

Parish:	King's Lynn	
Proposal:	VARIATION OF CONDITIONS 2, 4, 16 AND 17 OF PLANNING PERMISSION 22/01332/F: VARIATION OF CONDITION 2 OF PLANNING PERMISSION 20/01685/FM: Highways depot comprising maintenance building, salt barn and ancillary offices plus parking and landscaping	
Location:	Land At Freebridge Farm Clenchwarton Road Freebridge Services West Lynn King's Lynn PE34 3LP	
Applicant:	National Highways	
Case No:	23/02195/F (Full Application)	
Case Officer:	Mrs N Osler	Date for Determination: 1 February 2024 Extension of Time Expiry Date: 7 June 2024

Reason for Referral to Planning Committee – *Called in by Cllr Kemp*

Neighbourhood Plan: No

Case Summary

Permission is sought to make amendments to a permitted scheme via an application to vary certain conditions attached to the permitted scheme. Such an application is known as a Section 73 application because it is governed by S73 of the Town and Country Planning Act, 1990, as amended.

The current application seeks to vary conditions, 2, 4, 16 and 17:
Condition 2 relates to the approved plans,
Condition 4 relates to the Construction Traffic Management Plan,
Condition 16 relates to the proposed access, parking and circulation areas, and
Condition 17 relates to external lighting.

The application relates to permission granted under application 22/01332/F which itself varied permission granted under application 20/01685/FM for a *Highways depot comprising maintenance buildings, salt barn and ancillary offices plus parking and landscaping.*

The application is required because additional operational land is required.

Key Issues

Principle of Development
Form and Character
Landscaping and Trees
Neighbour Amenity
Highway Safety
Flood Risk and Drainage
Crime and Disorder
Other Material Considerations

Recommendation:

APPROVE

THE APPLICATION

Permission is sought to make amendments to a permitted scheme via an application to vary certain conditions attached to the permitted scheme. Such an application is known as a Section 73 application because it is governed by S73 of the Town and Country Planning Act, 1990, as amended.

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The site lies within the development boundary for King's Lynn which for the purposes of the Local Plan includes West Lynn.

The site lies in an area at risk of flooding (Flood Zone 3 and within the Tidal Breach Hazard Mapping Area.)

The site measures approximately 0.77ha and is relatively flat with areas of vegetation on site. The site has commercial uses to its west, residential to its east and a hotel to its south. To the north is further vegetation. An Anglian Water drain and easement strip lies in this area.

The applicant is National Highways (previously Highways England.) National Highways is a government owned company charged with operating, maintaining, and improving England's motorways and major A roads. Following a national exercise of strategic operational requirements King's Lynn was identified as one of 12 locations across England where a new depot was required.

The site was originally picked due to its location with good accessibility and connectivity to the strategic road network.

The permitted depot site (sui generis use) would accommodate a salt barn, maintenance building, fuel island, associated hardstanding and parking / circulation areas.

Landscaping, tree protection, lighting and acoustic bund and fences were also approved.

Access was approved from the existing estate spine road to the immediate west via an 'in and out' arrangement.

The site will operate 24-hours a day all year round. It is expected that the site will be in greater use in the winter months when gritting operations are undertaken.

In summary the site benefits from an extant sui generis use within the development boundary of the borough's Main Town and this application seeks to make amendments to the permitted scheme.

SUPPORTING CASE

The applicant did not wish to submit a supporting statement.

PLANNING HISTORY

22/01332/F: Application Permitted: 22/09/22 - VARIATION OF CONDITION 2 OF PLANNING PERMISSION 20/01685/F (Delegated Decision.)

20/01685/NMAM_1: Application Permitted: 24/03/22 - NON-MATERIAL AMENDMENT to Planning Permission 20/001685/FM (Delegated Decision.)

20/01685/FM: Application Permitted: 21/07/21 - Highways depot comprising maintenance building, salt barn and ancillary offices plus parking and landscaping (Delegated Decision.)

20/01739/F: Application Permitted: 23/12/20 - Variation of conditions 9, 10 and 11 of planning permission 18/01533/OM (Delegated Decision.)

18/01533/OM: Application Permitted: 18/04/19 - Hybrid Application: Outline application for B1, B2 & B8 units and associated roads, carparking and external works and drainage. Full application for the construction of 2 x A1/A3 class units (Delegated Decision.)

