- e) Measures to require vehicles loading and unloading at the facility to turn off engines and refrigeration units whilst loading and unloading and whilst stationary at the site;*
- f) Contact details and procedures for site occupiers for any noise related queries from local residents or businesses.*

*The operation of the development hereby approved shall take place in accordance with the Noise Management Plan.*

To revised wording of:

*Notwithstanding any information submitted with this application, operation activities between 2300 hrs - 0700 hrs on any day and between 0700 hrs - 2300 hrs on Sundays and Bank Holidays in external areas of the development hereby approved shall strictly follow the requirements below:*

- a) The loading/unloading of any goods that may occur should take place within designated internal loading bays only, with any goods being transferred directly between vehicles and the buildings.*
- b) The engines to any vehicles that come into the site shall be switched off, particularly those loading/unloading or when waiting to carry out such activities.*
- c) Any vehicle-mounted refrigeration units shall be switched off whilst loading and unloading or when waiting to carry out such activities.*
- d) Drivers shall be instructed to use smart broadband noise reversing alarms.*
- e) The use of forklift trucks and any other machinery relating to the loading and unloading of goods is prohibited.*
- f) All roller shutter doors shall be kept closed when not in use.*
- g) Personnel shall be reminded to keep noise to an absolute minimum at all times except where Health & Safety issues need to prevail.*
- h) No Public Address (PA) Systems shall be used outside of the approved buildings.*

The EHO has reviewed the submission and raised no objection to the variation of condition 7, however proposes criterion d) is altered from “*drivers shall be instructed to use smart broadband noise reversing alarms*” to “*drivers **shall use** smart broadband noise reversing alarms*”. Criterion g) is not considered to meet the 6 tests of imposing a planning condition as it would not be enforceable and this has been removed from the proposed condition wording.

The variation of condition 7 would provide the Local Planning Authority with additional control over the operation of the application site whilst also ensuring neighbouring amenity is protected.

On this basis, the removal of condition 15 would not trigger any conflict with Policy NBE11 of the HLP32 or Policy GEN1 of the HLP06 and is therefore acceptable in neighbouring amenity respects.

#### Highway Safety and Traffic Generation

Policy INF3 supports development that promotes the use of sustainable transport modes prioritising walking and cycling, improves accessibility to services and supports the transition to a low carbon future. Among other requirements, this policy seeks to provide safe, suitable and convenient access for all potential users of development.

Saved policy GEN1 of the HLP06 supports developments that do not give rise to traffic flows on the surrounding road network which would cause material detriment to the amenities of nearby properties and settlements or to highway safety.

Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds “if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.”

As set out within the accompanying Transport Note (December 2022), prepared by DTA, no concerns were raised by the Local Highway Authority (Hampshire County Council) in relation to HGV movements to and from the Site, including via Ancells Road.

The applicants have also reviewed personal injury collision (PIC) data over the last five-year period which evidences that there are no overriding safety concerns along Ancells Road. The PIC data shows that there have been four collisions on Ancells Road over the last five years, of which two occurred on Ancells Road to the west of the Site and two to the south near the Ancells Road/Farm Drive junction near Ancells Farm Park. Of the latter, one was classed as ‘serious’ and the other as ‘slight’. However, it is relevant to note that both occurred prior to the improvements to the crossing facilities over Ancells Road, Farm Drive and Hanover Drive. These works included the provision of a central refuge with raised kerbs, guard railing, improved signage, and tactile paving over Ancells Road. ‘Slow’ road markings and signage are visible on both approaches to the junctions, along with surface treatment on the northbound approach to the crossing. Tactile paving has also been provided across the Farm Drive and Hanover Drive junction mouths as part of the improvement works, with footway widening works also implemented.

Ancells Road currently accommodates approximately 5,300 vehicle trips per weekday based on an automated traffic survey (ATC) undertaken over seven days in March 2022. Of these, around 120 trips were undertaken by HGVs. The Application Site is forecast to generate circa 85 two-way HGV movements per day (45 inbound trips and 40 outbound trips). Assuming a 50:50 split, around 43 of these movements could route to/from Ancells Road to the south per day – averaging slightly less than 2 no. two-way HGV movements per hour which is not significant.

