



Appeal Decision

Hearing Held on 9 January 2024

Site visit made on 8/9 January 2024

by John Wilde C. Eng M.I.C.E.

an Inspector appointed by the Secretary of State

Decision date: 16th February 2024

Appeal Ref: APP/Y3940/W/23/3328710

Land to the north of Horton Road, south of London Road, and west of Wellington Drive, Devizes.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Berkley Strategic Land Ltd against the decision of Wiltshire Council.
 - The application Ref PL/2022/00977, dated 1 February 2022, was refused by notice dated 27 April 2023.
 - The development proposed is up to 25000 Sqm of Use Classes B2 (General Industrial), B8 (Storage and Distribution) and E (Commercial, Business and Service) (g) (i-iii), with landscaping and associated infrastructure.
-

Decision

1. The appeal is allowed and planning permission is granted for up to 25000 Sqm of Use Classes B2 (General Industrial), B8 (Storage and Distribution) and E (Commercial, Business and Service) (g) (i-iii), with landscaping and associated infrastructure at Land to the north of Horton Road, south of London Road, and west of Wellington Drive, Devizes, in accordance with the terms of the application, Ref PL/2022/00977, dated 1 February 2022, subject to the conditions contained within the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by Berkley Strategic Land Ltd against Wiltshire Council. This application is the subject of a separate Decision.

Procedural matters

3. The application was made in outline with access to be assessed at this stage. Appearance, landscaping, layout and scale are reserved for future determination.
4. The original planning application was for up to 30000 Sqm of development. However, during the Council's determination of the application, the quantum was reduced to 25000 Sqm. This is reflected in the Statement of Common Ground (SOCG) and was the revised quantum that the Council made their decision on. Consequently I have used the lower figure in the header to this decision.

5. I undertook a visit to the site and its surroundings on the afternoons of 8 and 9 of January. Both of these visits were unaccompanied, the second with the approval of both main parties.
6. A signed SOCG dated 20 November 2023, was provided by the main parties. Subsequent to this the Council indicated to the appellant that they were in favour of a further SOCG relating specifically to highway issues. The draft version of this document provided by the appellant referred to, amongst other things, concerns relating to the appellant's use of the TRICs database.
7. The appellant strongly resisted this and at the Hearing I ruled that such evidence was inadmissible on the grounds that (1) no indication was given of this in the reason for refusal, (2) the agreed SOCG stated that the disagreement relating to the transport and highway impact concerned the location of the proposed access, with no specific mention being made of the trip generation (3) the Council's own Transport statement to the Hearing, prepared by Carl Tonks Consulting stated that, whilst it considered that the trip generation forecasts had been over-complicated, the differences were *not significant* and *need not take up further time in the appeal* and (4) that no mention was made of trip generation at the Eastern Area Planning Committee meeting of 20 April where Councillors voted to refuse the application.
8. I also note that the application had been recommended for approval by officers, the indication therefore being that the trip generation was not a concern for the Council's highway officers.
9. On the 19 December 2023 the Government published an updated version of the National Planning Policy Framework (the Framework). In light of this I received an email on 5 January 2024 that confirmed that both main parties considered that the changes made to the Framework were not pertinent to the appeal and that therefore both parties were content to rely on their previously supplied statements of case.

Main Issues

10. The main issues, as agreed at the Hearing, are, whether or not:-
 - a) the proposed development has come about as part of a masterplan approach
 - b) the proposed access to the site would be in a suitable location with particular respect to
 - i. its status,
 - ii. the character of the area,
 - iii. the effect on highway safety and
 - iv. the effect on air quality

Reasons

11. The appeal site is listed as a strategically important site in Core Policy 2 of the Wiltshire Core Strategy (CS). The policy requires that such sites should be developed through a Masterplan approach. This in turn requires that the

requirements within a development template are met. This approach is mirrored within Core Policy 12.

