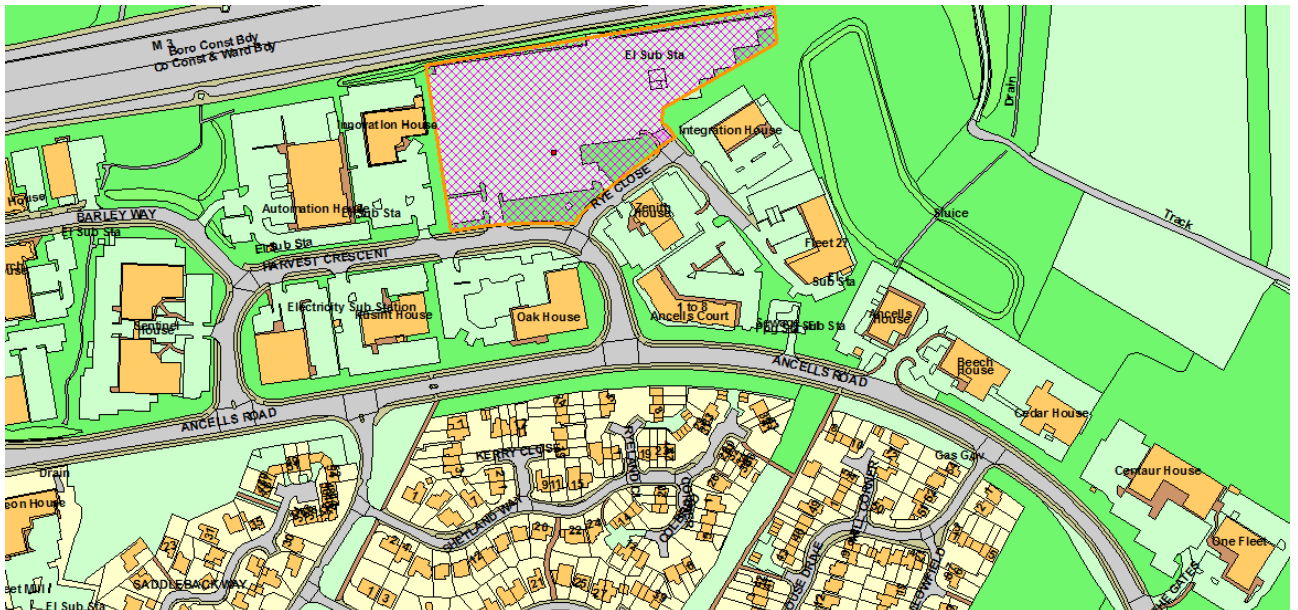


COMMITTEE REPORT

APPLICATION NO.	22/03029/AMCON
LOCATION	Rye Logistics Park Rye Close Fleet Hampshire GU51 2UY
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 January 2022
APPLICATION EXPIRY	23 March 2023
WARD	Fleet East
RECOMMENDATION	Had the Local Planning Authority had the opportunity to determine the application prior to the lodging of a planning appeal against non-determination, the recommendation would have been to GRANT SUBJECT TO CONDITIONS.



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BACKGROUND

This application was initially referred to, and considered by, Planning Committee on 19 April 2023 at the discretion of the Executive Director – Place in accordance with the Council's Constitution. This is because the application involves the removal of conditions (15 and 16) which were imposed by Planning Committee on the original planning permission granted under reference 19/02871/FUL. This decision sought permission for redevelopment of the site.

Members of the Planning Committee resolved to defer the application to allow additional evidence to be sought on the following grounds:

- Overnight noise from HGVs accessing the site.
- Noise generated by HGVs accessing the site in wet conditions.
- Vibration generated by HGVs accessing the site.
- Volumetrics for different vehicle types
- Historical safety instances in the local area

The additional evidence has been provided and is presented within the report below.

Members are advised that since the resolution for deferral, the applicant has submitted a planning appeal against non-determination of this application within the agreed determination period. It has been requested that the appeal be heard by way of public inquiry. Confirmation is awaited from the Planning Inspectorate that the appeal is valid and of the route for determination. Once the appeal is valid, jurisdiction to determine the application lies with the Planning Inspectorate.

The Local Planning Authority are now no longer in a position to issue a decision on the application. A resolution is therefore required to confirm the decision that would have been issued, had there been opportunity to determine the application to assist with the appeal process.

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. Opposite the site to the south is Oak House which is in residential occupation.

Other buildings immediately surrounding the site (Innovation House and Automation House to the west, Russin House to the southwest, Ancells Court to the south and Integration House to the east) are not occupied for residential purposes. Further along to the west of the site along Barley Way are Pioneer House and Fleet House which are in residential occupation. It is noted that Zenith House which lies adject to the site (to the east of Rye Close) has an extant prior approval to convert the building from offices to 34 flats following the issuing of the Inspector's decision on the 12 July 2023.

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 sits to the south and to the west is the North Hants Golf Club. Fleet Station is approximately 1km to the southwest of the site and Fleet Town Centre is 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.

