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PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE

TUESDAY 21 MARCH 2023

1.30 PM

Council Chamber - Town Hall

AGENDA

Page No

1. **Apologies for Absence**

2. **Declarations of Interest**

At this point Members must declare whether they have a disclosable pecuniary interest, or other interest, in any of the items on the agenda, unless it is already entered in the register of members' interests or is a "pending notification" that has been disclosed to the Solicitor to the Council.

3. **Members' Declaration of intention to make representations as Ward Councillor**

4. **Development Control and Enforcement Matters**

4.1 **21/01002/OUT - Land At Horsey Bridge Whittlesey Road Stanground Peterborough** 5 - 42

4.2 **CAS15A/0001/22 - Land To The East Of Tolmers Leicester Road Thornhaugh Peterborough** 43 - 48

5. **Appeals Quarterly Report** 49 - 64

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Committee Members:

Councillors: Warren, Iqbal (Vice Chairman), Jones, B Rush, Hogg, Bond, M Jamil, Hussain, Sharp, C Harper (Chair) and P Hiller

Substitutes: Councillors: N Sandford and Bi

Further information about this meeting can be obtained from Karen Dunleavy on telephone: 01733 452233 or by email – karen.dunleavy@peterborough.gov.uk

CASE OFFICERS:

Planning and Development Team: Jim Newton, Sylvia Bland, James Croucher, Matt Thomson, Asif Ali, Molly Hood, Mike Osbourn, Karen Ip, Shaheeda Montgomery, Connor Liken, James Lloyd, Ellie O'Donnell, Keeley Tipton, James Croucher, Mike Osbourn, and James Melville-Claxton

Minerals and Waste: Alan Jones

Compliance: Lee Walsh and Alex Wood-Davis

NOTES:

1. Any queries on completeness or accuracy of reports should be raised with the Case Officer, Head of Planning and/or Development Management Manager as soon as possible.
2. The purpose of location plans is to assist Members in identifying the location of the site. Location plans may not be up-to-date, and may not always show the proposed development.
3. These reports take into account the Council's equal opportunities policy but have no implications for that policy, except where expressly stated.

4. The background papers for planning applications are the application file plus any documents specifically referred to in the report itself.
5. These reports may be updated orally at the meeting if additional relevant information is received after their preparation.

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Reference: 21/01002/OUT
Site address: Land at Horseley Bridge, Whittlesey Road, Stanground

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Planning and EP Committee

Application Ref: 21/01002/OUT

Proposal: Outline application for the construction of a business park of up to a maximum floorspace of 15,263sqm, comprising offices (Use Class E), industrial uses (Use Class B2) and storage and distribution uses (Use Class B8), with details of access secured and all other matters reserved

Site: Land At Horsey Bridge, Whittlesey Road, Stanground, Peterborough

Applicant: Barnack Estates UK Ltd

Agent: Ms Kate Wood
Eddisons Barker Storey Matthews

Site visit: 29.07.2021

Case officer: James Croucher

Telephone No. 01733 4507920 160079

E-Mail: James.Croucher@peterborough.gov.uk

Recommendation: **GRANT** subject to relevant conditions and a Section 106 agreement to secure footway/cycleway provision and improvements

1 Description of the site and surroundings and Summary of the proposal

The Site

The site is irregularly shaped and comprises 6.25 ha in size. It is located in Stanground.

The application site lies on the northern side of the A605 Peterborough to Whittlesey road, with the River Nene/Kings Dyke running along the northern boundary and a tributary of the river forming the western boundary. Residential development and associated public open space lie on the opposite side of the tributary, whilst beyond the northern boundary (on the opposite side of Kings Dyke) is a crane depot along with industrial uses. A gas governor abuts the site's north-western corner.

To the south of the A605 is agricultural land and Horsey Grange Farm, from which rises the former Civil War hill fort known as Horsey Hill which is a Scheduled Monument. A pair of semidetached houses at Toll Cottages is located on the road frontage to the west of Horsey Hill, as well as a bungalow.

The site itself is generally flat, comprising agricultural land which is set at a lower level than the A605 but at a similar height to Toll Cottages. It contains some boundary trees and a concrete road which links the adjacent crane depot with the A605.

The Proposed Development

This is an outline application which proposes a new business park comprising Uses Classes E, B2 and B8. Only the principle of development and its means of access are for consideration under this application, with all other matters being reserved for future consideration.

The sole means of vehicular access would be via a new priority junction on the A605 towards the eastern end of the site, with the existing crane depot access rerouted through the site and its existing access closed. A footway/cycleway is proposed to run through the site in a broadly east-west direction.

The application proposes up to 15,236sqm of employment space.

The illustrative site layout plan (which is not for approval at this time) shows this arranged in 20 individual buildings ranging in size from 265sqm to 2,000sqm, aimed at the Small/Medium Enterprise business sector, for which the agent considers there to be a high level of demand. A landscape planting strip is illustrated along the north-western site boundary intended to provide a buffer to the adjacent houses, whilst the central portion of the site, to the north of the Scheduled Monument and outside the red line of the application site would also remain free from development for the protection of archaeological remains. New tree planting is illustrated along much (though not all) of the northern side of the A605.

Whilst scale and design are not matters for consideration at this time, the applicant has confirmed that the proposed buildings would be restricted to eaves heights of between 6m and 10.5m. The application is accompanied by sections through the site to show how this height and scale of development would sit within the surrounding landscape.

2 Planning History

There is no planning history on the site itself, albeit the concrete track crossing the site giving access from the crane yard to the A605 formed part of planning application 16/00080/MMFUL:

“Erection of Gas to Grid Anaerobic Digestion Plant to comprise four digester tanks, technical operations building, silage clamp, storage lagoons, four liquid waste tanks, Gas Flare, Gas Upgrading System (GUS) and Gas Entry Unit (GEU), separator, cooling unit, transformer, heating kiosk and two underground propane tanks.”

Refused 17 July 2017

3 Planning Policy

Decisions must be taken in accordance with the development plan policies below, unless material considerations indicate otherwise.

Ancient Monuments and Archaeological Areas Act 1979 (as amended)

National Planning Policy Framework (2021)

Section 2: Achieving Sustainable Development

Section 4: Decision-making

Section 6: Building a strong, competitive economy

Section 8: Promoting healthy and safe communities

Section 9: Promoting sustainable transport

Section 11: Making effective use of land

Section 12: Achieving well-designed places

Section 14: Meeting the challenge of climate change, flooding and coastal change

Section 15: Conserving and enhancing the natural environment

Section 16: Conserving and enhancing the historic environment

Cambridgeshire and Peterborough Minerals and Waste Local Plan (2021)

Peterborough Local Plan 2016 to 2036 (2019)

LP01 - Sustainable Development and Creation of the UK's Environment Capital

The council will take a positive approach that reflects the presumption in favour of sustainable development within the National Planning Policy Framework. It will seek to approve development wherever possible and to secure development that improves the economic, social and environmental conditions in the area and in turn helps Peterborough create the UK's Environment Capital.

LP02 - The Settlement Hierarchy and the Countryside

The location/scale of new development should accord with the settlement hierarchy. Proposals within village envelopes will be supported in principle, subject to them being of an appropriate scale. Development in the open countryside will be permitted only where key criteria are met.

LP03 - Spatial Strategy for the Location of Residential Development

Provision will be made for an additional 21,315 dwellings from April 2016 to March 2036 in the urban area, strategic areas/allocations.

LP04 - Strategic Strategy for the Location of Employment, Skills and University Development

LP4 a) Promotes the development of the Peterborough economy. Employment development will be focused in the city centre, elsewhere in the urban area and in urban extensions. Provision will be made for 76 hectares of employment land from April 2015 to March 2036. Mixed use developments will be encouraged particularly in the city, district and local centres.

LP4b) Employment Proposals not within General Employment Areas or Business Parks will be supported provided that there are no suitable sites within allocated sites/built up area, it is of an appropriate scale, would impact on the viability of an existing allocated site and not result in any unacceptable impact.

LP4c) The expansion of existing businesses located outside of allocated sites will be supported provided existing buildings are re-used where possible, there would be no unacceptable amenity, highway or character impacts.

LP4d) Conversions and redevelopment of non-allocated employment sites to non-allocated employment uses will be considered on their merits taking into consideration the impact on the area, the viability of the development including marketing evidence and the impact of continued use of the site.