10/01371/OM: Application Permitted: 07/02/11 - Outline application for employment use (B1(c), B2 and B8) (Committee Decision.)

2/97/1643/D: Application Permitted: 19/01/98 - Creation of garden centre including refurbishment to existing building (Committee Decision.)

2/92/2816/D: Application Permitted: 01/09/95 - Construction of phase 1 Truckers' facility comprising lorry park facilities building shop and ancillary roads and parking (Committee Decision.)

2/94/0062/O: Application Permitted: 16/01/95 - Site for garden centre/farm shop (Committee Decision.)

RESPONSE TO CONSULTATION

Parish Council: N/A

Highways Authority (NCC): NO OBJECTION Having considered the revised information submitted, I can confirm that there are no highway related concerns with any of the proposed variations.

Public Rights of Way Officer (NCC): NO OBJECTION We have no objections on Public Rights of Way grounds as there are none in the vicinity of the development.

Anglian Water: NO OBJECTION subject to condition relating to foul water drainage.

Planning Committee
3 June 2024

Internal Drainage Board: NO OBJECTION The Board has no objection to the changes in the surface water drainage arrangements.

Environmental Health & Housing – Environmental Quality (BCKLWN): NO OBJECTION

As the proposal does not alter the approved staff parking provision to the National Highways office building with 21 spaces, incl. 2x spaces for electric vehicle charging and cycle spaces, we would have no objection regarding air quality.

It is noted that PV panels are to be added to the office building which is a welcome addition in support of core policy CS08.

Community Safety and Neighbourhood Nuisance (BCKLWN): NO OBJECTION.

CSNN's Comments, following the latest amendments, can be summarised as:

- Moving the acoustic maintenance gates further north along the eastern boundary and removal of the hedgehog holes has addressed concerns regarding the noise integrity of this barrier,
- The southern part of the acoustic barrier proposed to be 4.5m high GreenSoundBlok by GRAMM Barrier Systems should be conditioned,
- The newest lighting plan is agreed.

CSNN's agreement to the revised scheme is based on the information supplied within the addendum to the original Noise Assessment undertaken for the previous planning application. Results show noise levels will be below existing background levels, therefore we have no grounds for objection or concerns over the amended scheme. As stated by the planning agent, with the acoustic fence being located nearer the site boundary the level of noise protection now extends further beyond.

Original Comments (19/01/24): This is an objection to the revision of the scheme from CSNN, due to the risk of adverse impact on the residential amenity of the two dwellings located to the east of the site, specifically Freebridge Farm alongside the eastern boundary.

The original approved scheme benefitted from an acoustic fence and a large landscape buffer to the residential property, ensuring yard activity was a reasonable distance from the boundary at all times. Furthermore, the HGV wash area was against the rear of the garage rather than alongside the north eastern boundary as now proposed, the fuelling area was further from the eastern boundary (by virtue of the landscaped buffer), and there were no storage bunkers anywhere within the site (where the site plan now shows storage bunkers alongside the eastern boundary and the dwelling beyond).

The revised scheme now brings all activity much closer to the boundary, with a significant reduction in the landscaped buffer. The approved scheme's larger landscaped buffer provided more separation distance, and it was not useable yard space. There is a real risk that loading and un-loading of the storage bunkers will cause additional noise over and above the previous scheme (this was not considered or assessed within the previous noise assessments for the site) and maintaining control over how the yard is used once operational would be difficult. Therefore, allowing the yard area to extend close to the boundary of the dwelling known as Freebridge Farm, where there would be no control over the activities that will take place close to the dwelling, will result in detrimental impacts from the associated noise generated.

It is also noted that the two 8m high pole mounted floodlights on the eastern side will be much closer to Freebridge Farm with this proposed small landscape buffer; this is also of concern with respect to lighting impacts on occupiers of the dwelling.

We would also be concerned that a 4.5m high acoustic fence so much closer to the dwelling and its surrounding land will be extremely imposing and may impact on amenity in terms of overshadowing or loss of light (although this is not our remit).

Emergency Planning Officer: NO OBJECTION Flood evacuation arrangements were dealt with on this original application and these changes don't appear to require them to be altered.

Senior Ecologist (BCKLWN): NO OBJECTION. The ecologist's comments can be summarised as:

- The loss of the bund, wildflower grassland, single species hedge and landscape buffer is a retrograde step. Notwithstanding this, Biodiversity Net Gain (BNG) did not become mandatory until February 12, 2024, for major developments and 02 April 2024 for minor developments. Therefore, the developers are under no obligation to meet a 10% BNG net gain,
- Notwithstanding this, recommendations made within the Ecological Appraisal (Practical Ecology) that accompanied the original permission, and is the subject of condition 21, must be realised in order to achieve a measurable net gain as is required by the NPPF.