Masterplan – points of access

12. A development template for the site was completed by the appellant. It became clear during the Hearing that the Council's concern with the completed template came under the heading of Transport, and was that an assessment of the most appropriate points of access to the site had not been undertaken.
13. However, Technical Note 1 (TN1), prepared by WSP on behalf of the appellant and dated 4 July 2022 states that several assessments were undertaken as part of the site appraisal to identify a suitable access. TN1 goes on to look at various options, including access from the A361. Firstly the TN1 outlines the constraints involved in providing an access off the A361. These include the short frontage of the appellant's land, the existing central island and the fact that any access at this point would require the upgrading and inclusion of the existing junction with Waller Road. TN1 looks at the possibility of a signal junction and roundabout connections to the A361, including a three arm 34m ICD roundabout that would require land owned by the Police Authority (PA). This latter junction would have been possible with the extra land, but TN1 makes clear that this would introduce an extra junction on a strategic corridor which would have implications on capacity.
14. From the evidence before me I can only conclude that an assessment of the most appropriate points of access has been undertaken.

Masterplan – whole site

15. The Council's other concern relating to master planning was that the appeal site does not contain the whole of the strategically important site. However, the appeal site amounts to just over 90% of the whole site. The remaining area is owned by the PA and the appellant had made efforts to come to an agreement with the PA, however this was not forthcoming.
16. Nonetheless, while developing the whole of the site could be seen as the ultimate outcome, there is nothing in Core Policies 2 or 12 that stipulate that the whole site should be brought forward at the same time. It does however seem to me that the appellant has made reasonable efforts to achieve this, as evidenced by a letter dated 4 January 2022 from the appellant to Wiltshire Police, which demonstrates the willingness of the appellant to progress a joint application.
17. I also note that the proposed scheme would allow for an access to/from the PA land and that therefore any future scheme on this remaining small portion of the site could be allied to the current proposal. Developing over 90% of an allocated site seems to me to be preferable to seeing the whole site lying undeveloped for the foreseeable future.
18. In arriving at this conclusion I am aware of the efforts of Council members in trying to achieve a scheme for the whole site, up to and including the present time. However, I have to conclude on the scheme before me and cannot give weight to what may or may not transpire in the future.
19. On the issue of whether or not the proposed development has come about as part of a masterplan approach, I conclude that the appellant has complied with

the requirements and that therefore no conflict exists with Core Policies 2 or 12.

Suitable location - status

20. The proposed access would be from Horton Road. This is a two-way single carriageway road with a width varying from about 6.5m to 8.0m. Whilst Horton Road is a lesser category road than the A361, it is nonetheless still a distributor road with no dwellings accessed directly off of it in the area of the proposed access. Currently the road has a footway to the south and a speed limit of 50mph. Given that it is a distributor road and with a lack of evidence to show why such a classification would make it unsuitable to provide access to the site, I can only conclude that it would be of suitable status to provide access. There would therefore be no conflict with Core Policy 65 which seeks to ensure, amongst other things, that HGVs use roads where a minimum of community and environmental impact would be achieved.

Suitable location - character

21. Horton road has several housing estates to the south of the appeal site and a small residential development (Wellington Drive) to the east. Beyond Wellington Drive Horton Road becomes more rural as it gives access to a variety of villages.
22. However, the section of Horton Road between the junction with the A361 and Wellington Drive cannot be described as rural. Furthermore, there is a wide grassed buffer between the houses to the south and the road itself, which to my mind precludes the road from been classified as residential. The road already takes a certain amount of HGVs and other nonprivate car traffic and I have little evidence before me to show that the presence of the proposed access and its associated traffic would significantly change the character or functionality of the road.
23. There would therefore be no conflict with Core Policy 57 of the CS. This policy seeks to ensure, amongst other things, that proposals make efficient use of land whilst taking account of the characteristics of the site and the local context.

Suitable location - safety

24. Currently there is a footway along the south of Horton Road. The proposed scheme would result in a new length of footway on the north side of the road from east of Corn Croft Lane into the proposed access. This footway would be served by a new bus shelter and would be connected to the south of the road by a new Toucan Crossing. Furthermore, the kerb line at the roundabout where Horton Road joins the A361 would be improved to facilitate the turning of HGVs into Horton Road such that they wouldn't transgress into the face of oncoming traffic.
25. I also note that as part of the Transport Assessment undertaken by WSP on behalf of the appellant, a Stage 1 Road Safety Audit was undertaken. This identified a number of issues in relation to the original site access proposals which were then taken into consideration in preparing an updated access arrangement.