LP07 - Health and Wellbeing

Development should promote, support and enhance the health and wellbeing of the community. Proposals for new health facilities should relate well to public transport services, walking/cycling routes and be accessible to all sectors of the community.

LP11 - Development in the Countryside

Part E: The Rural Economy- Development involving the expansion or conversion of an existing employment use/building or use for tourism/leisure will be supported provided it is an appropriate scale, would not adversely affect the local community/services and would not cause harm to the character of the area and would be accessible.

Part F: Protecting the Best and Most Versatile Agricultural Land- Proposals should protect this land to ensure the continuation of the agricultural economy. With the exception of allocated sites proposals affecting this land will only be accepted if there is lower grade land available, the impacts

have been minimised through design solutions and where feasible the land is restored when the development ceases.

LP13 - Transport

LP13a) New development should ensure that appropriate provision is made for the transport needs that it will create including reducing the need to travel by car, prioritisation of bus use, improved walking and cycling routes and facilities.

LP13b) The Transport Implications of Development- Permission will only be granted where appropriate provision has been made for safe access for all user groups and subject to appropriate mitigation.

LP13c) Parking Standards- permission will only be granted if appropriate parking provision for all modes of transport is made in accordance with standards.

LP14 - Infrastructure

Permission will only be granted where there is, or will be via mitigation measures, sufficient infrastructure capacity to support the impacts of the development. Developers will be expected to contribute toward the delivery of relevant infrastructure.

LP16 - Urban Design and the Public Realm

Development proposals would contribute positively to the character and distinctiveness of the area. They should make effective and efficient use of land and buildings, be durable and flexible, use appropriate high quality materials, maximise pedestrian permeability and legibility, improve the public realm, address vulnerability to crime, and be accessible to all.

LP19 - The Historic Environment

Development should protect, conserve and enhance where appropriate the local character and distinctiveness of the area particularly in areas of high heritage value.

Unless it is explicitly demonstrated that a proposal meets the tests of the NPPF permission will only be granted for development affecting a designated heritage asset where the impact would not lead to substantial loss or harm. Where a proposal would result in less than substantial harm this harm will be weighed against the public benefit.

Proposals which fail to preserve or enhance the setting of a designated heritage asset will not be supported.

LP22 - Green Infrastructure Network

The council in partnership with others will seek to maintain and improve the existing green infrastructure. Strategic and major development proposals should incorporate opportunities for green infrastructure. Proposals will be expected to provide clear arrangements for long term maintenance and management. Development must protect existing linear features of the green infrastructure network. Proposals which would cause harm will not be permitted unless the need for and benefits of the development demonstrably outweigh any adverse impacts.

LP27 - Landscape Character

New development in and adjoining the countryside should be located and designed in a way that is sensitive to its landscaping setting, retaining and enhancing the landscape character.

LP28 - Biodiversity and Geological Conservation

Part 1: Designated Site

International Sites- The highest level of protection will be afforded to these sites. Proposals which would have an adverse impact on the integrity of such areas and which cannot be avoided or

adequately mitigated will only be permitted in exceptional circumstances where there are no suitable alternatives, overriding public interest and subject to appropriate compensation. National Sites- Proposals within or outside a SSSI likely to have an adverse effect will not normally be permitted unless the benefits outweigh the adverse impacts.

Local Sites- Development likely to have an adverse effect will only be permitted where the need and benefits outweigh the loss.

Habitats and Species of Principal Importance- Development proposals will be considered in the context of the duty to promote and protect species and habitats. Development which would have an adverse impact will only be permitted where the need and benefit clearly outweigh the impact. Appropriate mitigation or compensation will be required.

Part 2: Habitats and Geodiversity in Development

All proposals should conserve and enhance avoiding a negative impact on biodiversity and geodiversity.

Part 3: Mitigation of Potential Adverse Impacts of Development

Development should avoid adverse impact as the first principle. Where such impacts are unavoidable they must be adequately and appropriately mitigated. Compensation will be required as a last resort.

LP29 - Trees and Woodland

Proposals should be prepared based upon the overriding principle that existing tree and woodland cover is maintained. Opportunities for expanding woodland should be actively considered. Proposals which would result in the loss or deterioration of ancient woodland and or the loss of veteran trees will be refused unless there are exceptional benefits which outweigh the loss. Where a proposal would result in the loss or deterioration of a tree covered by a Tree Preservation Order permission will be refused unless there is no net loss of amenity value or the need for and benefits of the development outweigh the loss. Where appropriate mitigation planting will be required.

LP31 - Renewable and Low Carbon Energy

Development proposals will be considered more favourably where they include measures to reduce energy demand and consumption, incorporate sustainable materials, incorporate decentralised or renewable energy or carbon off setting. Proposals for non wind renewable energy will be considered taking account of the impact of the landscape including heritage assets, amenity, highways and aviation. Wind proposals will also only be considered if in addition to these factors the site is in an adoptable Neighbourhood Plan and the proposal has local support.

LP32 - Flood and Water Management

Proposals should adopt a sequential approach to flood risk management in line with the NPPF and council's Flood and Water Management SPD.. Sustainable drainage systems should be used where appropriate. Development proposals should also protect the water environment.

LP33 - Development on Land Affected by Contamination

Development must take into account the potential environmental impacts arising from the development itself and any former use of the site. If it cannot be established that the site can be safely developed with no significant future impacts on users or ground/surface waters, permission will be refused.

4 Consultation and Representations

Local Highway Authority

No objection in principle, advising that the Transport Assessment demonstrates that the development could be accommodated without causing significant capacity or safety issues on the A605.

The Stage 1 Road Safety Audit has raised issues with a few detailed elements of the design, which can be addressed through the detailed design of the scheme.

The detailed design of the access will need to include passing vehicles on the swept path analysis, to ensure that the potential for side-swipe collisions is minimised.

It is unclear from the information submitted how much floorspace of each use class is being applied for and a condition is recommended accordingly. This will affect the parking requirements within the site. Adequate parking and turning must be provided at reserved matters stage.

There appears to be a need to carry out works on land outside the application site (in areas which do not appear to be highway) in order to access the site. Consent from the landowner will be required for these works, noting that the applicant has demonstrated that the affected land is owned by the City Council, but is not highway).

The existing crane depot access is to be removed as part of the development, with highway verge being reinstated in this area; this should be controlled by condition.

As A605 Whittlesey Road is Classified, the off-site works will need to be designed in accordance with Design Manual for Roads and Bridges (DMRB).

Off-site highway works are required to improve accessibility by cycle. These would be by providing additional directional signage and some engineering works to provide access to the Green Wheel cycle network. Additionally, the proposed east-west footway/cycleway crossing the site will need to be constructed to adoptable standard and offered for adoption. All these works should be secured in a Section 106 agreement.

Peterborough Cycle Forum

No objection in principle. Welcomes the provision of traffic-free access for pedestrians and cyclists at the western end of the site, but more can be done to make access on foot or by cycle as convenient and attractive as possible, especially bearing in mind the high number of objections from local residents due to concerns over traffic congestion. The Cycle Forum requests additional access for pedestrians and cyclists is provided via a bridge across the River Nene (Old Course).

Every building should have an external cycle parking facility for its employees. Parking should be in the form of Sheffield stands and covered and should be located close to each building entrance in a position where it is overlooked.

PCC Rights of Way Officer

No comments to make.

Historic England

Historic England maintains its concerns about the application on heritage grounds. The additional information has underlined the high significance and potential of the buried archaeological and palaeoenvironmental remains at the site and has not satisfactorily demonstrated that they could be

effectively preserved in situ. We remain concerned about the impact of the proposed development and the associated mitigation planting would have on the setting and significance of the Horsey Hill Fort scheduled monument.

The proposed development site lies within the immediate setting of the 'Horsey Hill Fort: a Civil War fieldwork' scheduled monument. Whilst trees on the fort itself make outward views from the monument difficult, the sense of the open landscape to the north of the fort, and its former viewshed, can be readily appreciated from the adjacent section of Whittlesey Road. The proposed development would result in the introduction of an arc of new built infrastructure to the north of the scheduled monument, shortening the views northwards from the fort across what is currently open arable. This would have an adverse impact on the setting of the fort and cause harm to its significance.