A verbal discussion with the ecologist has confirmed that the latest lighting plan is now acceptable because the light temperature is now 2700K and, given the necessity to retain the acoustic integrity of the barrier, it is not necessary to pursue egress points for mammals in this instance.

Arboricultural Officer (BCKLWN): NO OBJECTION subject to conditions for Tree Protection and Landscaping.

REPRESENTATIONS The neighbour to the immediate southeast (Freebridge Farm) **OBJECTS** to the application. The reasons for objection can be summarised as:

- Noise by virtue or bring activity right up to the boundary due to the significant reduction in landscape buffer; the relocation of the bunkers to the north, rather than the east, does not address this concern.
- It would be difficult to control the use of the 'yard area' once operational (which could be used for anything associated with the development e.g., skips, lorries, generators, etc.)
- The application is missing vital information in relation to trees.
- I would like the CSNN officer to explain to the committee why they have changed their response.
- The noise survey was undertaken in Covid lockdown when noise was at an absolute minimum and is therefore invalid.

Following submission of amended plans the third party retains their **OBJECTION** and makes further comments which can be summarised as:

- The acoustic fence is still closer than the approved scheme, and would be extremely imposing and may impact on amenity in terms of overshadowing or loss of light.
- There is still a significant loss of landscape buffer which means activities associated with the development would be much closer to the boundary of the site with the neighbouring dwelling.
- Maintaining control over the yard, once operational, would be difficult.
- The revised scheme addresses none of these issues.

Planning Committee
3 June 2024

- This is not an appropriate site for a highway's depot; such a use should be in a location that would not cause nuisance to others, it should be in an isolated site or an industrial estate.
- The application should be refused on the grounds of loss of amenity.

Additionally, Cllr Kemp called the application in stating *"I oppose the Amended Application for the Salt Barn, next to Freebridge Farm, West Lynn, on grounds of residential disamenity, including overshadowing, noise, light pollution, tree damage, petrol fume pollution and potential fire risk, affecting the adjacent dwelling house, known as Freebridge Farm...The current Application severely diminishes the original LARGE buffer zone, approved in the original application, which was not constructed, but the proposed changes would bring all the commercial activities much closer to the residential boundary.*

This will bring more noise from HGV's, compared to the original application and from the usage of skips etc close to the boundary.

There would be refuelling close to the residential property, bringing the risk of industrial petrol fumes and fire hazard.

The fence in the application is approx. 10 feet away from the trees on residential property and could damage the roots.

The 2.8 metre high pole mounted floodlights will cause light pollution to the residential property.

This application is not a suitable neighbour for a residential property.

I would recommend this for refusal, unless the applicant reverts to the original application, as approved."

LDF CORE STRATEGY POLICIES

CS01 - Spatial Strategy

CS02 - The Settlement Hierarchy

CS03 - King's Lynn Area

CS08 - Sustainable Development

CS10 - The Economy

CS11 - Transport

CS12 - Environmental Assets

SITE ALLOCATIONS AND DEVELOPMENT MANAGEMENT POLICIES PLAN 2016

DM1 – Presumption in Favour of Sustainable Development

DM2 – Development Boundaries

DM15 – Environment, Design and Amenity

DM17 - Parking Provision in New Development

NATIONAL GUIDANCE

National Planning Policy Framework (NPPF)
Planning Practice Guidance (PPG)
National Design Guide 2021

PLANNING CONSIDERATIONS

The main considerations are:

Principle of Development
Form and Character
Landscaping and Trees
Neighbour Amenity
Highway Safety
Flood Risk and Drainage
Crime and Disorder
Other Material Considerations

Principle of Development:

A S73 application is an application to develop land without compliance with conditions previously attached. The legislation states that *On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and*

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

The powers granted under a S73 application also enable the LPA to take a different approach to overcoming the problem to which the condition is addressed and to impose fresh conditions.

Planning Practice Guidance explains the effect of a grant of permission under section 73 as *Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.*

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation. (NPPG, Paragraph: 015 Reference ID: 17a-015-20140306)

The principle of development has been found acceptable by development granted under application 20/01685/FM which has had various conditions partially discharged (construction management, foul and surface water drainage, and contamination) and was subsequently amended by application 22/01332/F to insert roller shutter doors on the southeast elevation of the main building.