Planning permission 21/02894/AMCON Condition 7 currently 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 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.

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 to be removed 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 to be removed 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.

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 Local Plan (Replacement) 1996-2006 (HLP06) and the Fleet Neighbourhood Plan 2018-2032.

In accordance with the Development Plan, the site is within the Settlement Policy Boundary for Fleet and Ancells Business Park Locally Important Employment Site.

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)

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

Policy INF1 Infrastructure
Policy INF2 Green Infrastructure
Policy INF3 Transport

Hart Local Plan (Replacement) 1996 - 2006 Saved Policies (HLP06)

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

Fleet Neighbourhood Plan 2018-2032 (FNP32)

Policy 10 General Design Management Policy
Policy 18 Cycling Network

Other relevant material considerations

Planning Practice Guidance (PPG)
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
Institute of Air quality Management (IAQM) guidance 'Land-Use Planning and Development Control: Planning for Air Quality

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

No objection.

Ecology

No objection.

Environmental Health

Initial comments - 19 January 2023

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.

Comments on additional evidence – 28 July 2023

I have no objection to this planning application on noise and air quality grounds.

Related to Environmental Health matters, it is understood that additional information has been sought from the applicant and submitted covering the following points: overnight noise from HGVs accessing the site, noise generated by HGVs accessing the site in wet conditions, vibration generated by HGVs accessing the site, and volumetrics for different vehicle types.

I have reviewed the Acoustic Design Note by Applied Acoustic Design (AAD) reference number 19179/008/js/a dated 12th July 2023. The report outlines appropriate noise criteria in section 3.7 and section 4.2 Table 4 provides the calculated HGV LA_{max} levels over distance with the orange shade indicating an allowance for subjectivity. Section 4.3 highlights the appropriate distance from which the stated criteria will achieve compliance. It is important to note that the assessment has been conducted on the assumption that there is no restriction on HGV movements to and from the south of Ancells Road, and as such this is stated to be the worst-case scenario. The assessment results in section 5.3 indicate the closest premises is Oak House which is 10 metres to the source line of HGV movements, however the noise level is within the subjective allowance in Table 4, and below the noise level implied by the WHO document as the report states in section 5.4.

With regards to wet conditions, this point has been answered in section 5.5 of the report. Wet conditions are equivalent to dry conditions for the purposes of this assessment for the reasons given in this section. Despite subjective change in the character of the noise, higher frequency noise is reduced more over distance and through structures than engine and exhaust HGV noise. Section 6.3 of the report provides Table B6 to B9 for the level of vibration exposure due to HGVs travelling over

road humps and the corresponding potentially affected minimum distances in relation to the underlying soil type.

There is also a geological plan showing the site and the underlying bedrock geology. It is noted from the outset that due to the absence of known research carried out in this area, this is the best information that the consultant is aware of. Considering the flat level road around the applicant site for the proposed routes, this report represents the worst-case scenario. Notwithstanding this, section 6.6. and section 6.7 highlight the minimum distance that residential amenity could be affected and in the context of this development, which indicates that HGVs do not come within an appropriate distance to affect residential amenity. Volumetrics for different vehicle types are presented in Figure 3.

I have reviewed the Air Quality Technical Note by Stantec reference number 33313471101 dated July 2023. The report outlines the baseline air quality conditions in section 2.3 Table 1 and estimated annual mean background concentrations are provided in Table 2. The report highlights that all values are well below the national air quality objectives and are additionally not close to exceeding these objectives.

Section 3.1 highlights the proposed vehicle trip generation for the site, and in the context of the site not being within an Air Quality Management Area, the criteria for the applicant to provide an Air Quality Assessment are detailed in section 3.2 of the report. It is noted that the proposal does not exceed the criteria and as such further assessment should not be required.

Thames Water

No comments received.

Local Lead Flood Authority

No comments received.

PUBLIC REPRESENTATIONS

The 21-day public consultation expired on 20 January 2023. Letters were sent out to sixty-nine addresses and no representations were received during that time.

However, a total of 150 public objections were received after the 21-day consultation period, raising concerns in relation to HGVs, neighbouring amenity and safety. In summary the concerns comprise:

Principle

- No objection to the suggested changes to Condition 7 but these do not justify removal of conditions 15 and 16.
- No developer would make significant capital investment without understanding the operating market.
- The development irrespective of this amendment is inappropriate in this location.

- Development of the site is at odds with the change of use of existing properties in the vicinity to residential units.

Impact on the environment

- Noise pollution
- Offices do not create noise whereas the logistics centre will operate 24/7.
- Lorries run engines, cab heaters and refrigeration units creating noise along with noise from acceleration.
- Health issues for residents walking along the road from pollution.
- Safety risk to users of the park
- Risk to walkers in the evening and early mornings.
- Harm to wildlife from noise pollution.