Based on the current road conditions and the forecast trip generation on Ancells Road by HGVs associated with the proposal, there is no evidence that this would give rise to any highway safety issue or residual cumulative impacts on the road network which would be severe.

The proposal is acceptable in highways respects in line with Policy GEN1 of the HLP06, Policies NBE9 and INF3 of the HLP32 and Section 9 of the NPPF 2021.

### Trees and ecology

The proposal involves no operational development and would not alter the trees or ecology status of the approved scheme. The proposal is acceptable in trees and ecology respects in line with Policies GEN1 and CON8 of the HLP06, Policy NBE9 of the HLP32, Policy 10 of the FNP and Section 15 of the NPPF 2021.

### Flood Risk

The proposal involves no operational development and would not alter the flood risk status of the approved scheme. The proposal is acceptable in trees and ecology respects in line with Policy GEN1 of the HLP06, Policy NBE5 of the HLP32, Policy 10 of the FNP and Section 14 of the NPPF 2021.

### Other matters

A legal agreement was entered into under permission 19/02871/FUL which secured a Travel Plan and Green Infrastructure Provision contributions. A Deed of Variation was subsequently entered into under permission 21/02894/AMCON.

A Deed of Variation has also been completed to ensure the provisions and obligations from the original section 106 legal agreement are transferred to this application. This has been drafted, however has yet to be completed pending the Committee's decision.

### CONCLUSION

Paragraph 55 of the National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

The PPG sets out that any proposed condition that fails to meet one of the 6 tests should not be used.

Paragraph: 005 Reference ID: 21a-005-20190723  
Revision date: 23 07 2019

- **Necessary**

### Condition 7

In terms of the necessity of the condition, a further Acoustic Design Note has been undertaken and submitted in support of the application which assessed the potential noise impacts associated with HGV movements.

Noise can have a significant effect on the environment and on the quality of life enjoyed by individuals and communities. The planning system should ensure that, wherever practicable, noise-sensitive developments are separated from major sources of noise, and that new development involving noisy activities should, if possible, be sited away from noise-sensitive land uses. Where it is not possible to achieve such a separation of land uses, local planning authorities should consider whether it is practicable to control or reduce noise levels, or to mitigate the impact of noise, through the use of conditions or planning obligations.

The Acoustic Design Note identifies an increase in ambient noise level of 1 dB based on 24 HGV trips during the night which would indicate a “none/not significant” impact on residential amenity. The Environmental Health Officer has reviewed the submitted technical reports and raised no objection. It is therefore considered that condition 7 is no longer necessary.

The Environmental Health Officer has raised no objection to the revised wording of condition 7 (subject to a slight amendment to the wording). It is considered that the revised condition is necessary and would allow the LPA greater control over the operation of the application site.

### Condition 15

In terms of the necessity of the condition, a further Acoustic Design Note has been undertaken and submitted in support of the application which assessed the potential noise impacts associated with HGV movements.

The Acoustic Design Note identifies an increase in ambient noise level of 1 dB based on 24 HGV trips during the night which would indicate a “none/not significant” impact on residential amenity.

Condition 15 is therefore not considered necessary as it has been justified that the noise levels associated with the operations would not be detrimental to neighbouring amenity.

### Condition 16

The supporting technical information sets out that Ancells Road currently accommodates approximately 5,300 vehicle trips per weekday based on an automated traffic survey (ATC) undertaken over seven days in March 2022. Of these, around 120 trips were undertaken by HGVs. The Application Site is forecast to generate circa 85 two-way HGV movements per day (45 inbound trips and 40 outbound trips). Assuming a 50:50 split, around 43 of these movements could route

to/from Ancells Road to the south per day – averaging slightly less than 2 two-way HGV movements an hour which is not significant.