This application seeks to vary conditions 2, 4, 16 and 17 of application 22/01332/F.

Condition 2 relates to the approved plans – change required to enable proposed development,

Condition 4 relates to the approved internal Construction Traffic Management Plan,

Condition 16 relates to on-site access and parking – change required to enable reference to amended condition, and

Condition 17 relates to external lighting – change required to enable alternative lighting scheme to take account of amended layout.

The changes sought can be summarised as:

- Amending the design of the salt barn to a dome. The application form suggests that the dome would have approximately 50% lower carbon footprint than a traditional salt barn which is achieved through a blend of off-site modular manufacturing and sustainable construction materials and that it would provide more flexibility to the service yard (through a reduced footprint while retaining the required capacity (2,500 tonne),
- Changing the roof profile of the main office / garage building to a standard portal frame
- Increasing the service yard area for material storage by reducing soft landscaping,
- Replacing a 2m high bund plus 2.5m high acoustic fence atop with a 4.5m high acoustic fence and green acoustic barrier,
- Moving this acoustic barrier closer to the eastern boundary of the site,
- Repositioning the gates and fencing to the [on-site] main frontage area to improve vehicle movements,
- Reorientating the fuel island by rotating it slightly and moving it approximately 7m northwest and 2m east,
- Provision of 3 storage bunds (for storing stone aggregate for use for various reasons on the roads) adjacent to the northern boundary of the site
- Removing one of two garage doors on the east elevation of the main building.

It should be noted that, as is common with many S73 applications, other conditions (than those listed by the applicant) are also affected by the proposed changes and will need to be appropriately reworded if permission is granted. These can be summarised as:

- Condition 3 which relates to the approved Construction Management Scheme and for the avoidance of doubt is being amended to take account of the proposed changes to the acoustic barrier,
- Condition 5 which relates to tree protection and needs to reflect the amendments to the arboricultural information as a result of the changes to layout / landscaping,
- Condition 6 which relates to landscaping and needs amending to take account of the amended layout / landscaping plan,
- Condition 7 which relates to a change in the surface water drainage proposals,
- Condition 8 which relates to foul drainage,
- Condition 12 which needs amending to take account of the addendum to the noise assessment,

- Condition 18 which relates to ecological mitigation and has been amended to take account of the loss of mammal access in the acoustic barrier, and
- Condition 19 which has been amended to refer to just one roller shutter door.

Form and Character:

Achieving well-designed places that reflects the form and character of their locality is a theme running through the NPPF and Development Plan.

Paragraph 131 of the NPPF states *Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.*, and Development Plan Policy DM15 requires aspects such as scale, height, materials and layout to *respond sensitively and sympathetically to the local setting...*

The area is characterised by largely industrial / commercial uses. However, a residential property and its annexe, known as Freebridge Farm, lies to the immediate east / northeast of the site.

The main changes between the approved and proposed scheme can be summarised as:

Salt Barn The salt barn as approved comprised of two elements, a taller element that measured 13m to ridge and 12m to eaves, and a lower element that measured 9.5m to ridge and 8.5m to eaves. The footprint of the building measured 31.5m x 19m.

This building is now a dome that measures 11.6m to its tip with a diameter of 25m.

Main Building The main building as approved comprised two elements each with a mono-pitch roof giving an asymmetric building which was to be constructed from a mixture of grey, silver, and blue horizontal and vertical metal cladding over a brick plinth with a grey metal composite roof covering.

The highest point of the taller element of the building is 8m and the lowest point is 5m. The highest point of the lower element is 5m and the lowest point is 4m, and the footprint of the building measured 32.2m x 31m.

The building is now symmetrical in nature and measures 6.9m to ridge and 4.5m to eaves and is to be constructed from metal gladding (grey and blue) under a grey composite roof covering. The building measures 32.2m in length and 31m in width.

Acoustic Barrier The acoustic barrier as approved comprised a 2m bund with a 2.5m acoustic fence atop. Planting was proposed on the bund to soften its appearance.

The closest part of the barrier from the rear amenity space of Freebridge Farm was 20m, with a distance of 23.5m at the furthest point. These distances are now 4m and 11m respectively.