The application includes proposals to screen the development from the adjacent scheduled monument by planting a native tree belt alongside Whittlesey Road. A planting belt in this location would completely remove the northward views from the fort across the open landscape to the north, including the currently proposed Archaeological Preservation Area and would result in additional adverse impact on the setting and significance of the monument. Whilst moving the screening planting to the northern side of the Area of Archaeological Preservation would retain slightly more of the open context to the north of the fort, we note that the Peterborough City Council Tree Officer has stated that the site cannot be 'adequately or appropriately landscaped to offer both the screening and enhancement required of the site'. We also note and agree with the Tree Officer's observation that planting of trees for screening would adversely affect the hydrology of the site and potentially result in the drying out of currently important waterlogged buried archaeological remains. Historic England's Position: Historic England has concerns about the level of information and interpretation provided in the Tier 2 Hydrological Assessment Report and the way in which these have been integrated with the results of the Archaeological Evaluation Report and Drainage Strategy. We consider that the currently provided information does not meet the requirements of NPPF paragraphs 194 and 195.

The Archaeological Preservation Area as originally proposed in the southern part of the site does not take into account the full extent or significance of the archaeological remains discovered in the 2022 archaeological evaluation. The archaeological evaluation has demonstrated that the proposed development site contains highly significant waterlogged buried archaeological and palaeoenvironmental remains. The proposed development has potential to adversely impact the significance of these non-designated heritage assets through direct construction impacts and potential longer-term hydrological changes. Whilst the proposed development presents possible foundation design options which could result in the protection of the buried archaeological remains from direct construction impacts (excluding potential dewatering during construction) we have serious concerns about the viability of the long-term preservation in situ of the buried archaeological and palaeoenvironmental remains at the site.

Even if accompanied by ongoing monitoring of groundwater levels, preservation by foundation design would offer little security for the future survival of the archaeological remains if there were subsequently changes in the hydrology of the site. Once the archaeological remains were buried beneath the proposed buildings at the development site there would be no opportunity to record them through excavation if they were found to be adversely affected by reduced groundwater levels in the future. Notwithstanding our comments about the shortcomings of the Tier 2 Hydrological Assessment, Historic England considers that preservation in situ of the buried archaeological remains at the site is unlikely to be a viable option and that, if the development were to be granted planning permission, there would need to be full excavation and recording of the buried archaeological remains in accordance with NPPF paragraph 203. However, such an approach would not address the impact of the proposed development on the setting of the Horsey Hill Fort scheduled monument and the harm to its significance that would arise as a result. Historic

England considers that, with the planting screening on Whittlesey Road as proposed, the proposed development would result in a medium or higher level of 'less than substantial harm' in NPPF terms. If adequate screening would be possible adjacent to the development on the northern side of the proposed Archaeological Preservation Area, it is likely that the level of harm through change to the setting of the monument would be marginally reduced due to the retention of a slightly larger area of visibly open space to its north. We recommend that further consideration is given to the possible screening/planting options in terms of minimising the adverse impact on the setting of the Horsey Hill Fort scheduled monument.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 194, 195, 200, 202 and 203 of the NPPF.

Members should be aware that there have been further discussions between the Local Planning Authority, Historic England and the PCC Archaeologist following the submission of the above comments, as summarised later in this report.

PCC Archaeologist

Concerns. Fieldwork to date has established that this is a site of national importance with equivalent significance to scheduled monuments. Footnote 68 of the NPPF states that "non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets."

There are still concerns about the current outline application.

- Hydrology: Historic England has expressed concerns about the water monitoring carried out during the wet season in October, thus presenting the best-case scenario for the height of the water table. The worst-case scenario has not been presented. (Further comments/recommendations are deferred to Historic England).
- Setting of the Scheduled Monument (SM) at Horsey Bridge English Civil War Fort: Historic England has expressed concerns about the tree screening which could have an adverse impact on the setting. (Further comments/recommendations are deferred to Historic England).
- Trees: The PCC arboriculturist has expressed concerns about the potential effect of rooting on the hydrology and in terms of direct impact on the buried archaeology. (Further comments/recommendations are deferred to the PCC arboriculturist).
- Access Road: The access road has the potential to impact upon the Bronze Age earthworks, namely the projected line of the ditch and surviving elements, if any, of the original bank underneath the A605.
- Archaeology:
 - o The full extent of the archaeology on the higher ground (approximately, the western half of the site) remains unknown.
 - o The line of the Bronze Age ditch remains uncertain.
 - o Masterplan: the masterplan does not show the location of the piles in relation to the archaeology exposed to date.

Members should be aware that there have been further discussions between the Local Planning Authority, Historic England and the PCC Archaeologist following the submission of the above comments, as summarised later in this report.

PCC Conservation Officer

No objections. The applicant has demonstrated that the limited views of the Cathedral across the site can be retained by maintaining a 'Views Corridor' at reserved matters stage.

Natural England

No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes

PCC Wildlife Officer

No objection subject to conditions. This project is unlikely to cause significant biodiversity loss through habitat destruction however it may create new negative impacts to protected species or habitats. The conditions above reflect this and have been recommended in order to ensure that there is no lasting negative impact.

It is noted that there already exists a lighting plan, however this plan does not detail how it has been created as to avoid new negative impacts on ecological constraints. This is particularly relevant due to the sensitivity of local habitats.

PCC Tree Officer

Objects on landscape grounds. Does not believe the site can accommodate the quantum of development shown on the Illustrative Masterplan once the various constraints are taken into account.

Environment Agency

No objection. We consider that the main source of flood risk at the site is associated with watercourses under the jurisdiction of the Internal Drainage Board (IDB). As such, we have no objection to the proposed development on flood risk grounds. However, the IDB should be consulted with regards to flood risk associated with watercourses under their jurisdiction and surface water drainage proposals. In all circumstances where flood warning and evacuation are significant measures in contributing to managing flood risk, we expect local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions.

PCC SUDS Officer

No objection subject to conditions. The applicant has provided an acceptable drainage strategy.

IDB (Middle Level Commissioners)

Object. The Commissioners oppose this development as, in its current form, it contravenes the Commissioners byelaws and is considered would detrimentally affect both navigation, the aquatic environment, water level and flood risk management both locally and within the adjacent Fenland and Huntingdonshire District Council areas. In view of the contents below, the size of the development and the possible adverse effect on the respective systems, the applicant is urged to discuss this with the Commissioners via the post-application consultation procedure. Concerns are in respect of:

- Water level and flood risk management systems
- Navigation
- Water transfer
- Environmental issues
- Water quality

The IDB's objection was in relation to the originally submitted Illustrative Masterplan, which the applicants amended in light of the IDB's objection. Additional drainage information was also

submitted to which the Council's SUDS Officer and the Environment Agency had no objection, but on which the IDB has not commented. Drainage and flood risk considerations are discussed in the main body of this report.

PCC Pollution Control Team

No objections subject to conditions in respect of noise, lighting and contaminated land

PCC Minerals & Waste Officer

No objection. The site lies within a Minerals Safeguarding Area for brick clay, and the western half of the site lies within a MSA for sand and gravel (Minerals and Waste Local Plan Policy 5). There are insufficient grounds to maintain an objection in relation to Minerals & Waste Policy 5.

Anglian Water

No objection subject to a condition. The foul drainage from this development is in the catchment of Peterborough (Flag Fen) Water Recycling Centre that will have available capacity for these flows

Cadent Gas

No objection.

Cllr Rush - Objects:

- The land is not allocated for development in the Local Plan.
- The proposed business park is to be built on agricultural land not allocated in the local plan.
- The access point will bring extra traffic on to an already busy road and will nullify the £millions spent on the Pondersbridge project to ease the build up of traffic on to the Cardea by-pass and in to Stanground.
- The excavation could destroy unearthed Bronze Age Artefacts near or on the course of the old course of the river that runs from Must Farm to Horsey Toll Fort and across to Flag Fen. Uncovered Artefacts could be destroyed.