Based on the current road conditions and the forecast use of Ancells Road by HGVs associated with the Application Site, there is no evidence that this would give rise to a highway safety issue over and above the existing use of the road. Condition 16 is therefore not considered necessary as there is no evidence to suggest that the development would give rise to a highway safety issue over and above the existing use of the road. The Highways Authority have reviewed the submitted technical information and raised no objection to its removal.

- **ii) Relevant to planning**

#### Condition 7

The condition is considered relevant to planning. The condition allowed the LPA to grant planning permission for the development, subject to the applicant submitted and gaining approval for a noise management plan.

#### Condition 15

The condition is considered relevant to planning. The condition allowed the LPA to grant planning permission for development and control the hours of operation.

#### Condition 16

Planning conditions are not usually an appropriate means of controlling the right of passage over public highways. If it is essential to prevent traffic from using particular routes, the correct mechanism for doing so is an Order under either Section 1 or 6 of the **Road Traffic Regulation Act 1984** and is not something that can be controlled through the planning regime.

The current condition would therefore not meet the test of relevant to planning.

- **iii) Relevant to the development permitted**

#### Condition 7

The existing condition requires the submission and approval of a noise management plan and is relevant to the development permitted.

The proposed reworded condition is relevant to the development permitted, clearly setting out the requirements to be met from operations during the specified timeframe.

#### Condition 15

This condition is not considered relevant to the development permitted. It restricts hours in which HGVs can operate from the site. The applicant is applying for there to

be no restrictions in terms of the hours the site can operate and has submitted technical information to justify its removal.

#### Condition 16

This condition relates to an area outside of the red line of the development site and would therefore not meet the test of being relevant to the development permitted.

- ***iv) - Enforceable***

#### Condition 7

The existing condition is considered to be enforceable. It clearly sets out that a noise management plan be submitted to, and approved in writing by the LPA prior to occupation of the development.

The reworded condition is considered to be enforceable. It clearly sets out the requirements to be adhered to during certain hours. It is considered to be clearly defined and it would be possible to detect a contravention.

#### Condition 15

The condition is considered to be enforceable. The condition clearly states the hours of operation. This is considered to be clearly defined and it would be possible to detect a contravention.

#### Condition 16

The restriction of HGV's entering or leaving the site to the east along Ancells Road would be difficult to enforce as it is located outside of the red line boundary.

- ***v) - Precise***

#### Condition 7

The existing condition makes it clear that prior to the occupation of the development, a noise management plan be submitted and approved in writing by the LPA.

The proposed reworded condition makes it clear that operations during the specified timeframe shall strictly follow a number of requirements in the interests of neighbouring amenity.

#### Condition 15

The condition makes it clear that it seeks to restrict the hours of operation.

#### Condition 16

The condition makes it clear that it seeks to restrict HGV's from accessing the site from the east along Ancells Road.

- **vi) Reasonable in all other respects**

#### Condition 7

The existing condition is reasonable to ensure that the noise management details are acceptable in respect of neighbouring amenity.

Following the submission of additional noise technical information, the proposed reworded condition is considered reasonable to ensure that neighbouring amenity is preserved during the operations activities during the hours specified.

#### Condition 15

Following the submission of additional highways technical information which demonstrates that there is no evidence that this would give rise to a highway safety issue over and above the existing use of the road, this condition would fail the tests of reasonableness.

#### Condition 16

The condition is considered to place an unjustifiable and disproportionate burdens on the applicant and therefore fails the test of reasonableness.

It is however considered reasonable to impose a condition that restricts the number of HGV movements in and out of the site on a daily basis in accordance with the numbers specified in the Transport Statement (45 in and 40 out) in the interests of neighbouring amenity.

Having regard to the proposed changes to the scheme, it is considered that the resultant development would continue to be acceptable in respect of the principle of development, impact on the character and appearance of the area, neighbouring amenity, trees and biodiversity, highways and flood risk. The proposal would comply with the relevant policies of the Local Plan. The reworded condition 7 is deemed to meet the NPPF tests on conditions and conditions 15 and 16 would fails the tests. As a result of the above, it is recommended that this Section 73 application is approved.