The barrier is now proposed to be a 4.5m high acoustic fence along the eastern boundary, changing to a 4.5m high GreenSoundBlak acoustic barrier at the southeastern edge where the conifer hedge ends. A green acoustic barrier is one that can be encased with plant growth. In this case 20 climbers are to be planted. Tree planting is proposed between this barrier and the boundary with Freebridge Farm in the southeastern corner landscape buffer area. A further 3m wide landscape buffer strip is proposed to the west of the acoustic barrier.

Storage Bunkers three storage bunkers are now proposed. These have been relocated from the eastern boundary to the northern boundary at the request of CSNN.

Planning Committee
3 June 2024

Other elements of the development remain substantially the same as the permitted scheme.

In terms of form and character the majority of changes raise no material concerns. The biggest impact in terms of form and character is the more visible acoustic barrier, the screening of which has been reduced by lack of landscaping on its western side. However, the main building and salt dome will largely obscure long views from the west, whilst existing built form including Costa, MacDonalds, Premier Inn, etc obscure views from the southwest and south. Existing mature planting obscures views from the southeast, east, northeast and north.

It is therefore considered that the development accords with the NPPF in general and specifically to paragraph 131 of the NPPF and Development Plan Policy DM15.

Landscaping and Trees:

Paragraph 140 of the NPPF states *Local Planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme (for example through changes to approved details such as the material used.)*

Landscaping: It is beyond question that the amendments will result in a retrograde step in terms of the amount of landscaping proposed (from c. 1140m² to c.604m²) regardless of the fact that the amount of landscaping originally proposed could not have been reasonably requested by the LPA. The amount of landscaping was either as a result of an underestimation of the operational requirements of the applicant or a change in those requirements. That is to say, had an application originally been submitted with less landscaping than originally proposed it would have been found acceptable.

Trees: Likewise, tree planting is being reduced under the varied proposal with an approximate reduction of 11 trees (from 26 to 15.)

Notwithstanding this, the Arboricultural Officer raises no objection, subject to conditions, in relation to tree retention (which relates to the retention of the conifer hedge) and new tree planting.

Paragraph 7 of the NPPF states *The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner...[by addressing] social progress, economic well-being and environmental protection.*

In this regard it is important to balance the operational requirements of the applicant with the amount of landscaping / tree planting that is reasonable given the nature of the location of the development.

In summary, in relation to landscaping and trees, whilst it is acknowledged that there is a marked reduction, when one balances the economic needs against environmental needs it is considered that the development is in general accordance with the NPPF and Development Plan Policies CS12 and DM15.

Impact on Neighbour Amenity:

Paragraph 134f) of the NPPF requires development to have a *high standard of amenity for existing and future users*. This is reiterated in Development Plan Policy DM15 that states *Development must protect and enhance the amenity of the wider environment including its*

Planning Committee
3 June 2024

heritage and cultural value. Proposals will be assessed against their impact on neighbouring uses and their occupants as well as the amenity of any future occupiers of the proposed development. The assessment under DM15 includes factors such as overlooking, overbearing, overshadowing, noise, light pollution and visual impact.

The main issue with the proposed variation to the scheme is the resultant impact on the residential neighbour to the immediate east (Freebridge Farm) given the closer proximity of the proposed acoustic barrier and reduction in amount of landscape buffer.

The overall height of the barrier is not changing. However, its nature (2m bund with 2.5m acoustic fence on top to 4.5m acoustic barrier) and location are material changes that will have an impact on occupiers of Freebridge Farm.

In both examples screen trees are proposed, although obviously those to screen a 4.5m fence will need to be taller than those to screen a lower fence, and this planting is now proposed in a buffer area between the acoustic barrier and neighbouring property rather than on the bund.

The green nature of the element of the barrier that would be visible from Freebridge Farm by virtue of the climbers that will be encased into the barrier together with the tree planting is considered to suitably mitigate any visual or overbearing impacts. The proposed trees are either of a species that would not grow too tall or those which could (the pine trees) would have restricted growth by virtue of the limited amount of soil which would have a bonsai effect. The arboricultural officer has confirmed the trees should not themselves result in unacceptable neighbour impacts.

Shadow diagrams have been submitted that suggest overshadowing to the rear amenity space of Freebridge Farm would not be significant. The fence would not affect other elements of Freebridge Farm in terms of overshadowing due to the presence of the conifer hedge that would still be substantially taller than the acoustic fence.