Neighbouring Amenity

- Ancells Farm is a residential area.
- People live in the former business park and are disturbed by the business activities.
- The development is contrived for a residential area.
- Issues regarding the amenity of neighbouring residents and the safety in the vicinity of the playing fields and crossing point.
- No resident wants HGVs hurtling past the house at all hours of the day and night.

Highway impacts

- Hampshire Highways have not objected.
- Impacts on the free flow of traffic joining or exiting onto Ancells Road.
- Concern regarding cars exceeding the speed limits which should be reduced to 30mph.
- Traffic affects school busses, local drivers and visitors as well as cyclists and pedestrians.
- Cost to repair the road from HGV traffic.
- Condition 15 provides a safeguard against HGVs arriving at any time of the day or night, any day of the week.
- Ancells Road to the east is physically capable of carrying HGV traffic and carries 120 vehicles a day.
- The extra distance to drive is minimal, adding only 1.8 miles to the journey.
- The development will add a significant increase in vehicles per day.
- Traffic has been building over the years with further housing developments.

PLANNING ASSESSMENT

Section 73 of The Town and Country Planning Act 1990 (as amended)

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)).

Had an appeal against non-determination been submitted, the LPA could have either granted permission unconditionally or subject to different conditions, or alternatively refused the application if it was deemed that the original condition(s) should remain in place.

The variation to the planning permission would not revoke the original permission for the development of the site, nor the later variation to conditions under reference 21/02894/AMCON. The grant of a planning permission under this Section 73 application provides a further new standalone planning permission. Where multiple permissions exist, the applicant has the opportunity to implement either decision.

Principle of Development

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, the Hart Local Plan (Replacement) 1996-2006 Saved Policies and the Fleet Neighbourhood Plan 2018-2032.

At a national level, the National Planning Policy Framework (NPPF) 2021 constitutes guidance which the Local Planning Authority (LPA) must have regard. 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 December 2020 and later amended under 21/02894/AMCON in June 2022. It is not proposed to reproduce the assessment which relates to the previous permissions because there has been no significant change in relevant planning policy since that decision, albeit the NPPF was updated a year later. The changes within the NPPF have no implications for the determination of this application.

Planning permission 19/02871/FUL, which was later amended under 21/02894/AMCON, has been implemented by virtue of the construction of the building. This application seeks permission to further amend the scheme as set out above, which is the only matter for consideration, with these changes comprising:

- variation of the wording to condition 7 to require operational 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 to follow stated noise management measures.
- removal of condition 15 which secured the timing of movements to the site.
- removal of condition 16 which secured the routing of vehicles to the site.

Impact on the character of the area/design

The design would not be altered as a result of the proposed changes. The proposal was considered to have an acceptable design and visual aspects when determining application 19/02871/FUL and again accepted under 21/02894/AMCON. With no change, the proposal continues to accord 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 the natural environment

- Trees and ecology

The proposed changes would not alter the trees or ecology impacts 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 proposed changes would not alter the flood risk impacts of the approved scheme which remains in accordance with Policy NBE5 of the HLP32.

Impact on neighbouring amenity

Policy GEN01 of the HLP06 considers impacts on residential properties which are affected by new development which seeks to protect amenity from loss of privacy, overlooking or creation of shared facilities. These impacts have previously been assessed as acceptable under reference 19/02871/FUL and remained so under 21/02894/AMCON.

Policy GEN01 contains further criteria relating to amenity, seeking to 'Avoid any material loss of amenity to existing and adjoining residential, commercial, recreational, agricultural or forestry uses, by virtue of noise, disturbance, noxious fumes, dust, pollution or traffic generation'. This requires consideration in association with Policy GEN06 of the HLP06 which only permits proposals where the site is not located as to create, intensify or expand noisy uses or which would generate unsuitable levels of traffic as to have 'a serious adverse effect on the amenities of local housing and other sensitive uses...'. GEN06 provides for development where the 'proposal incorporates adequate noise abatement measures to alleviate any material loss in amenity'.

The HLP32 Policy NBE11 also considers pollution and supports development that does not give rise to unacceptable levels of pollution and where adverse impacts may arise, these can be adequately mitigated.

In considering noise impacts, the NPPF (para. 180) also seeks to ensure that the planning system should avoid the generation of 'unacceptable levels' of noise pollution where this would give rise to 'significant adverse impacts on health and quality of life or harm to areas that are relatively undisturbed by noise.

Concerns have been raised through the representations as to the impact of the development upon the nearest residential properties from additional HGV movements. The nearest properties comprise residential units created from office to residential conversions under permitted development therefore introducing a mixed use of properties in this locality.

The key issue for determination is therefore whether the variation to the conditions (which includes noise management measures), would give rise to a 'serious adverse effect' or 'material loss' in amenity or 'significant adverse impacts' as set out by the development plan policies or the NPPF as the thresholds for consideration.

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 Section 73 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 such as changes in use to nearby buildings.