The grant of planning permission for a Section 73 application enables the Local Planning Authority to impose planning conditions that are considered appropriate and meet the relevant test as cited within the NPPF. Given that the application provides a new planning permission, it is considered necessary and reasonable to continue to impose those planning conditions from 21/02894/AMCON that remain relevant to the development for clarity and completeness, with amended phrasing where applicable.

The simplest way to illustrate the changes to the conditions is within a comparison table;



Original permission 21/02894/AMCON - S73 suggested conditions

<b>Previous permission 21/02894/AMCON</b>	<b>S73 suggested conditions</b>
1 – approved plans	1 – approved plans
2 – construction management plan	2 – construction management plan
3 – water drainage scheme	3 – water drainage scheme
4 – external lighting scheme	4 – external lighting scheme
5 – loading dock curtains	5 – loading dock curtains
6 - landscaping	6 - landscaping
<b>7 – noise management plan</b>	<b>7 – noise management plan to be re-worded</b>
8 – refuse storage	8 – refuse storage
9 – use class restriction	9 – use class restriction
10 - materials	10 - materials
11 - parking	11 - parking
12 - stacking	12 - stacking
13 – sound reproduction equipment	13 – sound reproduction equipment
14 – use class E	14 – use class E
15 – HGV	<del>15 – HGV to be removed</del>
16 - HGV	<del>16 – HGV to be removed</del>
17 – noise attenuation scheme	15 – noise attenuation scheme
	16 – no. of HGV movements daily

**RECOMMENDATION – GRANT** subject to planning conditions and completion of legal agreement

**CONDITIONS**

1. The development hereby approved shall be carried out in accordance with the following plans and documents:

Plans and documents from this application:

Location Plan (19203 P0001 B), Site Layout (19203 P0005 F)  
 Transport Note (DYA Transportation Limited), Acoustic Design Note (AAD, ref: 19179/007/js/a)

Plans and documents from 21/02894/AMCON:  
 Proposed Building Plan P1001 Rev C  
 Proposed Unit 1a Office Layouts P1002 Rev C  
 Proposed Unit 1b Office Layouts P1003 Rev C  
 Unit 1c - Office Layouts P1004 Rev C  
 Proposed Elevations & Sections P1005 Rev C  
 Proposed Roof Plan P1006 Rev C

Proposed External Finishes P0006 Rev D  
Cycle Shelter and Bin Store Layout/Elevations P0008 Rev D  
Illustrated Landscape Strategy Proposals Plan 773-LA-P-01 Rev B  
Tree Retention Scheme SK0004 Rev C  
Proposed Tracking Layout SK0005 Rev C  
Proposed Site Accesses with Visibility Envelopes TPHS/188/DR/001 Rev A  
External Lighting Layout DR-E-600 P1  
External Light Spill Luxplot DR-E-601 P1  
21056-BGL-XX-XX DR-S-00210-Proposed Drainage Layout C2  
21056-BGL-XX-XX DR-S-00211-Proposed Flow Exceedance Plan  
Design and Access Statement (umc architects, 27.10.2021)  
Landscape Strategy (Bradford -Smith, Dec 2019)  
Transport Assessment (November 2021)  
HGV Trip Generation Review (David Tucker Associates, 13.07.2020)  
Servicing & Access Considerations (TPHS)  
Flood Risk Assessment and Drainage Strategy (Burrows Graham 03.11.21  
Ref. 21056-BGL-XX-XX-RP-D-0001)  
Noise Assessment (AAD, 28 October 2021)  
External Lighting Assessment Report (Silcock Dawson & Partners, October  
2021)  
Aboricultural Planning Report (Tracey Clark Tree Consultancy, October 2021)  
Letter (Brown+Co Planning, 15.04.2020)  
Framework Travel Plan (November 2021)  
Demolition Phase Health and Safety Plan/Outline Methodology Q0021 V2)  
Demolition Programme  
Aerial Site Map  
Construction Management Plan (by Marbank Construction Ltd)  
Drainage Maintenance Plan (Burrows Graham dated 17.08.2021)  
SW01 (Burrow Graham 18.08.2021)  
SW01 (Burrow Graham 18.08.2021)

REASON: To ensure that the development is carried out in accordance with the approved plans and particulars.