26. The Transport Assessment undertaken by WSP on behalf of the appellant identifies several slight injury accidents in the vicinity of the appeal site. However the causation factors indicate that these were due to a lack of care rather than highways conditions or design, and I consider that the proposed improvements will facilitate an improvement in highway safety.
27. Overall, whilst I understand the concern of local residents, the evidence before me leads me to conclude that the proposed scheme would not prejudice highway safety.

Suitable location – air quality

28. The appeal site lies adjacent to an Air Quality Management Area (AQMA) which follows the line of the A361. Core Policy 55 requires that all development which would have the potential to exacerbate known areas of poor air quality is required to demonstrate the measures that will be taken to mitigate any impacts.
29. An Air Quality Assessment (AQA) was undertaken by WSP on behalf of the appellant in January 2022. This concluded that the proposed scheme would cause a small increase in pollutant concentrations at most of the assessment receptors but would not cause any exceedances of the statutory objectives, and a series of mitigation measures was included within the AQA. Furthermore I note that the issue of air quality was considered in the allocation of the site and was subjected to strategic assessment as part of the Core Strategy adoption. I also note that the Council's Environmental Health Officer raised no objections.
30. In light of these factors I conclude that the proposed development would not have a significantly adverse effect on air quality and would therefore comply with Core Policy 55 which requires that development proposals demonstrate that measures can be taken to effectively mitigate emission levels in order to protect public health, environmental quality, and amenity.

Other matters

31. The Council questioned the appellant's base traffic flows and noted that the appellant has relied on various sources of historic and manufactured data to produce their traffic data. This was due to the Covid pandemic and the national lockdowns which resulted in unrepresentative traffic conditions. The appellant utilised local outputs from the Wiltshire Strategic Traffic Model and the Council now consider that validation calculations should have been undertaken as well as new surveys being carried out when traffic levels returned to 'normal'.
32. However, the traffic figures utilised were the Council's own figures from its strategic model and the Council's own Highways Officers had already confirmed that *the LHA are accepting of the use of the newly designed access and Horton Road for access*. It seems to me that the appeal should not turn on an issue that has been previously accepted, and, more importantly, subsequent to a reason for refusal and SOCG, neither of which made specific mention of the issue.

Section 106

33. I have been supplied with a signed Section 106 agreement, dated 19 January 2024, that would secure various contributions to mitigate the proposed development. These include a Biodiversity Offset Contribution, a Devizes Transport Strategy Contribution, a Traffic Regulation Order Contribution and a Travel Plan Monitoring Fee. These contributions are agreed by the appellant and the Council have provided me with a Community Infrastructure Levy (CIL) compliance statement and a further note, that detail the policy derivation and justification for these contributions.
34. CIL regulation 122 makes clear that it is unlawful for a planning obligation to be taken into account in a planning decision on a development that is capable of being charged CIL if the obligation does not meet all of the following tests. These are that the obligation is necessary to make the development acceptable in planning terms, is directly related to the development, and is fairly and reasonably related in scale and kind to the development.
35. From the information provided to me, I conclude that the contributions accord with the three tests above, and therefore I can take the S106 into account in arriving at my decision.