In terms of noise, the Community Safety and Neighbourhood Nuisance Team (CSNN) raise no objection given that the results of the original noise assessment and addendum to that assessment shows noise levels will be below existing background levels. It is pertinent to note that the background levels were recorded during a period of lower general use due to Covid restrictions. Whilst the applicant suggests this should make the assessment invalid, in reality, it produced more stringent thresholds for the development to comply with. It is also pertinent to note that should noise become a statutory nuisance CSNN have their own powers to intervene.

The neighbour also suggests that light pollution will be an unacceptable impact. However, CSNN nor the senior ecologist considers that light spread would result in material impacts on neighbouring uses.

However, Members will need to carefully consider whether they believe the reduction in landscaping, which has resulted in the acoustic barrier being moved closer to the residential use to the east, is acceptable in terms of its visual appearance and overbearing and overshadowing impacts. Your officers believe, on balance, the proposal would not result in disamenity to occupiers of the neighbouring dwelling of a level to warrant refusal.

The proposed development is therefore considered to accord with the NPPF in general and specifically to paragraph 134f) of the NPPF and Development Plan Policy DM15.

Highway Safety:

Highway impacts were fully considered and conditioned as part of the original approval. The proposed alterations do not affect highway safety or parking provision. Therefore, the conditions appended to the previous approval will be appended to any permission granted under this application amended where necessary to reflect the layout changes in accordance with the NPPF and Development Plan Policies CS11 and DM15.

Flood Risk and Drainage:

Flood Risk: Flood Risk was fully considered and conditioned under the previous application. The proposed alterations do not affect the flood risk of or to the site. Therefore, the conditions appended to the previous approval will be appended to any permission granted under this application.

Drainage: Foul and surface water drainage were conditioned on the previous approval and details submitted and approved via discharge applications. However, the changes do alter the approved details and Anglian Water, whilst not objecting to the proposed changes, require additional information in relation to foul drainage whilst the Internal Drainage Board are happy with the amended surface water drainage proposals. This is reflected in conditions 7 and 8.

Crime and Disorder:

There are no specific crime and disorder issues arising from the proposed amendments.

Other Material Considerations:

This application is for a variation to a consented scheme. Therefore, in line with best practice, all conditions of the previous permission should be appended to any permission granted under the current application, amended as necessary.

CONCLUSION

This application proposes changes to a consented scheme by virtue of an application under S73 of the Town and Country Planning Act, 1990.

Most of the changes proposed are not considered to be controversial, and officers consider them to be wholly acceptable.

However, it is beyond question that the amendments would result in a retrograde step in terms of the amount of landscaping proposed and the proximity of the acoustic barrier with the residential property to the east. The proximity, given its height (4.5m), of the acoustic barrier would be far more apparent to occupiers of Freebridge Farm than the currently permitted scheme.

Notwithstanding this, on balance, given the green nature of the element of barrier that would be visible from Freebridge Farm, together with tree planting between that barrier and boundary with Freebridge Farm it is considered that its visual impact would be suitably mitigated. Likewise shadow diagrams suggest that overshadowing would be of an acceptable degree.

It is considered that the variations to the permitted scheme accord with the NPPF in general and specifically to paragraphs 7, 131, 134f) and 140 and Development Plan Policies CS08,

Planning Committee
3 June 2024

CS11, CS12 and DM15. It is therefore recommended that this application be approved subject to the following conditions.

RECOMMENDATION:

APPROVE subject to the imposition of the following condition(s):

- 1 Condition: The development hereby permitted shall be begun before the 21.07.2024.
- 1 Reason: To comply with Section 91 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act, 2004.
- 2 Condition: The development hereby permitted shall be carried out in accordance with the following approved plans drawings nos:

Permitted under application 20/01685/FM (the original permission):
16635-128 Proposed Cycle Details
16635-129 Proposed Refuse Store
16635-130 Proposed Fuel Island
16635-131 Proposed Gate Details