Fenland District Council

Comments. The proposal would introduce a new and markedly different character of built development to the area at odds with the existing built environment and the urban extension of the City allocated in the development plan. The proposed development appears to project out from the existing planned edge of the settlement along the route of the A605 as it runs between Peterborough and Whittlesey. The further development of the city in this direction would result in the reduction of the separation between the two settlements, in particular due to the proximity of the site boundary to the existing built development to the west of Whittlesey along Kings Delph. If development is permitted in this location then it will contribute towards the coalescence of the two settlements, which is contrary to good planning practice and policies of both the Peterborough Local Plan and the Fenland Local Plan.

Local Residents/Interested Parties

Initial consultations: 108
Total number of responses: 206
Total number of objections: 204
Total number in support: 2

Adjacent occupiers

Initial public consultation (July 2021) - 163 objections received:

Principle of development

- Land is not allocated for development in the Local Plan

- Plenty of vacant commercial premises are available elsewhere in the City
- Commercial uses are not appropriate in this location, near existing housing
- Need has not been demonstrated
- Applicant's commercial justification report is biased
- Other commercial development applications nearby have been refused
- This is not brownfield land in need of regeneration, such as the greyhound track
- Town Centre brownfield sites (for example, around the railway station) should be redeveloped in preference to this greenfield site - better locations closer to the A1 exist

Traffic & transport

- Increased traffic using an already busy road
- Proposed junction location is inappropriate
- Proposed junction design is inappropriate
- Round-the-clock traffic generation from the type of uses proposed
- Already difficult for residents to enter/exit their private driveways
- Cardea bypass should be dualled
- Proposed bus stop locations are inappropriate

Drainage & flood risk

- Insufficient local wastewater capacity
- Surface water runoff may cause localised flooding
- Existing run-off from the A605 would be exacerbated
- The site is low-lying and flood risk here is likely to increase with climate change

Amenity

- Noise and disturbance to nearby residents, loss of existing tranquillity
- Disturbance and potential property damage caused by piling
- Overbearing impact and loss of outlook
- Light pollution
- Potential odour pollution
- Vibration disturbance caused by piling or heavy vehicles during operation
- Disruption during construction
- Insufficient new planting is proposed to properly shield the development from nearby properties

Ecology

- Bats have been seen flying across the site
- Often heron, hedgehogs, pheasants or swans seen on this land
- Loss of existing trees
- Loss of grassland habitat
- No Biodiversity Net Gain Assessment has been submitted

Heritage

- Effect on retained archaeology
- Insufficient archaeological investigation has taken place
- The site layout takes no account of what archaeology might yet be uncovered

Other

- Too prominent in the wider landscape
- Insufficient screening is proposed
- Additional litter created by employees
- Broadband speed in the area is very poor

Case Officer Note: a number of consultees have raised concerns as to the effect of the proposed development on their own private property values. This is a not a material consideration.

2 letters of support received:

- Supports the new Business Park, if the following is considered as part of development:
 1. Speed limit from Kings Dyke to Park Farm/Cardea is reduced to 30mph.
 2. Foot path extended from Kings Delph to Park Farm.
 3. Cycle lane incorporated with Footpath, Kings Delph to Park Farm.
 4. A605 through Kings Delph, when it rains, considerable water floods onto properties, 107 to 127. This must be resolved.
- More jobs within the area are needed for the younger generation to go to and learn different skills instead of the Amazon and IKEA warehouses
- Would help with money spent within local businesses in Stanground, including retailers

Further public consultation (December 2022)

26 further objections were received as a result of consultation on additional information submitted by the applicant, including an amendment to the proposed site access location, opposite the B1095 Milk & Water Drove junction. Additional issues raised were focussed on the revised location of the proposed access, and previous concerns were reiterated. The 26 objections received as a result of the December 2022 further public consultation should be considered in addition to, rather than instead of, the 165 objections received following the initial public consultation.

- The revised access location would be particularly hazardous to residents entering/exiting 1 & 2 Toll Cottages
- Exiting vehicles' headlights would shine directly towards 1 & 2 Toll Cottages
- Additional noise, disturbance and pollution from vehicles entering/exiting the site in the proposed location
- Even less opportunity for screening the development from 1 & 2 Toll Cottages if the access is immediately opposite them

Revised access proposals reconsultation (January 2023)

15 further objections received as a result of the most recent reconsultation, when the applicant reverted the location of the proposed access away from the B1095 Milk & Water Drove junction back to the position originally proposed when the application was submitted. No new material considerations were raised at this stage, when those who did express a view reiterated their previous concerns. The 15 objections received as a result of the December 2022 further public consultation should be considered in addition to, rather than instead of, the 191 objections received following the first and second public consultations.

5 Assessment of the planning issues

The main matters for consideration are

- a) Principle of Development
- b) Highway matters
- c) Visual impact
- d) Heritage Matters
- e) Neighbour Amenity
- f) Biodiversity
- g) Contamination
- h) Drainage
- i) Legal Agreement
- j) Other matters
- k) The planning Balance

a) Principle of Development

Acknowledging that the site is not allocated for development and lies outside the Urban Area boundary, the applicant has sought to justify their application by demonstrating that the City's supply of employment land available for development will be exhausted well before the end of the current Local Plan period (2036). The effect of such a shortfall, should one exist, would be that prospective employers would be likely to have difficulty developing or finding employment premises in the City, whilst existing employers looking to enlarge, downsize or simply move premises would also be likely to encounter difficulties. In these instances, employers may be forced to look elsewhere for their new premises, with an associated placement of employment opportunities outside of Peterborough. Diversity of employment land availability and premises types/sizes is essential to avoid the over-reliance of the local economy on any single employer, market sector or employment type.

The applicant has submitted a detailed and extensive Employment Land Report which, following careful review, is considered to substantiate their case. The applicant's assessment demonstrates that Peterborough, having been successful to date in delivering new employment development on the sites allocated in the Local Plan for that purpose, now has limited remaining opportunities left for employment development. Of the 160 hectares allocated in the Local Plan for employment development, only 49.5 hectares of this currently remains - mainly at the 30 hectare Red Brick Farm site. Even with some redevelopment of existing employment premises within the General Employment Areas or elsewhere in the City (such as the land South of Hotpoint or at the Greyhound Stadium), market demand evidence submitted by the applicant demonstrates that this will not be sufficient to meet the demand for employment land by the time the current Local Plan period ends in 13 years time.

Of particular note is the extent to which a number of the allocated employment sites constructed to date have been developed for large footprint single-occupier warehousing and distribution premises. This is perhaps unsurprising given the excellent access of those sites to the trunk road network, and in itself complies with the Local Plan's employment policies. Nonetheless, this is a land-hungry employment use which has reduced the amount of allocated employment land left available for Small-to-Medium Enterprises.

At the same time, some level of vacancy within existing units is entirely expected and indeed necessary to ensure proper functioning of the employment land/premises market. If all units were occupied all the time, it would make relocating premises exceptionally difficult if not impossible, particularly given the potentially time-consuming nature of an employer fitting out their new premises with machinery or equipment before it can become operational and the existing premises vacated. The evidence submitted by the applicant does not reveal that an excessive or unusually high level of unit vacancies currently exists within the City, over-and-above that which would be expected in an active employment premises market.

The case made by the applicant is therefore a valid one. The absence of sufficient employment development opportunities can justify the release of additional (unallocated) sites for employment development ahead of the next Local Plan review, and in such instances the Local Planning Authority must consider each application that comes forward on its own merits, in light of the employment land demand and availability evidence available at that time.

The application site had previously been allocated for development under Policy CS7 of the 2011 Core Strategy as part of a Regional Freight interchange on a wider 135ha site known as Magna Park. The site had been allocated as strategic facility, intended to provide an interaction between road and rail, with the aim of reducing road traffic on the A14, and would have involved significant warehousing development and associated goods vehicle movements. Development did not take place in accordance with the Core Strategy site allocation and this site was not carried forward into

the current Local Plan. The previous site allocation in itself no longer carries any weight, but it is nonetheless of note that the land has, in the past, been considered suitable for employment development.

Also relevant is that site is covered by a minerals safeguarding area for brick clay extraction, with the western part of the site also safeguarded for sand and gravel extraction within the adopted Minerals and Waste Local Plan. The applicant contends that, because of the comparatively small size of the site, its proximity to nearby residential development, and its sensitive archaeological setting, it would be both impractical and undesirable to enter into commercial-scale minerals extraction in this location.