Conditions

36. The conditions that I have imposed are taken from the SOCG and also informed by discussion at the Hearing. To protect the amenity of neighbours I have imposed conditions requiring the submission of a Construction Method Statement, a scheme of Acoustic Insulation, a scheme for the control and dispersal of atmospheric emissions, details of outdoor lighting, and a further condition restricting the hours of working.
37. In the interests of ecology and biodiversity I have imposed conditions requiring the submission of a Construction Environmental Management Plan and a Landscape and Ecology Management Plan, and further conditions requiring that mitigation measures to protect protected species are carried out and that tree and hedge protection measures are put in place.
38. To ensure highway safety I have imposed conditions relating to the improvement of the Horton Road/London Road roundabout, the construction of the footway/cycleway along Horton Road, the construction of the site access and the proposed Toucan crossing and the construction of suitable footway/cycleways and roads within the proposed development.
39. To prevent future flooding I have imposed a condition requiring a sustainable drainage scheme and in the interests of the final appearance of the scheme I have imposed conditions relating to the external materials of the proposed buildings, and the landscape buffer. To protect users of the site and neighbouring residents I have imposed a condition requiring an investigation to determine the likelihood of ground contamination. For reasons of sustainability I have imposed a condition requiring the production of a Green Travel Plan. I have imposed a condition to ensure that the development is utilised in the intended way and lastly, for certainty I have imposed a condition detailing the submitted drawings.

Conclusion

40. I am conscious that most local residents would prefer to see the access to the proposed site from the A361 and are concerned with various aspects of the proposal. However, I have found that the proposed development would be in accordance with Core Policies 2, 12, 55, 57 and 65 and nothing in the submitted evidence leads me to a conclusion other than to allow the appeal. Therefore, in light of the above and having had regard to all other matters raised, I conclude that the appeal should be allowed.

John Wilde

INSPECTOR

Schedule of Conditions

- 1) Prior to the submission of any applications for approval of the matters reserved under this consent there shall have been submitted to and approved in writing by the local planning authority a Masterplan for the development of the site as a whole that includes:
 - a) An outline layout plan for the development clearly identifying the various phases of the development (each a Zone) within the site,
 - b) The maximum building heights to be developed within each Zone,
 - c) The maximum building floorspace within each Zone,
 - d) The uses and floor space of uses within each Zone,
 - e) Outline details of the units to be provided for small and start-up units and 'follow on' space
 - f) Indicative details of areas of landscaping to be provided within, between and outside each Zone,
 - g) Sequencing and timing for the development of each Zone, including provision of the access roads and footways to each Zone,
 - h) The sequencing of development for the completion of the footpath around the site and the area of recreation/ amenity land and landscape buffers as shown on the Illustrative Land Use Plan (21-056-SGP-SITZZ- DR-A- 131002 / P05),
 - i) The maximum impermeable areas within each Zone (to inform the sitewide drainage strategy),
 - j) Maximum roof areas within each Zone and identification of the location for a minimum 10% of the total roofing as green/ brown roofing,
 - k) Details of roof designs/ locations to be incorporated in the development (e.g. such as curved roofing) with reference to the submitted Design & Access Statement Addendum (September 2022),
 - l) Identifying potential future connections into the adjoining 'skid pan' site as shown on the Illustrative Comprehensive Masterplan (21-056-SGPSIT- ZZ-DR-A- 131005 / P08)
 - ii) The subsequent reserved matter applications shall be in accordance with the so-approved details.
- 2) Application for approval of the reserved matters for all zones shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development on each zone shall be begun either before the expiration of 3 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved for that zone, whichever is the later.
- 4) No development shall commence on any zone until details for that zone of the following matters (in respect of which approval is expressly reserved) have been submitted to and approved in writing by, the local planning authority: external appearance, landscaping, layout, and scale. The development of each zone shall not be carried out other than in accordance with the approved details.