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 implemented and have subsequently expired. The Note states that it is therefore not 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. The Inspector re-issued a decision on the 12 July 2023 allowing the appeal and granting prior approval for the change of use of the offices to form thirty four flats. As such the LPA cannot discount that Zenith House could be occupied 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, Russin House, Ancells Court and Integration House) are not occupied for residential purposes.

Notwithstanding the above, the Acoustic Design Note identifies that the amendment sought to the conditions would result in 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 dated December 2022.

Turning to condition 7, it is proposed to amend the wording of the condition 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:

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 considered not enforceable and will be removed from the proposed condition wording.

In considering the proposed changes, the increase in ambient noise level of 1dB at night would operate in conjunction with the requirements of condition 7 to secure noise management measures. This gives the Local Planning Authority additional control over the operation of the site whilst also ensuring neighbouring amenity is protected.

With this condition in place, the proposal had been considered to provide sufficient noise measures to alleviate any material loss in amenity and it was considered that there was insufficient evidence to demonstrate that there would be a 'serious adverse effect' (Policy GEN06) or 'significant adverse impacts' (NPPF) upon amenity or on health and quality of life.

Additional information

Planning Committee on 19 April 2023 the application was deferred to allow the applicant to submit additional evidence including:

- Overnight noise from HGVs accessing the site.
- Noise generated by HGVs accessing the site in wet conditions.
- Vibration generated by HGVs accessing the site.
- Volumetrics for different vehicle types.
- Historical safety instances in the local area.

The information provided is considered below.

- **Overnight noise from HGVs accessing the site and noise generated by HGVs accessing the site in wet conditions.**

The Acoustic Design Note (July 2023) provides an assessment of the likely LA_{max} noise levels at residential properties from HGV movements to/from the site based on international guidance set out by the World Health Organisation (WHO) (provided below). This identifies a minimum distance of 14m between an HGV and an open residential window as the threshold at which the noise produced by the HGV1 (at source) would be at a level likely to give rise to the onset of biological effects (as defined by the WHO Night Noise Guidelines).

Based upon the above, there are few properties where windows are closer than 14m to the source line of HGV movements. There are some windows in Oak House and Zenith House located closer than 14m. The closest being at 10m in Oak House and 9m in Zenith House. There are no properties on Ancells Road within 14m of the line of travel of the HGVs.

On the assumption that the closest window is to a bedroom, the outside noise level at 10m would be about 59 dB LA_{max} which, subjectively, is stated to be just barely more audible than the threshold value of 56 dB LA_{max}. This calculated noise level is also 4 dB below the 63 dB LA_{max}, outside that the studies referenced in the WHO document that results in "Waking up in the night and/or too early in the morning".

Table 2: WHO Night Noise Guidelines (part Table 5.1 page 103)

Effect		Indicator	Threshold, dB	Reference (chapter, section)
Biological effects	Change in cardiovascular activity	*	*	3.1.5
	EEG awakening	$L_{Amax, inside}$	35	4.10
	Motility, onset of motility	$L_{Amax, inside}$	32	3.1.8, dose-effect relation for aircraft
	Changes in duration of various stages of sleep, in sleep structure and fragmentation of sleep	$L_{Amax, inside}$	35	3.1
Sleep quality	Waking up in the night and/or too early in the morning	$L_{Amax, inside}$	42	3.1.7, dose-effect relation for aircraft
	Prolongation of the sleep inception period, difficulty getting to sleep	*	*	3.1
	Sleep fragmentation, reduced sleeping time	*	*	3.1
	Increased average motility when sleeping	$L_{night, outside}$	42	3.2, dose-effect relation for aircraft

Table 4: Calculated HGV L_{Amax} levels over distance

Distance (m)	HGV noise level
1	79 dB L_{Amax}
2	73 dB L_{Amax}
3	69 dB L_{Amax}
4	67 dB L_{Amax}
5	65 dB L_{Amax}
6	63 dB L_{Amax}
7	62 dB L_{Amax}
8	61 dB L_{Amax}
9	60 dB L_{Amax}
10	59 dB L_{Amax}
11	58 dB L_{Amax}
12	57 dB L_{Amax}
13	57 dB L_{Amax}
14	56 dB L_{Amax}
15	55 dB L_{Amax}
16	55 dB L_{Amax}
17	54 dB L_{Amax}
18	54 dB L_{Amax}
19	53 dB L_{Amax}
20	53 dB L_{Amax}
21	53 dB L_{Amax}
22	52 dB L_{Amax}
23	52 dB L_{Amax}
24	51 dB L_{Amax}
25	51 dB L_{Amax}
26	51 dB L_{Amax}
27	50 dB L_{Amax}
28	50 dB L_{Amax}
29	50 dB L_{Amax}
30	49 dB L_{Amax}

It should be noted that subjectively, there is a change to the character of noise from vehicle movements when roads are wet; there is a hiss associated with the wheels clearing water from the road. This higher frequency noise is reduced more over distance and when there are intervening structures such as buildings, than the lower frequencies associated with the engine and exhaust noise from the HGVs. An assessment for wet roads would be no different to that for dry roads.