The applicant has submitted an Economic Benefits Statement which explores the potential value the development could bring to the local economy. By analysing national and local statistics, and then applying these to the proposed development on the optimistic basis of 100% B2 (manufacturing) occupancy, the Statement sets out that:

- around 400 permanent new full-time-equivalent jobs could be created
- a contribution of approximately £21 million per annum (Gross Added Value) to the local economy
- employee wages estimated at £13 million per annum
- estimated annual business rates of approximately £274,000 per annum

Whilst these estimates are considered to be a best-case scenario, nonetheless the quantum of economic benefit to the local economy is likely to be considerable. National Planning Policy Framework paragraph 81 confirms that decision-takers must place "significant weight" on the need to support economic growth.

As a matter of both planning law and planning policy, a departure from the policies of an adopted Local Plan is permissible when material considerations indicate this this is justified. Having taken all of the above into account, and in light of the compelling justification provided by the applicant, employment development on this unallocated site is considered capable of being an acceptable departure from the adopted Local Plan, provided that the detailed material considerations below are or can be made demonstrably acceptable. A rounded judgement considering all the material considerations in the planning balance will therefore be required.

b) Highway matters

The application has attracted a large number of consultation responses, with traffic concerns featuring prominently in neighbours' comments.

The A605 Whittlesey Road is a busy route, with the proposed development taking a single new point of access at a simple priority junction towards the eastern end of the site. An existing access opposite the B1095 Milk and Water Drove junction which serves the crane depot has previously been judged unsuitable by the Council for any intensified usage, forming one of the refusal reasons in 2017 for a Gas to Grid Anaerobic Digestion Plant to the north of the crane depot (16/00080/MMFUL). The existing access would therefore be stopped-up, with the crane depot instead being accessed via the proposed new junction and estate road. The new A605 junction would not be signalised and would be a simple priority junction, albeit with right-turning traffic heading from the Whittlesey direction into the development having a dedicated right-turn lane.

The Local Highway Authority has assessed existing and forecast traffic flow data submitted by the applicant and is satisfied that, in principle, the A605 could accommodate the additional movements generated by the proposed development without any significant impacts on the transport network in terms of capacity or congestion. This is the policy test set out at National Planning Policy Framework paragraph 110 and, as a reminder, paragraph 111 goes on to clarify 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."

Consequently, having regard to the quantum of objections received on highway grounds, the information submitted by the applicant, and the assessment of the Local Highway Authority, it is considered that in principle the proposed development could be accommodated on the existing highway network in an acceptable manner.

The Local Highway Authority has reviewed the location and design of the proposed new access junction (a simple give-way arrangement with a protected right-turn lane for westbound traffic entering the site) and is satisfied that this is appropriate in principle. The detailed junction design can be controlled by condition.

In terms of provision for non-motorised traffic, the application includes measures to encourage walking, cycling and the use of public transport. The existing No.31/33 Peterborough to Whittlesey bus service passes the site hourly during the day, but does not operate on Sundays or Bank Holidays and does not run past 7pm. Whilst the two new bus stops that have been proposed on the A605 to serve the application site are welcomed, the existing bus service would not be sufficient for shift workers starting before 6am or finishing at, say, 10pm. A new central pedestrian refuge is proposed which would assist pedestrians crossing the A605 to reach the proposed new westbound bus stop.

Consequently, measures to enhance the site's accessibility by cyclists and pedestrians are also necessary. A new footway/cycleway is proposed which would connect to the existing footway/cycleway on the opposite side of the River Nene (Old Course) which the illustrative masterplan shows running continuously through the site and out the other side. This new footway/cycleway would provide a safe and convenient route for cyclists and pedestrians away from the busy A605 and should be constructed to adoptable standard. This, and its subsequent adoption, can be secured in a Section 106 agreement. There is an existing underpass to the A605a and crossing over the River Nene (Old Course) which is part of the National Cycle Network.

Onsite parking and turning are not for consideration at this time, but would need to be proposed and considered in detail at reserved matters stage. Nonetheless, the illustrative masterplan demonstrates that an appropriate quantum of car and cycle parking could be provided onsite, along with adequate turning and manoeuvring facilities.

Charging points for electric vehicles are required by Part S of the Building Regulations, at the rate of 1 charger-equipped space for every commercial building served by more than 10 spaces, plus a further 20% of all spaces being pre-wired for future additional charging points. This exceeds the level of provision recently secured by the Council on other employment developments prior to the publication of the current Part S, and given that there is no specific electric vehicle charging points policy in the Adopted Local Plan there is no justification in this instance to require a level of provision in exceed of the Building Regulations. Nonetheless, a condition requiring the location of the electric vehicle charging points to be submitted for approval as part of the reserved matters process is recommended.

c) Layout and visual impact

The application is submitted in outline with all matters reserved except access, but nonetheless scale parameters have been tested and a maximum heights condition is recommended in order to ensure that no unexpected landscape or other visual effects occur. Although sited outside the Urban Area Boundary, in landscape terms this is an edge-of-settlement location where in longer range views development would be viewed in the context of existing residential and commercial development, including the prominent crane yard to the north.

The Council's Tree Officer has raised concerns with the Illustrative Masterplan, with particular regard to the poor levels of screening that the illustrative landscape planting would provide in particular from the A605. A specific list of landscape mitigation requirements is therefore recommended to be conditioned which will inherently inform changes to the Illustrative Masterplan at reserved matters stage to ensure the development is appropriately screened. This can be achieved without compromising the water levels within the site subject to the submission of an acceptable technical solution which will be controlled by conditions C13 and C15.

Subject to the recommended conditions and appropriate design and consideration at reserved matters stage, the proposed development is considered capable of complying with Policies LP27 and LP29 of the Adopted Peterborough Local Plan (2019).

d) Heritage Matters

The application site lies adjacent to the Horsey Hill Fort, a Scheduled Ancient Monument.

The Hill Fort is an English Civil War earthwork which was raised during military operations between 1642 and 1645 to provide temporary protection for infantry or to act as gun emplacements. These earthworks, which may have been reinforced with revetting and palisades, consisted of banks and ditches and varied in complexity from simple breastworks to complex systems of banks and interconnected trenches. There are some 150 surviving examples of fieldworks recorded nationally. All examples which survive well and/or represent particular forms of construction are identified as nationally important.

Although a small part of the earthwork has been damaged by the formation of the modern A605, the greater part of Horsey Hill Fort survives substantially undisturbed. The banks, covered way, entrance and bastions will all contain details of their construction and use, and the interior will contain buried evidence of temporary structures erected during this brief period. Artefacts related to the occupation and function of the monument will be preserved below ground both here, and in the silts of the surrounding ditch.

Horsey Hill Fort is amongst the most elaborate fortification in England to have survived from the Civil War. It shows clear influences of contemporary continental military design (developed in response to the increased mobility of contemporary warfare and the dominance of artillery), and how these ideas were adapted in the English context. The fort's position demonstrates the importance of the Fen Causeway and Nene crossing within the military frontier surrounding the Isle of Ely and, together with a number of other fortifications in the region (both in similar rural locations and in the main towns), illustrates the variety of defensive measures employed by the Eastern Association.

The fort's position demonstrates the importance of the Fen Causeway and Nene crossing within the military frontier surrounding the Isle of Ely. The landscape setting of the fort and its former field of fire are an important component of its significance. Whilst there is vegetation at ground level within, and on the boundary of, the fort, views northward into and across the proposed development site provide an appreciation of its former landscape context.

The higher ground on which the Civil War fort is located is also the site of an earlier Bronze Age ditch-defined enclosure. The development proposals include an Archaeological Preservation Area in the southern part of the site, encompassing the area of the enclosure and the land closest to the scheduled monument.

Archaeological investigation works undertaken to date by the applicant established the presence of highly significant waterlogged buried archaeological remains at the application site. This included defining the ditch of a later Mid-Bronze Age enclosure/hillfort earthworks (previously discovered in 2008) and well-preserved wooden post alignments associated with causeways dating to the Late

Bronze Age and Late Iron Age. These causeways would have crossed the shallow embayment between Horsey Hill and Stanground, which together shape the south-western corner of the Flag Fen Basin. The archaeological trial trenching has identified significant archaeological remains and deposits, some of which are contemporary with activities occurring at the nearby Bronze Age Scheduled Monument of Flag Fen. Combined with the evidence of an Early Bronze Age burial mound cemetery at Stanground Wash known from remote sensing and the excavated Late Bronze Age settlement at Must Farm (Whittlesey), they contribute to further characterise activities within and on the edge of the Flag Fen Basin, and along the River Nene in the later prehistoric period as part of the same landscape. The waterlogged organic remains appeared to be well preserved, and therefore have high potential and significance to address regional, as well as national, archaeological research priorities.