- 5) All applications for the approval of the Reserved Matters shall be in broad accordance with the principles described and illustrated in the approved Design and Access Statement Addendum (September 2022).
A Design Compliance Statement shall be submitted with each Reserved Matters application which demonstrates this by way of comparison.
- 6) Applications for approval of reserved matters for each Zone shall demonstrate compliance with the local planning authority's adopted car parking standards, and shall include full details of:
 - a) land use,
 - b) floor area,
 - c) vehicle trip generation and parking accumulation
 - d) space needed to accommodate stopping, parking, loading/unloading and manoeuvring of commercial or other vehicles.
- 7) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 21-056-SGP-SIT-ZZ-DR-A-131000/P01, Existing site plan 21-056-SGP-SIT-ZZ-DR-A-130000/P01, Development Framework Plan 21-056-SGP-SIT-ZZ-DR-A-131004/P06.
- 8) All applications for the approval of reserved matters will demonstrate how they have regard to the following submitted documents:
Flood Risk Assessment & Drainage Strategy: 6639-FRA-001 Rev. 3
Landscape Strategy Plan: 7629/ASP3 Rev. D
Design & Access Statement Addendum: September 2022
Air Quality Assessment: Rev. 02
Noise Impact Assessment: 70086639-108-01 Revision 2 (Oct. 2022)
Energy & Sustainability Statement
Ecological Impact Assessment & appendices: 2090.84 October 2022
Ecological Parameters Plan (Figure 1 to the above) Arboricultural Impact Assessment: 11097_AIA.001 and how they conform to the Masterplan to have been approved beforehand under condition 1 above.
- 9) No development shall commence on site until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS shall include details of the measures that will be taken to reduce and manage the emission of noise, vibration and dust during the demolition and/or construction phase of the development and it shall include details of the following:
 - a) an introduction consisting of definitions and abbreviations and project description and location,
 - b) a description of management responsibilities,
 - c) a description of the construction programme,
 - d) construction vehicle routeing,
 - e) construction staff and visitor vehicle parking areas within the site,
 - f) local road cleaning arrangements,
 - g) measures to prevent excessive mud and dust being deposited on the public highway,

- h) site working hours and a named person for residents to contact,
 - i) site logistics arrangements,
 - j) details regarding deliveries and storage; including delivery hours, and welfare facilities on site,
 - k) details regarding dust and noise mitigation,
 - l) the recycling of waste materials,
 - m) the loading and unloading of equipment, plant and materials,
 - n) the location and use of any generators or other fixed plant,
 - o) where piling is required this must be continuous flight auger piling wherever practicable to minimise impacts,
 - p) the erection and maintenance of security hoarding/ fencing, and
- The construction of the development will be carried out fully in accordance with the so-approved construction method statement.

10)

Prior to the commencement of works, including ground works/excavation, site clearance, vegetation clearance and boundary treatment works, a Construction Environmental Management Plan (CEMP) shall have been submitted to and approved in writing by the local planning authority. The CEMP shall provide details of the avoidance, mitigation and protective measures to be implemented before and during the construction phase, including but not necessarily limited to, the following:

- a) Identification of ecological protection areas/buffer zones and tree root protection areas and details of physical means of protection, e.g. exclusion fencing.
 - b) Working method statements for protected/priority species.
 - c) Mitigation strategies already agreed with the local planning authority prior to determination; this should comprise the pre-construction/construction related elements of strategies only.
 - d) Work schedules for activities with specific timing requirements in order to avoid/reduce potential harm to ecological receptors; including details of when a licensed ecologist and/or ecological clerk of works (ECoW) shall be present on site.
 - e) Key personnel, responsibilities and contact details (including Site Manager and ecologist/ECoW).
 - f) Timeframe for provision of compliance report to the local planning authority; to be completed by the ecologist/ECoW and to include photographic evidence.
- iii) Development shall be carried out in strict accordance with the approved CEMP.

11) Prior to the commencement of the development, a Landscape and Ecology Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include long term objectives and targets, management responsibilities and maintenance schedules for each ecological feature within the development, together

with a mechanism for monitoring success of the management prescriptions, incorporating review and necessary adaptive management in order to attain targets.

The LEMP shall also include details of the legal and funding mechanism(s) by which long-term implementation of the plan will be secured.

The LEMP shall be implemented in full and for the lifetime of the development in accordance with the approved details.

- 12) Prior to commencement of development, full design and construction details of improvements to the Horton Road/ London Road roundabout, in general accordance with drawing HOR-WSP-ZZ-ZZSK-C-0001 PO2, shall be submitted to and approved by the Local Planning Authority.

There shall be no occupation of any part of the development until the so-approved improvements have been completed in full accordance with the so-approved details.