It is also relevant to note that there is no restriction in relation to HGV movements in proximity to Oak House and Zenith House as HGVs are, under the extant planning permission (Ref: 21/02894/AMCON), permitted to access and egress the site via Harvest Crescent.

Given the above, it is concluded that any effect of noise from HGV movements associated with the development on those properties within the 14m distance would be de minimis. The change to the conditions sought would not give rise to a material reduction in residential amenity of those properties, or, in again referring to the NPPF thresholds give 'rise to significant adverse impacts on health and the quality of life'.

It is therefore concluded that, based upon the WHO guidance, noise from the proposed HGV movements at night would not give rise to any material reduction in residential amenity for any property along the vehicles travel route.

- **Vibration generated by HGVs accessing the site.**

A Transport Research Laboratories (TRL report 416, 1999) set out measured levels of vibration from HGVs bumping over speed humps of various designs at speeds of between 10 kph and 50 kph (6.25 mph and 31.25 mph) and concluded, for the ground conditions in the area of the site, that a building must be no further than about 5m for there to be a likelihood of complaint. The report further concluded that the closest distance at which HGV vibration becomes perceptible varied between 4m and 15m.

It must be borne in mind that these are worst case conditions with HGVs bumping over speed humps and therefore, for a flat level road, the distances at which HGV vibration will be likely to give rise to complaint is significantly less.

The Acoustic Design Note (July 2023) also considers vibration associated with HGVs and notes that in order to be perceptible within a residential property, the HGV would need to be within 4m of the property. In addition, bumping over a speed bump would again only be perceived if within 4m of the property. It should be highlighted that there are no speed bumps along Rye Close, Harvest Crescent and Ancells Road.

HGVs accessing the site via Rye Close, Harvest Crescent and Ancells Road would at no point come as close as 4m to any residential property and consequently it is concluded that the Proposed Development will not give rise to any adverse impact on residential amenity associated with HGV vibrations.

- **Volumetrics for different vehicle types**

David Tucker Associates ('DTA') have undertaken a worst case assessment of expected traffic flows for the proposed development by assuming that all of the new

industrial units on the site would operate under a Use Class B8 which are typically associated with higher HGV movements. A summary of the results from DTA's assessment are included below for a 24hr trip generation.

ESTIMATED 24HR TRIP GENERATION											
VEHICLES	IN	OUT	TOTAL	HGVs	IN	OUT	TOTAL	LIGHTS	IN	OUT	TOTAL
00:00-01:00	3	6	9	00:00-01:00	2	2	4	00:00-01:00	2	4	6
01:00-02:00	2	2	4	01:00-02:00	1	1	2	01:00-02:00	1	1	2
02:00-03:00	3	2	5	02:00-03:00	1	1	2	02:00-03:00	1	1	2
03:00-04:00	3	3	6	03:00-04:00	1	2	3	03:00-04:00	1	1	3
04:00-05:00	4	3	7	04:00-05:00	1	1	2	04:00-05:00	3	2	5
05:00-06:00	26	6	32	05:00-06:00	1	1	2	05:00-06:00	25	6	30
06:00-07:00	11	8	19	06:00-07:00	1	1	3	06:00-07:00	9	7	16
07:00-08:00	8	2	10	07:00-08:00	0	0	0	07:00-08:00	8	2	10
08:00-09:00	24	5	29	08:00-09:00	3	2	6	08:00-09:00	21	2	23
09:00-10:00	31	8	39	09:00-10:00	2	0	2	09:00-10:00	29	8	37
10:00-11:00	8	3	11	10:00-11:00	6	1	7	10:00-11:00	2	2	5
11:00-12:00	16	15	31	11:00-12:00	3	6	9	11:00-12:00	13	9	22
12:00-13:00	18	14	32	12:00-13:00	6	3	9	12:00-13:00	13	10	23
13:00-14:00	13	9	22	13:00-14:00	1	1	2	13:00-14:00	11	8	19
14:00-15:00	10	19	30	14:00-15:00	1	1	2	14:00-15:00	9	18	27
15:00-16:00	7	14	21	15:00-16:00	3	1	5	15:00-16:00	3	13	16
16:00-17:00	6	13	18	16:00-17:00	1	2	3	16:00-17:00	5	10	15
17:00-18:00	1	18	19	17:00-18:00	0	3	3	17:00-18:00	1	15	16
18:00-19:00	1	26	27	18:00-19:00	0	0	0	18:00-19:00	1	26	27
19:00-20:00	5	5	10	19:00-20:00	2	2	4	19:00-20:00	3	3	5
20:00-21:00	4	5	9	20:00-21:00	3	1	4	20:00-21:00	1	4	5
21:00-22:00	7	7	13	21:00-22:00	2	2	3	21:00-22:00	5	5	10
22:00-23:00	4	8	12	22:00-23:00	2	2	3	22:00-23:00	2	6	9
23:00-24:00	4	5	9	23:00-24:00	1	2	3	23:00-24:00	3	3	6
24HR	217	207	424	24HR	45	40	85	24HR	172	167	339