2. All works shall take place in accordance with the approved Demolition and Construction Management Plan in association with the Demolition Phase Health and Safety Plan / Outline Methodology Q0021 V2, Demolition Programme, Aerial Site Map and the Construction Management Plan (Marbank Construction Ltd) approved under application 21/02894/AMCON.

REASON: To protect the amenity of nearby residential occupiers and to satisfy Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

3. All works shall take place in accordance with the approved Water Drainage Scheme in the Flood Risk Assessment and Drainage Strategy (Burrows Graham Ref. 21056-BGL-XX-XX-RP-D-0001), Drainage Maintenance Plan (Burrows Graham dated 17.08.2021), SW01 (Burrow Graham 18.08.2021), SW02 (Burrow Graham 18.08.2021), 21056-BGL-XX-XX DR-S-00210 - Proposed Drainage Layout C2 and 21056-BGL-XX-XX DR-S-00211-P2- Proposed Flow Exceedance Plan approved under application 21/02894/AMCON.

REASON: To prevent on-site and off-site flood risk from increasing from the proposed drainage system and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE5 and Fleet Neighbourhood Plan Policy 10.

4. The development shall take place in accordance with the External Lighting layout (3456/E01) and External Lighting Assessment by Silcock Dawson & Partners (210114, dated 27th October 2021) approved under condition discharge application 21/02894/CON.

REASON: To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

5. The development shall take place in accordance with the Loading Bay Details (1136-002) approved under condition discharge application 21/02894/CON.

REASON: To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

6. The development shall take place in accordance with the Landscape Management Plan, Landscape Specification (Rev A), Detailed Planting Plan and Schedule (733-PP-P-01 Rev A), Detailed Planting Plan and Schedule (733-PP-P-02 Rev A), Typical Tree Pit (733-DOC-01) and Typical Tree Pit (733-DOC-02) approved under condition discharge application 21/02894/CON.

REASON: To ensure the provision of amenity afforded by appropriate landscaping and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policies NBE9 and INF2, Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1 and Fleet Neighbourhood Plan Policy 10.

7. *Notwithstanding any information submitted with this application, operation activities between 2300 hrs - 0700 hrs on any day and between 0700 hrs - 2300 hrs on Sundays and Bank Holidays in external areas of the development hereby approved shall strictly follow the requirements below:*

*a) The loading/unloading of any goods that may occur should take place within designated internal loading bays only, with any goods being transferred directly between vehicles and the buildings.*

*b) The engines to any vehicles that come into the site shall be switched off, particularly those loading/unloading or when waiting to carry out such activities.*

*c) Any vehicle-mounted refrigeration units shall be switched off whilst loading and unloading or when waiting to carry out such activities.*

*d) Drivers shall use smart broadband noise reversing alarms.*

*e) The use of forklift trucks and any other machinery relating to the loading and unloading of goods is prohibited.*

*f) All roller shutter doors shall be kept closed when not in use.*

*g) No Public Address (PA) Systems shall be used outside of the approved buildings.*

REASON: To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

8. Prior to occupation of the development hereby approved, a Refuse Storage and Collection Management Plan shall be submitted to, and approved in writing by, the Local Planning Authority.

REASON: To ensure adequate refuse storage areas and management is provided and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policies NBE9 and INF3.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking and re-enacting that Order with or without modification), the development hereby approved shall only be used for the following uses of the Town and Country Planning (Use Classes) Order 1987 (as amended):

E(g)(ii) - research and development of products or processes

E(g)(iii) - industrial processes, being a use which can be carried out in a residential area without detriment to its amenity

B2 general industrial, use for industrial process other than one falling within class E(g) (previously class B1); and

B8 use for storage or as a distribution centre.