- 13) Prior to the commencement of development and notwithstanding the submitted details, full design and construction details of LTN 1/20 compliant footway/cycleways alongside Horton Road shall be submitted to and approved by the Local Planning Authority.

There shall be no occupation of any part of the development until the footway/cycleway has been completed on the north and south sides of Horton Road as illustrated on submitted drawing HORWSP-ZZ-ZZ-SK-C-0002 PO4; on the south side commencing at the location of the Toucan Crossing and extending to a point 19m to the west of Bluebell Walk path.

- 14) Prior to the commencement of development, full construction details of the access arrangements, including ghost island turning lane, toucan signal controlled pedestrian crossing and bus shelter in broad accordance with drawing HOR-WSP-ZZ-ZZ-SK-C-0002 P04, shall be submitted to and approved by the Local Planning Authority.

There shall be no occupation of any part of the development until the access arrangements, including ghost island turning lane, toucan signal controlled pedestrian crossing and bus shelter have been completed in full accordance with the so-approved details.

- 15) No site clearance, or preparatory laying of services or formation or alteration of a means of access shall commence on site, until mitigation measures in respect of protected species have been implemented in full accordance with the recommendations of the submitted Ecology Impact Assessment (October 2022) and Appended documents.

The development shall be carried out in full accordance with the recommendations of the submitted Ecology Impact Assessment (October 2022) and Appended documents.

- 16) Within each Zone, no site clearance, or preparatory laying of services or formation or (where applicable) alteration of a means of access shall commence within that Zone, until tree and hedge protection measures have been put in place in full accordance with the recommendations of the approved Arboricultural Impact Assessment (AIA).

The protection measures shall be erected and maintained throughout the construction phase of the relevant Zone in accordance with the approved AIA, and the works shall be carried out in full accordance with the recommendations of the approved AIA.

If any retained tree is removed, uprooted, destroyed or dies within 5 years from the commencement of the development, another tree shall be planted at the same place, at a size and species and planted at such time as must first be agreed in writing with the local planning authority.

- 17) No development shall commence on the site until a scheme in relation to the landscape buffer along the boundary of the site (as shown on the Masterplan approved in accordance with Condition 1) has been submitted to and approved in writing by the local planning authority, the details of which shall include:
- a) location and current canopy spread of all existing trees and hedgerows within the landscape buffer ;
 - b) full details of any such trees and hedgerows within the landscape buffer to be retained, together with measures for their protection in the course of development;
 - c) a detailed planting specification and plan/s showing all plant species, supply and planting sizes and planting densities to be planted within the landscape buffer;
 - d) details of phasing of the works.
 - ii) No development within a Zone shall commence until a scheme of hard and soft landscaping for areas within that Zone has been submitted to and approved in writing by the Local Planning Authority, details of which shall include:
 - e) finished levels and contours;
 - f) means of enclosure;
 - g) other pedestrian access and circulation areas;
 - h) all hard and soft surfacing materials;
 - i) minor artefacts and structures (e.g. furniture, play equipment, refuse and other storage units, signs, lighting etc);
 - j) proposed and existing functional services above and below ground (e.g. drainage, power, communications, cables, pipelines etc indicating lines, manholes, supports etc);
 - k) retained historic landscape features and proposed restoration, where relevant.
- 18) All soft landscaping as approved under the condition above shall be carried out in the first planting and seeding season following commencement of development in the case of the landscape buffer and following the first occupation of any building within a Zone of the development in the case of soft landscaping to be provided within that Zone , or otherwise in accordance with such phasing as may be approved the condition above.

All shrubs, trees and hedge planting shall be maintained free from weeds and shall be protected from damage by vermin and stock.

Any trees or plants which, within a period of five years, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless otherwise agreed in writing by the local planning authority.

All hard landscaping as approved under the condition above shall also be carried out in accordance with the approved details prior to the occupation of any part of the development or in accordance with a programme to be agreed in writing with the local planning authority.

- 19) No development of buildings in any Zone shall take place above ground floor slab level until full details and samples of the materials to be used for the external walls and roofs for that part of the development have been submitted to and approved in writing by the local planning authority.