Figure 3: Assessed level of traffic trip generation (all B8 uses)

This application addresses only the variation of hours and routing therefore DTA's assessment indicates that there will be 21 HGV trips generated at night with a median flow of 3 HGV trips in an hour. In order to capture the worst-case scenario in the proposed absence of any restriction on HGV routing to/from the site, it has been assumed that all HGV movements will access the site from the south via Ancells Road and egress the site via the same route. On this basis, the removal of condition 15 would not trigger any conflict with Policy NBE11 of the HLP32 given the mitigation provided, nor Policies GEN1 or GEN06 of the HLP06 and is therefore acceptable in neighbouring amenity respects.

Environmental Health have also confirmed within their response that they consider that the amended wording for condition 7 put forward by the applicant is robust and provides sufficient noise mitigation during the potentially more sensitive times of operation for the site. The amended wording restricts the potential external noise arising from the site operations, including limiting loading/unloading activities to the internal loading bays. Broadband noise reversing alarms may form part, but not the only strategy on site for safe reversing, where necessary, and are better than beeper alarms in terms of minimising the chances of nuisance to nearby residential premises. Environmental Health support this approach. Given the proposed restrictions put forward by the applicant in terms of the proposed amendment to condition 7, the applicant has provided an assessment of the potential noise impacts from the development site in the Acoustic Design Note.

In addressing this note, it is considered that the potential noise impacts can be mitigated to an 'acceptable level' which is the threshold set out within Policy NBE11 of the Local Plan, rather than removed in their entirety. Through the planning condition it is considered that there is sufficient mechanism to ensure that the development would not give 'rise to significant adverse impacts on health and the quality of life' which is the high bar set by the NPPF to be evidenced to justify any refusal on noise grounds. The proposal would therefore accord with Policy NBE11 of the HLP32 and Policies GEN01 and GEN06 of the HLP06 and the requirements of the NPPF.

Air Quality

The Air Quality Technical Note (July 2023) considers the risk of potential impacts of road traffic emissions on local air quality as a result of the development vehicle trip generation and change in distribution of development vehicle trips associated with the proposed removal of Condition 16. This confirms that:

- the Site is not located in an AQMA and measured concentrations of NO₂ are well below the NAQOs at the closest monitoring locations to the Site; and
- the trip generation associated with the Proposed Development does not exceed the EPUK / IAQM guidance thresholds, assuming a worst-case vehicle trip distribution that 100% of development traffic routes eastbound along Ancells Road.

The Environmental Health Officer has reviewed the Air Quality Technical Note by Stantec dated July 2023. The report outlines the baseline air quality conditions and estimated annual mean background concentrations. The report highlights that all values are well below the national air quality objectives and are additionally not close to exceeding these objectives. The report also highlights the proposed vehicle trip generation for the site.

In the context of the site not being within an Air Quality Management Area, the criteria for the applicant to provide an Air Quality Assessment are detailed in the report and it is noted that the proposal does not exceed the criteria; as such further assessment should not be required. This is reinforced by the NPPF which only requires development to improve air quality in such designated areas, therefore it is not reasonable to require the submission of further air quality information outside of any Air Quality Management Area where the change in HGV movements fall below levels as to be considered 'not significant'.

It is therefore concluded that the removal of Condition 16 would not have the potential to result in any significant adverse air quality impacts.

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.

The Transport Assessment prepared for the previous planning applications for the site demonstrated that the redevelopment proposals would result in a significant reduction in vehicle traffic generation when compared to the extant use of the site.

Consequently, it was concluded that the proposals would not have a detrimental impact on highway capacity nor road safety and accorded with the development plan.

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 in the context of highway movements.

In terms of HGV traffic specifically, forecasts were provided by TPHS to inform the original noise assessment work. It was estimated that a total of 44 two-way HGV movements per day would be generated by the scheme, with 12 of those movements occurring during the night-time period. Within the data, it was assumed that there would be a circa 50:50 split of traffic east and west along Ancells Road.

A review of the potential HGV trip generation during the night-time period was undertaken by DTA in July 2020. With regard to the 'night' period specifically, DTA forecast that 21 HGV movements could potentially occur between 11pm and 7am, compared to the 12 movements forecast by TPHS originally. These higher figures, were submitted as part of the original 2019 planning application (ref 19/02871/FUL) and were used to inform the updated noise assessment work.

Ancells Road is a lit circa 7.3m wide road which is subject to a 40mph speed limit and is generally unconstrained in terms of HGV access. Footways are set back from the carriageway by a grass verge providing some segregation between pedestrians and vehicular traffic.