There are therefore five main concerns in archaeological terms:

- (i) The effect of development in this location on the setting of the Scheduled Monument;
- (ii) That development of the site may result in the "drying out" of currently wet soils which have allowed the Late Bronze Age and Late Iron Age water-logged archaeological remains to remain well-preserved. A Water Table Preservation condition is recommended accordingly as, if the applicant is unable to demonstrate that a minimum water table level can be maintained sufficient to preserve the archaeological remains in-situ, then significant further investigation and recording activities will be necessary. The precise AOD water table level to be preserved has been agreed with Historic England;
- (iii) The extent and alignment of the ditch defining the later Middle Bronze Age enclosure/hillfort has only partially been identified. A condition requiring further archaeological investigations to trace the full extent of this ditch is therefore recommended, to be undertaken in advance of and to inform the design of the masterplan and layout for consideration at reserved matters stage;
- (iv) Once the archaeological remains were buried beneath the proposed buildings there would be no opportunity to reverse the process of decay if they were found to be adversely affected by reduced groundwater levels in the future. Consequently, the recommended Water Table Preservation condition requires the submission of a mitigation strategy to manage this potential threat;
- (v) Although the significance of the archaeological remains and deposits uncovered to date is understood, the full archaeological potential of the site is unknown as only a small percentage of it has been sampled. Further remains/deposits may be present which have not been identified. Consequently, a condition is recommended to require further archaeological investigations to be agreed and undertaken across the remainder of the site.

Following careful consideration, the Council's Archaeologist has no objection in principle to the proposed development, subject to robust conditions covering the matters explored above.

Historic England had raised similar concerns to the Council's Archaeologist and has been consulted throughout in terms of archaeological methodologies, excavations undertaken to date, and robust mitigation measures to be secured by conditions. In addition, Historic England has raised a concern in respect of the setting of the Scheduled Monument, and has identified that the proposed development would cause "less than substantial" harm to the currently open immediate setting to the north. In light of this, National Planning Policy Framework paragraph 202 confirms that this harm should be weighed against the public benefits of the proposed development. The required balancing exercise is undertaken at the end of this report.

Finally in terms of archaeology, the heritage consultees consider that the archaeological interest of the application site is of such importance as to be worthy of consideration for listing in its own right as a Scheduled Monument. The site has been referred to Historic England's listings team for further assessment, albeit Historic England has advised that this process does not alter their

comments on the application as submitted and at the current time would not preclude the Local Planning Authority's determination of the application.

The Council's Conservation Officer is satisfied that, whilst there would be only minimal effect on the availability of limited and fleeting cathedral views, nonetheless the illustrative masterplan adequately demonstrates how those existing limited views could be safeguarded. A condition is recommended accordingly, as an element of the Phasing Plan condition, to ensure that an appropriate view corridor to the cathedral is maintained.

Taking into consideration all of the above, and subject to both the recommended conditions (C15 and C16) and the balancing exercise at the end of this report, the proposed development is considered capable of complying with Policy LP19 of the Adopted Peterborough Local Plan (2019).

e) Neighbour Amenity

The application has generated over 200 objections from local residents over the course of 3 rounds of public consultation. Whilst a large number of those objections are in respect of the principle of development or traffic generation, there are a number of properties which either direct face the application site, or would be sensitive receptors in terms of noise disturbance, air pollution or light spillage should such matters arise.

(i) Noise and disturbance

In terms of potential noise disturbance, the Council's Environmental Health Officer has reviewed the noise report submitted by the applicants and note that it was undertaken during lockdown conditions. They advise that, because noise monitoring was undertaken during limited periods, evening and early morning impacts cannot be determined as a result of the daytime monitoring periods undertaken. Additionally, the nighttime impacts can only be established for the least sensitive periods.

In the absence of precise data, the Environmental Health Officer advises that noise limits would need to be set on a precautionary basis.

When considering such noise limits, the cumulative impact of noise from individual units will require consideration. From the data available it is likely that daytime noise levels in the locality may already exceed World Health Organisation recommended levels, and therefore controls are required to avoid "creeping" ambient noise levels.

The noise conditions that are recommended follow the Environment Health Officer's recommendations. In particular, noise limits would apply to plant noise, including that of mobile sources (eg refrigerated vehicles), with each individual unit subject to the noise limit given that a site-wide limit would present difficulties in attributing "contributions allowance" for individual operators, and also for determining how enforcement can be directed any site wide exceedance.

- A "daytime" (07:00 - 23:00) noise limit could appropriately be based on the applicant's Location A monitoring at 22:00-23:00, and the Environmental Health Officer therefore recommends that a rating noise limit of 45dB is applicable considering the factors detailed above.
- A separate "nighttime" (23:00 - 07:00) noise limit could appropriately be based, in the absence of any suitable measurement data, upon the fact that rating levels of 35dB can be considered to be very low.

Additional conditions limiting delivery hours to the site and controlling the type of reversing alarms to be fitted to vehicles regularly used on the site, are proposed as further safeguards.

Subject to these conditions, the proposed development is considered capable of complying with Policy LP17 of the Adopted Peterborough Local Plan (2019) in respect of noise.

(ii) Light pollution

The Institution of Lighting Professionals has produced "Guidance Notes for the Reduction of Obtrusive Light: Guidance Note 01:20 ". The guidance recommends maximum values of light parameters for the control of obtrusive light, with acceptable limits specified dependent upon location.

The Environmental Health Officer has recommended that details of external lighting, including lower brightness during "curfew" hours and compliance with the lighting guidance note, are secured by condition. This is a reasonable and appropriate approach given the outline nature of the application.

Subject to these conditions, the proposed development is considered capable of complying with Policy LP17 of the Adopted Peterborough Local Plan (2019) in respect of light spillage.

(iii) Outlook and overshadowing

The Illustrative Masterplan gives an indication of one possible way the site might be developed as a mixed-use business park, but is not for determination at this stage. Rather, the reserved matters of siting, appearance and landscaping would all require further applications to be made where the proposed layout and appearance of the development could be scrutinised prior to any development taking place.

Appropriate measures must be taken to minimise the effect of the development on nearby dwellings through the provision of appropriate landscape buffers. These would be most notably required along the north-western site edge (alongside the River Nene) and along the southern boundary, adjacent to the A605. Conditions are recommended accordingly, subject to which the application is considered able to comply with Policy LP17 of the Adopted Peterborough Local Plan (2019) in respect of the avoidance of overbearing impact.

Further checks would need to be made at the reserved matters application stage when the detailed design of buildings would be proposed, including ensuring that foundation levels and heights to eaves/ridge would not cause any level of overbearing impact or overshadowing over-and-above that illustrated on the indicative cross-sections provided by the applicant at this stage. For the avoidance of doubt, a condition specifying the maximum permissible heights to eaves and ridges is recommended at this stage.

f) Biodiversity

Under the Wildlife and Countryside Act 1981 (as amended) it is an offence to take, damage or destroy the nest of any wild bird while that nest is in use or being built. Trees and scrub are likely to contain nesting birds between 1 March and 31 August. Trees within the application site should be assumed to contain nesting birds between the above dates unless a survey has shown it is absolutely certain that nesting birds are not present.

Under the Wildlife and Countryside Act 1981 (as amended) it is an offence to intentionally kill, injure or take a great crested newt or intentionally or recklessly destroy or disturb a great crested newt breeding or resting place. Great crested newts are likely to be hibernating in tree root systems, underground crevices, mammal burrows, rubble piles or old walls between October and February. Great crested newts will become active both terrestrially and within ponds between March and the middle of June. Any works impacting aquatic and terrestrial breeding and resting places which is used by great crested newts at any time needs to be certain that great crested newts are not present before the works take place.

Having studied the habitat, protected species and biodiversity information submitted by the applicant, Natural England has advised that it is satisfied this development is unlikely to have any significant adverse effects on protected sites or qualifying species.