Development within a Zone shall not be carried out other than in accordance with the approved details for that Zone.

- 20) No development within a Zone shall commence on site until a Scheme for the discharge of surface water from that Zone based upon the principles and hierarchy of sustainable drainage has been submitted to and approved in writing by the Local Planning Authority.

No part of the development within a Zone shall be first occupied until surface water drainage for that Zone has been constructed and provided in accordance with the so-approved scheme.

- 21) There shall be no occupation of any part of the development until full details of a LTN1/20 compliant cycle and pedestrian path to be provided on the site to be constructed to Wiltshire Highways adoptable standards, have been submitted to and approved in writing by the local planning authority.

The path will include a link to connect directly into the internal site road, Horton Road and Public Footpath BCAN6, in general accordance with drawing 21-056- SGPSITZZ-DR-A-131001 / P04.

There shall be no occupation of any part of the development until the path has been constructed and made available for public use in accordance with the so-approved details, and it has been offered for adoption as public highway. iii) Until adopted, the path shall remain available for use by the public at all times.

- 22) No development shall commence on site until an investigation of the history and current condition of the site to determine the likelihood of the existence of contamination arising from previous uses (including asbestos) has been carried out and all of the following steps have been complied with to the satisfaction of the Local Planning Authority:

Step (i) - A written report has been submitted to and approved by the Local Planning Authority which shall include details of the previous uses of the site and any adjacent sites for at least the last 100 years and a description of the current condition of the sites with regard to any activities that may have caused contamination. The report shall confirm whether or not it is likely that contamination may be present on the site and the potential impact of any adjacent sites.

Step (ii) - If the above report indicates that contamination may be present on, under or potentially affecting the proposed development site from adjacent land, or if evidence of contamination is found, a more detailed site investigation and risk assessment should be carried out in accordance with DEFRA and Environment Agency's "Model Procedures for the Management of Land Contamination CLR11" and other authoritative guidance and a report detailing the site investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority.

Step (iii) - If the report submitted pursuant to step (i) or (ii) indicates that remedial works are required, full details must be submitted to the Local Planning Authority and approved in writing and thereafter implemented prior to the commencement of the development in the affected Zone or in accordance with a timetable that has been agreed in writing by the Local Planning Authority as part of the approved remediation scheme. On completion of any required remedial works the applicant shall provide written confirmation to the Local Planning Authority that the works have been completed in accordance with the agreed remediation strategy.

- 23) No deliveries shall be made to or collections made from the development hereby permitted except between the hours of 07:00hrs and 23:00hrs.

No operations, including loading and unloading, shall take place anywhere on the development hereby approved between the hours of 23:00hrs and 07:00hrs except within buildings.

Commercial vehicles, including forklift trucks, shall only be started up, manoeuvred, operated, loaded or unloaded outside the buildings between the hours of 07:00hrs and 23:00hrs.

- 24) Before the occupation of each individual building, a Scheme of Acoustic Insulation and Noise Control for that building shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall demonstrate the rating level (LArTr) of sound emitted from all fixed machinery, plant and processes associated with the unit shall be no greater than the noise levels set out in the Noise Limits table included at section 4.3.3 of WSP Noise Impact Assessment Project No. 70086639-108, October 2022, for properties on the south side of Horton Road and properties along Wellington Drive.

The measurements and calculations shall be made in accordance with the methodology of BS4142:2014 +A1:2019. The assessment position will be at the boundary of the nearest noise sensitive receivers.

The Scheme shall include provision for a post installation noise assessment to be carried out within 3 months of completion of the individual building to confirm compliance with the noise criteria above, and for any additional steps required to achieve compliance with the criteria specified in part (i) of this condition shall be taken as necessary. The Scheme shall provide for full details of any such additional steps and the results of the post-installation noise assessment to be submitted in writing to the local planning authority prior to first use of the building.

The approved Scheme shall be implemented in full before first use of the relevant building and the Scheme shall be so-maintained and operated at

all times thereafter so as to comply with the noise criteria specified in part (i) of this condition.