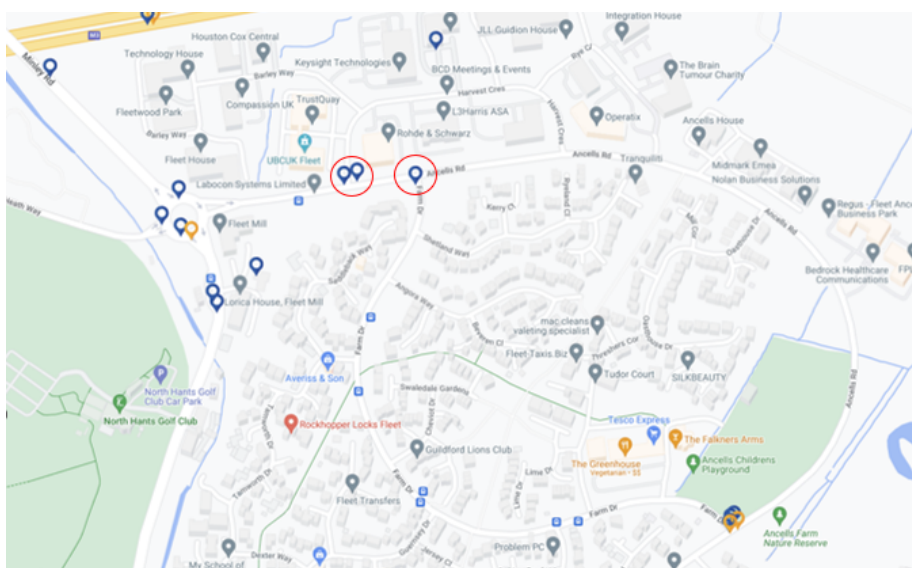
- **Historical safety instances in the local area**

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. This data is provided by CrashMap (www.crashmap.co.uk) which is publicly accessible and provides data of historic incidents going back as far as 1999.

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'. These occurred in May 2018 and October 2019. Neither of the incidents involved vulnerable road users (i.e. pedestrians or cyclists) nor did they involve HGVs. It is also relevant to note that these incidents occurred prior to improvements to the crossing facilities over Ancells Road, Farm Drive and Hanover Drive.

It is relevant to note that both incidents 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.

The Officer has also obtained data from Think Map – Road Safety Analysis which provides data going back until 2013. With the incidents (circled) along Ancells Road, these did not involve vulnerable road users (i.e. pedestrians or cyclists) nor did they involve HGVs.



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 a highway safety issue over and above the existing use of the road.

As previously noted, 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.

It is considered that the trip generation and routing implications associated with the redevelopment scheme, with specific consideration given to the suitability of Ancells Road to accommodate HGV traffic noting Condition 16, there is no reasonable highways technical basis for imposing an HGV routing restriction on Ancells Road. 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.

Other matters

- S106 agreement

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 pursuant to this latest S73 application to ensure the provisions and obligations from the original Section 106 legal agreement are transferred to this application. This was completed on 28 July 2023.

- Relationship to Ancells Park

Concerns have been raised in respect of the proximity of the development to Ancells Park. The Park is situated some 460 metres from the application site set back from Ancells Road some 10 metres. It is highlighted that the play area within the park where children are most like to gather is parallel to Farm Drive, a residential estate road, rather than Ancells Road.

In addition, Environmental Health would not support requiring the applicant to assess potential noise impacts in the playpark, which is considerably beyond the immediate proximity of the site. The playpark is adjacent to an existing road used by existing road users, where the overall volume or type of vehicular movements could change irrespective of any development at the application site. It is not considered to be an appropriate receptor for assessing potential noise impacts from the application site. Matters in respect of air quality and vibration have been covered elsewhere within the report.

Planning Conditions

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, that they are:

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 six tests should not be used. The proposed amendments to the conditions sought within this S73 application are therefore assessed against these tests.

- **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.

Environmental Health have confirmed in their comments that they have reviewed the submitted Acoustic Design Note and therefore consider that the amended wording for condition 7 put forward by the applicant is robust and provides sufficient noise mitigation during the potentially more sensitive times of operation for the site. The amended wording restricts the potential external noise arising from the site operations, including limiting loading/unloading activities to the internal loading bays. Broadband noise reversing alarms may form part, but not the only strategy on site for safe reversing, where necessary, and are better than beeper alarms in terms of minimising the chances of nuisance to nearby residential premises. Environmental Health support this approach. Given the proposed restrictions put forward by the applicant in terms of the proposed amendment to condition 7, the applicant has provided an assessment of the potential noise impacts from the development site in the Acoustic Design Note.

In addressing this note, it is considered that the potential noise impacts can be mitigated to an ‘acceptable level’ which is the threshold set out within Policy NBE11 of the Local Plan, rather than removed in their entirety. Through the planning condition it is considered that there is sufficient mechanism to ensure that the development would not give ‘rise to significant adverse impacts on health and the quality of life’ which is the high bar set by the NPPF to be evidenced to justify any refusal on noise grounds.

Should it be alleged that the terms of the condition are not being followed then this would be a matter for planning enforcement to consider.