The Council's Wildlife Officer had requested updated ecological and habitat surveys, particularly in respect of bats, which the applicant has undertaken. The results of this additional ecological assessment works are sufficient for the Wildlife Officer to have no objection to the proposed development, subject to a number of detailed conditions relating to a further badger survey prior to any works starting, measures to protect biodiversity during construction, a detailing lighting scheme, an a prohibition of any work taking place within 30m of any feature evidencing barn owl occupation.

Subject to these conditions, the application is considered to comply with Policy LP28 of the adopted Peterborough Local Plan (2019).

g) Contamination

The Environmental Health Officer is satisfied that, having review the detailed geo-environmental investigation report submitted by the applicant, ground conditions have been adequately investigated and are appropriate for the proposed commercial end uses. A condition is recommended nonetheless to cover the eventuality of any unsuspected contamination which is discovered during construction operations.

h) Drainage

The Environment Agency has reviewed the Flood Risk Assessment with regard to tidal and designated main river flood risk sources only, advising that the main source of flood risk in this location is associated with watercourses under the jurisdiction of the Internal Drainage Board and as such, have raised no objection to the proposed development on flood risk grounds.

In turn the Internal Drainage Board has also been consulted and have advised that the site is at a strategic location where access to Kings Dyke, the Pigwater and the Horsey Toll Sluice is required 24/7 365 days a year. Because of this these watercourses/assets are subject to the Commissioners byelaws, made in accordance with the Land Drainage Act (LDA) 1991, and are protected by 20m wide maintenance access strips. Any works in, over or under a protected watercourse and associated maintenance access strip requires the Commissioners prior written consent, which is subject to a separate control regime outside the planning process.

The Commissioners' subsequent consent should be assumed and the Commissioners have confirmed that they will not consent any structures which might detrimentally affect existing water level management or flood defence systems/assets that inhibits water level and flood control and maintenance work. They have also specifically advised that they will not consent:

- i. Unregulated rates of run-off and/or increased volumes of ground, surface or treated effluent water directly into the system; or
- ii. An additional bridge crossing over either Kings Dyke or the Pigwater.

Whilst neither is proposed in this instance, nonetheless this underlines the importance of ensuring that adequate space remains for the routine maintenance of the watercourses running alongside the site, as failure to do so could have severe consequences potentially leading to extensive flooding both to the site and the surrounding area in the future. Therefore, any associated cables, infrastructure, buildings, roads, soft or hard landscaping and other structures must be positioned outside the 20m wide maintenance access strips.

As set out earlier, matters of building siting and landscaping are not for consideration at this time and therefore the applicant, who has been advised to liaise in detail with the Commissioners, has the opportunity to shape the site masterplan to comply with the Commissioners' requirements prior to submitting any reserved matters application.

Finally, the Council's SUDS Engineer has studied the information submitted by the applicant and requested further detail. Additional information has been provided which has addressed the SUDS Engineer's questions, who consequently has no objection subject to conditions.

In light of all of the above, the proposed development is considered capable of complying with Policy LP32 of the Adopted Peterborough Local Plan (2019).

i) Legal Agreement

A Section 106 agreement is recommended in order to secure:

- a) The provision of an adoptable footway/cycleway crossing east-west across the site;
- b) Offsite improvements to the footway/cycleway network, including an extension to the footway/cycleway on the northern side of the A605 from the application site to the City Council's administrative boundary, a formalised connection onto Milk & Water Drove to the south of the site at the existing Green Wheel bridge over the River Nene, and improved cycle route signage

j) Other matters

Local Plan Policy LP31 allows for developments to be considered "more favourably" where these make a positive and significant contribution towards low carbon energy in terms of reduced demand, resource efficiency, energy production and carbon off-setting. The policy does not apply to those developments which are in themselves poorly designed, harmful to the landscape or the natural/built environment, or to the amenity of residents but irrespective the applicant's Sustainability Strategy does not demonstrate that the development would meet the policy tests in LP31 to be considered "more favourably". Nonetheless, the submitted Sustainability Strategy does contain some positive elements and a condition requiring compliance with it is recommended accordingly.

The IDB has advised that the Kings Dyke is a navigable watercourse which forms part of the Middle Level Link Route which provides the only connection between the Environment Agency's River Nene and the Great River Ouse systems and thus of significant importance as a tourist facility within the region the benefits of which extend beyond the City Council's area. The Commissioners, in their capacity as a navigation authority, promote the navigable rivers within the area provided that they do not detrimentally affect any statutory water level and flood risk management functions and seek to promote the river as a tourist destination. The Commissioners have therefore requested evidence which demonstrates that navigation will not be adversely affected by the proposed development. Given that any development within 20m of the river requires the Commissioners' separate consent, in this instance a condition would not meet the policy tests but rather, a note to the applicant is recommended.

A number of consultees have noted that broadband speeds in this part of the City are currently poor. A broadband condition is recommended accordingly.

A condition is recommended restricting the Use Classes which would be permitted on this site, including limited any changes with Use Class E (Commercial, Business and Service) in order to prevent the site from being used as a retail park or leisure facility without a further grant of planning permission.

k) The Planning Balance

The application proposes a departure from the adopted Local Plan, on the basis that the policies which are most important for determining the application (in particular, those governing the provision of employment land) are out-of-date. Officers are satisfied that the applicant has

demonstrated that this is the case. Consequently, the National Planning Policy Framework advises at paragraph 11(d) that planning permission should be granted, unless:

i. the application of policies in the National Planning Policy Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

In respect of national policy test 11d(i), whilst there would be an effect on designated heritage assets and other heritage assets of archaeological interest, subject to the recommended conditions those effects would not provide a clear reason for the application to be refused.

In respect of national policy test 11d(ii), it is necessary to weight the benefits and adverse impacts in the planning balance, refusing planning permission only if the adverse impacts "significantly and demonstrably" outweigh the benefits.

The main benefits of the proposed development are economic ones, which National Planning Policy Framework paragraph 81 directs the decision-maker to give "significant weight". These include job creation, the provision of additional land for employment development in light of an identified but unexpected shortfall, construction expenditure, a significant forecast quantum of Gross Added Value to the local economy, and additional tax receipts. Improved footway/cycleway connections are a benefit of more limited weight.

Set against these benefits are the less-than-substantial harm to the setting of the Scheduled Monument, risks to archaeology, additional traffic loading on the highway network, changes to onsite habitats, effect on the landscape, and effects on the living conditions of residents.

Subject to the recommended conditions, and careful consideration of matters of detail at reserved matters stage, the adverse impacts are considered to be capable of mitigation (both individually and cumulatively) such that adverse impacts would not "significantly and demonstrably" outweigh the benefits.

Officers therefore consider that the planning balance points to planning permission being granted as a departure from the adopted Local Plan.

6 Conclusions

Subject to the imposition of the attached conditions, the proposal is acceptable having been assessed in the light of all material considerations, including weighing against relevant policies of the development plan and specifically:

- The applicant has demonstrated that the most relevant policies in the Adopted Local Plan relating to the supply of employment land are out-of-date and consequently, National Planning Policy Framework paragraph 11 is engaged
- In respect of national policy test 11d(i), whilst there would be an effect on designated heritage assets and other heritage assets of archaeological interest, subject to the recommended conditions those effects would not provide a clear reason for the application to be refused.
- In respect of national policy test 11d(ii), the main benefits of the proposed development are economic ones, which National Planning Policy Framework paragraph 81 directs the decisionmaker to give "significant weight". These include job creation, the provision of additional land for employment development in light of an identified but unexpected shortfall, construction expenditure, a significant forecast quantum of Gross Added Value to the local economy, and additional tax receipts.

- Set against these benefits are the less-than-substantial harm to the setting of the Scheduled Monument, risks to archaeology, additional traffic loading on the highway network, changes to onsite habitats, effect on the landscape, and effects on the living conditions of residents.
- The adverse impacts are considered to be capable of mitigation (both individually and cumulatively) such that adverse impacts would not "significantly and demonstrably" outweigh the benefits.

7 Recommendation

The case officer recommends that Outline Planning Permission is **GRANTED** subject to the completion of a Section 106 agreement and the following conditions:

C 1 Approval of details of the means of access, layout, appearance, landscaping and scale

(hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority in writing before the development of any Phase approved pursuant to the Phasing Plan required by condition 3 of this permission is commenced.