In accordance with Schedule 2, Part 3, Class V of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification, development consisting of a change of use of the development hereby approved, or part thereof, to another use to which this permission specifically authorises is not permitted after 10 years from the date of this permission.

REASON: To ensure that the development is carried out in accordance with the assessments and to safeguard the Locally Important Employment Site.

10. The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as shown on drawing nos. Proposed Elevations & Sections P1005 Rev C and Proposed External Finishes P0006 Rev D as approved under application 21/02894/AMCON.

REASON: To ensure a satisfactory visual relationship of the new development with the existing building and to satisfy Hart Local Plan (Strategy & Sites) 2032 Policy NBE9, Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1 and Fleet Neighbourhood Plan Policy 10.

11. The approved parking facilities for vehicles and cycles as identified on drawing no. Proposed Site Layout P0005 Rev F shall not be used for any purpose other than the parking of vehicles and cycles and access shall be maintained at all times to allow them to be used as such.

REASON: To ensure that the development is provided with adequate parking to prevent the likelihood of on-street car parking and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy INF3, Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1 and Fleet Neighbourhood Plan Policy 10.

12. Nothing shall be stacked or stored on the site at any time except within any buildings shown on the approved plans.

REASON: To protect the amenities of the area and to maintain adequate landscaping, parking and turning areas for vehicles and to satisfy Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

13. No sound reproduction equipment, conveying messages, music, or other sound by voice, or otherwise which is audible outside the site shall be installed on the site without the prior written approval of the Local Planning Authority.

REASON: To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

14. The Units hereby approved shall not be used for any Use Class E purposes involving the provision of retail sales to visiting members of the public and any retail activity carried out at the site should comprise solely of an ancillary element of trade counter sales.

REASON: In order to control the uses carried out at the site in the interests of limiting traffic movements and ensuring the provision of adequate on-site car parking facilities, in accordance with policy INF3 of the Hart Local Plan 2032 and saved policy GEN1 of the Hart Local Plan 2006.

15. The development shall take place in accordance with the Loading Bay Details (1136-002) and Acoustic Report by Applied Acoustic Design (19179/001/js/c, 2nd November 2021) approved under condition discharge application 21/02894/CON.

**REASON:** To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

16. There shall be no more than an average, when measured over 1 year (1 April – 31 March) of 85 Heavy Goods Vehicle (HGV) *i.e. those over 7.5 tonnes Gross Weight* movements per day (i.e. 45 in and 40 out) entering or leaving the site.

**REASON:** To protect the amenity of nearby residential occupiers and to satisfy Hart Local Plan (Strategy and Sites) 2032 Policy NBE11 and Hart District Local Plan (Replacement) 1996-2006 and First Alterations to the Hart District Local Plan (Replacement) 1996-2006 Saved Policy GEN1.

### **INFORMATIVES**

- 1 The Council works positively and proactively on development proposals to deliver sustainable development in accordance with the NPPF. In this instance:  
  
The applicant was advised of the necessary information needed to process the application and, once received, the application was acceptable and no further engagement with the applicant was required.
- 2 You may require Building Regulations Consent and we advise that you should contact Building Control on 01252 398715.
- 3 Hart District Council has declared a Climate Emergency. This recognises the need to take urgent action to reduce both the emissions of the Council's own activities as a service provider but also those of the wider district. The applicant is encouraged to explore all opportunities for implementing the development approved by this permission in a way that minimises impact on climate change.
- 4 The applicant is advised to make sure that the works hereby approved are carried out with due care and consideration to the amenities of adjacent properties and users of any nearby public highway or other rights of way. It is good practice to ensure that works audible at the boundary of the site are limited to be carried out between 8am and 6pm Monday to Friday, 8am and 12 noon on Saturdays with no working on Sunday and Bank Holidays. The storage of materials and parking of operatives' vehicles should be normally arranged on site.