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.

- **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 submitting and gaining approval for a noise management plan thus according with policies of the development 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 ensuring that the development accorded with relevant policies of the development plan.

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.

- **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 and ensures accordance with the development plan.

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 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.

- **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 also 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.

- **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.

- **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 also considered reasonable to ensure that neighbouring amenity is preserved during the operations and 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.

CONCLUSION

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 fail 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

<u>Previous permission</u> <u>21/02894/AMCON</u>	<u>S73 suggested conditions</u>
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
7 – noise management plan	7 – noise management plan to be re-worded
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 – operating times	15 – HGV – operating times to be removed
16 – HGV - route	16 – HGV – route to be removed
17 – noise attenuation scheme	15 – noise attenuation scheme

RECOMMENDATION – GRANT subject to planning conditions

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 – drawing no 19203 P0001 B
Site Layout – drawing no 19203 P0005 F

Transport Note (DYA Transportation Limited), Acoustic Design Note (AAD, ref: 19179/007/js/a), Acoustic Design Note (AAD, ref: 19179/008/js/a) dated 12th July 2023.

Plans and documents from 21/02894/AMCON:

Proposed Building Plan – drawing no P1001 Rev C
Proposed Unit 1a Office Layouts – drawing no P1002 Rev C
Proposed Unit 1b Office Layouts – drawing no P1003 Rev C
Unit 1c - Office Layouts – drawing no P1004 Rev C
Proposed Elevations & Sections – drawing no P1005 Rev C
Proposed Roof Plan – drawing no P1006 Rev C
Proposed External Finishes – drawing no P0006 Rev D
Cycle Shelter and Bin Store Layout/Elevations – drawing no P0008 Rev D
Illustrated Landscape Strategy Proposals Plan – drawing no 773-LA-P-01 Rev B
Tree Retention Scheme – drawing no SK0004 Rev C
Proposed Tracking Layout – drawing no SK0005 Rev C
Proposed Site Accesses with Visibility Envelopes – drawing no TPHS/188/DR/001 Rev A
External Lighting Layout – drawing no DR-E-600 P1
External Light Spill Luxplot – drawing no DR-E-601 P1
Proposed Drainage Layout – drawing no 21056-BGL-XX-XX DR-S-00210-C2
Proposed Flow Exceedance Plan – drawing no 21056-BGL-XX-XX DR-S-00211
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 in accordance with Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies.

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 Policy NBE5 of the Hart Local Plan (Strategy and Sites) 2032 and Policy 10 of the Fleet Neighbourhood Plan 2018-2032.

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 Policy NBE11 of the Hart Local Plan (Strategy and Sites) 2032 and Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies.

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 Policy NBE11 of the Hart Local Plan (Strategy and Sites) 2032 and Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies.

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 Policies NBE9 and INF2 of the Hart Local Plan (Strategy and Sites) 2032, Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies and Policy 10 of the Fleet Neighbourhood Plan 2018-2032.

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 Policy NBE11 of the Hart Local Plan (Strategy and Sites) 2032, Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies and Policy 10 of the Fleet Neighbourhood Plan 2018-2032.

8. Prior to first 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. The development shall thereafter be operated in accordance with the approved Refuse Storage and Collection Management Plan.
- REASON: To ensure adequate refuse storage areas and management is provided and to satisfy Policies NBE9 and INF3 of the Hart Local Plan (Strategy and Sites) 2032.

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (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):

- Class E(g)(ii) - research and development of products or processes
- Class E(g)(iii) - industrial processes, being a use which can be carried out in a residential area without detriment to its amenity
- Class B2 - general industrial, use for industrial process other than one falling within class E(g) (previously class B1); and
- Class 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) 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 in accordance with Policy ED1 of the Hart Local Plan 2032.

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 Policy NBE9 of the Hart Local Plan (Strategy & Sites) 2032, Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies and Policy 10 of the Fleet Neighbourhood Plan 2018-2032.

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 Policy INF3 of the Hart Local Plan (Strategy and Sites) 2032, Saved Policy GEN01 of the Hart Local Plan (Replacement) 1996-2006 and Policy 10 of the Fleet Neighbourhood Plan 2018-2032.

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 Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies.

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.

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

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 (Replacement) 1996-2006 Saved Policies.

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 Policy NBE11 of the Hart Local Plan (Strategy and Sites) 2032 and Saved Policy GEN1 of the Hart Local Plan (Replacement) 1996-2006 Saved Policies.

Informatives

1. The applicant's attention is drawn to the fact that the above conditions (if any), must be complied with in full, failure to do so may result in enforcement action being instigated.
2. 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.
3. In accordance with paragraph 38 of the National Planning Policy Framework (NPPF) in dealing with this application, the Council has worked with the applicant in the following positive and creative manner by seeking further information following receipt of the application and considering the imposition of conditions. In such ways the Council has demonstrated a positive and proactive manner in seeking solutions to problems arising in relation to the planning application.