Permitted under the current application:
16635-120 Rev.A Location Plan
16635-122 Rev.N Proposed Site Plan
16635-123 Rev.G Proposed Offices / Garage GA & Roof Plans
16635-124 Rev.B Proposed Salt Barn GA & Roof Plans
16635-125 Rev.G Proposed Offices / Garage Elevations
16635-126 Rev.B Proposed Salt Barn Elevations
16635-127 Rev.A Proposed Fencing Details
16635-132 Rev.C Construction Traffic Management Plan
16635-VL L01 Rev.N Landscape Plan.
- 2 Reason: For the avoidance of doubt and in the interests of proper planning.
- 3 Condition: The development hereby permitted shall be carried out in accordance with the Construction Management Scheme approved under application 20/01685/DISC_A as amended by the acoustic fence and barriers approved under the current application which shall be erected prior to the commencement of any development on the site. In relation to the permitted acoustic screen this must be GreenSoundBlok by GRAMM Barrier System or an equal alternative with the same or improved acoustic performance.
- 3 Reason: To ensure that the amenities of future occupants are safeguarded in accordance with the NPPF.
- 4 Condition: For the duration of the construction period all traffic associated with the construction of the development hereby permitted shall comply with the Construction Traffic Management Plan (drawing no 16635-132 Rev.C hereby permitted.)
- 4 Reason: In the interests of maintaining highway efficiency and safety in accordance with the NPPF and Development Plan.
- 5 Condition: No work or other operations development shall take place on site until a scheme for the protection of the retained trees including Arboricultural Method

Planning Committee
3 June 2024

Statements and a Tree Protection Plan or Plans (section 5.5, BS 5837:2012) has been agreed in writing with the Local Planning Authority.

This scheme shall include:

- a) Site layout plans to a scale and level of accuracy appropriate to the proposal that shows the position, crown spread and root protection area (section 4.6 of BS5837:2012) of every retained tree on site and on neighbouring or nearby ground, superimposed on the layout plan. The positions of all trees to be removed shall be indicated on this plan.
- b) the details and positions (shown on the plan at paragraph (a) above) of the Tree Protection Barriers, (section 6.2 of BS5837:2012), to form a construction exclusion zone, and the type and extent of ground protection (section 6.2.3 of BS5837:2012) or any other physical tree protection measures, such as tree boxes. These details are to be identified separately where required for different phases of construction work (e.g., demolition, construction, hard landscaping). Barrier and ground protection offsets must be dimensioned from existing fixed points on the site to enable accurate setting out. The position of barriers and any ground protection should be shown as a polygon representing the actual alignment of the protection.
- c) the details and positions (shown on the plan at paragraph (a) above) of any underground service runs that are proposed within the root protection areas of any retained tree, (section 7.7 of BS5837:2012). The details of the working methods to be employed with regard to site logistics including, the proposed access and delivery of materials to the site; space for storing materials spoil and fuel, and the mixing of cement; contractor car parking; site huts, temporary latrines (including their drainage), and any other temporary structures.
- d) the arboricultural method statement/s (BS5837:2012 part 6.1) shall include details for the installation of any temporary ground protection, excavations, or other method for the installation of any hard structures or underground services within the minimum root protection areas of any retained tree.

The Tree Protection Barriers and ground protection must be erected prior to each construction phase commencing and remain in place, and undamaged for the duration of that phase. No works shall take place on the next phase until the Tree Protection Barriers are repositioned for that phase. All tree protection works shall be carried out in complete accordance with the approved details.

All existing trees, within the site that are shown as being retained on the approved plans shall not be felled, uprooted, willfully damaged, or destroyed, cut back in any way or removed without the prior written approval of the Local Planning Authority. Any existing trees removed or pruned without such approval, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species in the next available planting season, unless the Local Planning Authority gives written approval to any variation.

- 5 Reason: To ensure that existing trees and hedgerows are properly protected in accordance with the NPPF. This needs to be a pre-commencement condition given the potential for damage to protected trees during the construction phase.
- 6 Condition: All hard and soft landscape works shall be carried out in accordance with drawing number: 16635-VL L01 Rev.N and the notes contained thereon. The works shall be carried out prior to the use of any part of the development or in accordance with a programme to be agreed in writing with the Local Planning Authority. Any trees or plants that within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased, shall be replaced in the next

Planning Committee
3 June 2024

planting season with others of similar size and species as those originally planted, unless the Local Planning Authority gives written approval to any variation.