- 25) No extraction systems that disperse emissions from industrial processes to the atmosphere shall be fitted to any building as hereby permitted until a scheme of works for the control and dispersal of atmospheric emissions, in particular dust, odours, fumes, smoke and other particulates, has been submitted to and approved in writing by the Local Planning Authority.

Any so- approved Scheme shall be implemented in full before the unit is first brought into use and shall be maintained in effective working condition at all times thereafter.

- 26) Prior to first occupation of any Zone a Lighting Scheme for that Zone shall be submitted to and approved in writing by Local Planning Authority in accordance with the Institute of Lighting Professionals Guidance notes for the reduction of obstructive light.

The Scheme must be designed by a suitably qualified person in accordance with the recommendations for environmental zone E3 in the ILP document "Guidance notes for the reduction of obtrusive light" (reference 01/20).

Before the approved lighting Scheme, and the relevant Zone is brought into use , there shall have been submitted in writing to the local planning authority an assessment report of a suitably qualified member of the Institute of Lighting Professionals conforming that the lighting Scheme as installed conforms to the standard specified in part (i) of this condition.

The Scheme shall thereafter be permanently retained and maintained and operated so as to conform to the standard specified in part (i) of this condition, and no other external lighting shall be installed within that Zone, or in any areas outside the Zones identified pursuant to the conditions above.

- 27) No part of any Zone shall be brought into use until a Green Travel Plan for the uses within that Zone, in broad accordance with the submitted Framework Travel Plan, has been submitted to and approved in writing by the Local Planning Authority.

The Travel Plan for each Zone shall include details of implementation, monitoring and review and shall be implemented in accordance with the so-approved details.

The results of the implementation and monitoring for each Green Travel Plan shall be made available to the Local Planning Authority on request, together with any changes to the plan arising from those results.

- 28) No development shall commence on site of any identified Zone until details of the roadways, footways, footpaths, verges, junctions, street lighting, visibility splays, including the timetable for the provision and phasing of such works in relation to each Zone have been submitted to and approved in writing by the Local Planning Authority.

The relevant Zone shall not be occupied until the relevant roadways, footways, footpaths, verges, junctions and street lighting for that Zone have been constructed and laid out in accordance with the approved details, unless an alternative timetable is agreed in the approved details.

- 29) Notwithstanding the provisions of Section 55(2)(f) of the Town and Country Planning Act 1990, Article 3(1) of the Town and Country Planning (Use Classes) Order 1987, and Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any equivalent provisions in any Act or statutory instrument revoking or reenacting the Act or Orders with or without modification), the development shall be used solely for purposes of Use Class B2 (General Industrial), Use Class B8 (Storage and Distribution) and Use Class E (Commercial, Business and Service) (g) (i-iii). The development shall not be used at any time for any other purposes (including any other purposes in the above Use Classes).

The level of floorspace provided under this permission for storage or distribution purposes within Use Class B8 (ie when not ancillary to B2 or E uses) shall not exceed 80% of the gross floorspace of the development (as identified pursuant to condition 1 above), or 10,000 square metres, whichever is the larger.

APPEARANCES

FOR THE APPELLANT:

Mr Steven Sensecall	Carter Jonas
Ms Katherine Jones	Carter Jonas
Mr David Dixon	WSP

FOR THE LOCAL PLANNING AUTHORITY:

Mr Morgan Jones	LPC (Trull) Ltd
Mr John James	Wiltshire Council
Mr Carl Tonks	Carl Tonks Consulting

INTERESTED PERSONS:

Councillor Phillip Whitehead

Mr Christopher Vaughan	Local resident
Mr Roy Gaskell	Local resident
Mr Dirk Foster	Local resident
Mr Stephen Daniels	Local resident
Ms Proctor	Local resident

DOCUMENTS HANDED IN DURING THE HEARING

- 1 Planning Obligations CIL Compliance statement
- 2 Rebuttal against costs application
- 3 Statement from Councillor Whitehead

PLANS

A Air Quality Management Area: 3