- 6 Reason: To ensure that the work is carried out within a reasonable period in accordance with the NPPF.
- 7 Condition: In relation to surface water drainage only, the development hereby permitted shall be carried out in accordance with drawing no. 9172-NDA-ST-ZZ-DR-C-1251 Rev.P02 prior to any part of the development being brought into use.
- 7 Reason: To ensure that there is a satisfactory means of drainage in accordance with the NPPF.
- 8 Condition: Prior to the construction above damp-proof course, a scheme for on-site foul water drainage works, including connection point and discharge rate, shall be submitted to and approved in writing by the Local Planning Authority. Prior to the occupation of any phase of the development hereby permitted, the foul water drainage works relating to that phase shall be carried out in complete accordance with the approved scheme.
- 8 Reason: To ensure that there is a satisfactory means of drainage and to prevent environmental and amenity problems arising from flooding in accordance with the NPPF.
- 9 Condition: The approved remediation scheme (approved under application 20/01685/DISC_E) must be carried out in accordance with its terms prior to the commencement of groundworks, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the Local Planning Authority.
- 9 Reason: In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF.
- 10 Condition: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.
- 10 Reason: In the interests of protecting the environment and the future occupants of the development in accordance with the NPPF.
- 11 Condition: Prior to the installation of any external plant and / or machinery associated with the development hereby permitted but not expressly permitted under this application a detailed scheme showing the siting of fixed machinery and external plant, including any mechanical extract systems, ASHPs, air conditioning or air handling units etc, shall be submitted to and approved in writing by the Local Planning Authority. The

scheme shall be implemented as approved before the development is brought into use and thereafter maintained as such.

- 11 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 12 Condition: The development hereby permitted shall be carried out in full accordance with the Mitigation and General Good Practice Measures as outlined in sections 7 and 7.1 of the Noise Impact Assessment that accompanied application 20/01685/FM (Ref: 1700491.003-RP-NIA-0002 dated May 2021) as amended by details contained within Technical Note 0001 that accompanied the current application (Ref. 1700491.008-DN-NIA-0001.3)
- 12 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.
- 13 Condition: The development hereby permitted shall be carried out in strict accordance with the mitigation measures proposed in the FRA that accompanied application 20/01685/FM (ref: AMF/FRA/Y19069, Version 2 dated May 2021).
- 13 Reason: To reduce the risks associated with flooding in accordance with the NPPF and Development Plan.
- 14 Condition: Prior to the first use of the development hereby permitted the applicants / owners / successors in title shall sign up to the Environment Agency flood warning system (0345 988 1188 or www.gov.uk/flood). Additionally, prior to the first use of the development hereby permitted a flood evacuation plan (FEP) should be submitted and approved in writing by the Local Planning Authority. The FEP shall include:
- Actions to take on receipt of the different warning levels.
 - Evacuation procedures e.g. isolating services and taking valuables etc
 - Evacuation routes
- Prior to the first use of the development hereby permitted the approved FEP shall be located in a prominent position within the main staff building and shall thereafter be retained in that position.
- 14 Reason: To reduce the risks associated with flooding in accordance with the NPPF and Development Plan.
- 15 Condition: The development shall not be brought into use until a scheme for the provision of fire hydrants has been implemented in accordance with a scheme that has previously been submitted to and approved in writing by the Local Planning Authority.
- 15 Reason: In order to ensure that water supplies are available in the event of an emergency in accordance with the NPPF.
- 16 Condition: Prior to the first use of the development hereby permitted the proposed access, on-site car and cycle parking, servicing, loading, unloading, turning, waiting areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plan (16635-122 Rev.N) and retained thereafter available for that specific use.

- 16 Reason: To ensure the permanent availability of the parking/manoeuvring areas, in the interests of satisfactory development and highway safety in accordance with the NPPF and Development Plan.
- 17 Condition: External lighting shall be installed and thereafter BE retained and maintained in accordance with drawing no. D40986/RD/G.
- 17 Reason: In the interests of minimising light pollution and to safeguard the amenities of the locality in accordance with the NPPF.
- 18 Condition: Other than in relation to egress points for mammals that are not wanted in this instance because they may affect the integrity of the acoustic barriers, the development hereby permitted shall be carried out in full accordance with the details contained within the updated Ecological Survey that accompanied application 20/01685/FM produced by PRACTICAL ecology including, but not limited to, additional surveys, mitigation and enhancements, and application for licenses if required.
- 18 Reason: To ensure that the impact of the development upon protected species is acceptable in accordance with the NPPF and Development Plan.
- 19 Condition: The roller shutter door on the southeast elevation of the development hereby permitted shall be automatically controlled (motor with manual override for power failures) and shall only operate between 07:00 and 19:00 during peak winter months (between 1st October and 31st March.)
- 19 Reason: In the interests of the amenities of the locality in accordance with the principles of the NPPF.