Reason: To ensure that the development meets the policy standards required by the development plan and any other material considerations including national and local policy guidance and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

C 2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of five years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of seven years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To ensure that the development meets the policy standards required by the development plan and any other material considerations including national and local policy guidance and in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990 (as amended).

C 3 Prior to the submission of any application for reserved matters, a Phasing Plan shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Phasing Plan.

The Phasing Plan shall include (but not be limited to):

- a. Existing features, including topography and those trees and shrubs to be retained;
- b. The extent of road to be constructed to adoptable standard;
- c. SUDS provision;
- d. Foul and surface water drainage;
- e. Structural landscaping;
- f. The order in which plots will be released;

- g. Zones to be kept clear from development in order to safeguard a view corridor from the A605 towards Peterborough Cathedral; h) Fire hydrant provision;
- a. Details of haul routes, routing and parking for construction traffic;
- b. Means of temporary and permanent access to the existing commercial uses to the north of the site;
- c. Provision of a footway/cycleway connecting through the site to and from the A605.

Reason: To secure the comprehensive and co-ordinated development of each part of the site, and to clearly identify the outline consent pursuant to which each part of the site will be developed in accordance with the policy standards required by the development plan and any other material considerations.

C 4 Details submitted pursuant to condition C1 shall be restricted as follows:

- No building shall exceed a height of 10.5m from slab level to eaves and no building shall exceed a height of 13.2m to its highest point.
- The total cumulative quantum of floorspace shall not exceed 15,263sqm GIA

Reason: In order to ensure that development is restricted to that which has been applied for, and in order to ensure the availability of premises for small-to-medium enterprises in accordance with the development need justifying the development.

C 5 No individual premises on the approved development shall exceed 2,000sqm and no individual occupier shall occupy more than 2,000sqm in total on the development.

Reason: In order to ensure the availability of premises for small-to-medium enterprises in accordance with the development need justifying the development.

C 6 Prior to the submission of any reserved matters applications the applicant shall submit a Design Code for the written approval of the Local Planning Authority. The Design Code shall include but not be limited to:

- facing materials palette
- fenestration options
- shutters to vehicular openings
- security shutters
- roof form
- signage zones
- refuse storage

Reserved matters subsequently submitted pursuant to condition C1 shall comply in full with the approved Design Code.

Reason: In order to ensure the creation of high-quality buildings and place in accordance with paragraph 126 of the National Planning Policy Framework (2021) and Policy LP16 of the Adopted Peterborough Local Plan (2019).

C 7 The rating level of noise emitted from the site shall not exceed 45 dB LAeq, 1 hour between 07:00 and 23:00 Monday to Friday and 35dB dB LAeq, 15 minutes at any other time. The noise levels shall be determined at the nearest noise sensitive premises using measurements and assessment made in accordance with BS:4142:2014.

Reason: In order to avoid any significant noise nuisance from the development to nearby sensitive premises.

C 8 Reversing alarms fitted to vehicles that are used regularly at premises shall be of a non tonal (white noise) design.

Reason: In order to safeguard the amenity of nearby residential occupiers.

C 9 There shall be no deliveries, heavy goods vehicle movements, use of fork-lift trucks or use of any other vehicles fitted with reversing alarms operating on the site other than between the hours of 07:00 and 23:00.

Reason: In order to safeguard the amenity of nearby residential occupiers.

C10 No external lighting shall be erected until a Lighting Strategy for all lighting across the site has been submitted to and approved in writing by the Local Planning Authority. The strategy shall:

- a. identify those areas/features on site that are particularly sensitive for, protected habitats breeding birds, bats and badgers that are likely to cause disturbance; and
- b. show how and where external lighting will be installed (through the provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species and/or habitats.
- c. demonstrate that the use of lighting the development, and used at individual premises, does not exceed the obtrusive light limits specified for environmental zone E3 in the Institution of Lighting Professionals document "Guidance Notes for the Reduction of Obtrusive Light: Guidance Note 01:20".
- d. demonstrate how lighting of private roads, driveways or parking areas shall be arranged so that no danger or inconvenience is caused to users of the adjoining existing or proposed public highway.

All external lighting shall be installed in accordance with the specifications and locations set out in the strategy, and these shall be maintained thereafter in accordance with the strategy. Under no circumstances may any other external lighting be installed without prior consent from the Local Planning Authority.

Reason: In order to protect the amenity of local residents, in the interests of highway safety, and to safeguarded ecology in accordance with Policies LP13, LP17, and LP28 of the Adopted Peterborough Local Plan (2019).

C11 If during development, contamination not previously identified, is found to be present at the site then no further development (unless otherwise agreed in writing by the Local Planning

Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority, a Method Statement detailing how this unsuspected contamination shall be dealt with.

Reason: To ensure that the development complies with approved details in the interests of the protection of human health and the environment, in accordance with Policy LP31 of the Adopted Peterborough Local Plan (2019)

C12 Notwithstanding the indicative site layout indicated on Illustrative Masterplan reference AP0201 Revision U, the landscaping details submitted pursuant to condition 1 shall include but not be limited to:

- a. Tree and shrub planting to form a landscape buffer along the western site boundary adjacent to the River Nene (Old Course)
- b. Tree and shrub planting to form a landscape buffer along the northern site boundary adjacent to the Kings Dyke
- c. Tree and shrub planting to form a continuous landscape buffer alongside the A605 at both Whittlesey Road and Toll Road
- d. Tree and shrub planting to form a landscape buffer on "blue land" alongside the A605 which allows screening of the development from adjacent residential properties at 1 and 2

Toll Cottage and Tollbar Cottage

- e. Tree and shrub planting to form a landscape buffer along the north-western boundary of the "blue land" labelled "Archaeological Preservation Area" which may in part be placed within the car parking areas of a revised site layout
- f. Tree and shrub planting within the development including street tree planting and tree planting within all car parking areas
- g. A Landscape Management Plan including long term design objective and management/maintenance responsibilities
- h. Planting Plans including trees, species, numbers, size, densities, showing suitable soil volumes, tree pit details, including root barriers/deflectors, means of support and details of means of watering to provide suitable/appropriate irrigation rates
- i. An implementation programme for each phase of the development
- j. Hard surface materials
- k. Boundary treatments

The development shall thereafter be carried out in accordance with the approved hard landscaping details prior to first occupation/ use of the element to which it relates. In the case of soft landscaping this shall be implemented in the first available planting season following the first occupation or use of the element to which it relates. The soft landscaping shall thereafter be managed and maintained in accordance with the approved Landscape Management Plan.

If within a period of five years from the date of planting of any tree or shrub or any tree/shrub planted in replacement of it, is removed, uprooted, destroyed or dies or becomes otherwise defective another tree or shrub of the same species and size as that originally planted shall be planted in the same location and in the next available planting season unless an alternative arrangement is agreed in writing by the Local Planning Authority.

Reason: In order to mitigate the impact of the development on the landscape and the minimise its effect on nearby residential properties in accordance with Policies LP16, LP27 and LP29 of the Adopted Peterborough Local Plan (2019).

C13 The landscaping reserved matters details to be submitted pursuant to condition 1 shall specifically include details of root protection, root containment and irrigation in respect of new tree and hedgerow planting along the entire southern boundary adjacent to the A605.

Reason: In order to protect and safeguard the amenities of the area whilst balancing the need to safeguard archaeological heritage assets, in accordance with Policies LP16, LP19 and LP29 of the adopted Peterborough Local Plan (2019) and Chapters 15 and 16 of the National Planning Policy Framework (2021).

C14 Any landscaping abutting the River Nene (Old Course) along the north-western site boundary (as shown indicatively on drawing number AP0201 Revision U) which is removed in association with or as a result of works to the gas main shall be replaced in the first available planting season following the completion of works to the gas main with a species and size of planting equivalent to that which was removed.

Reason: In order to protect and safeguard the amenities of the area, in accordance with Policies LP16 and LP29 of the adopted Peterborough Local Plan (2019) and Chapter 15 of the National Planning Policy Framework (2021).

- C15 Prior to the submission of any reserved matters applications the applicant shall:
- a. Submit a Water Table Minimum Level Preservation Scheme for the written approval of the Local Planning Authority which demonstrates that the individual and combined effects of foundations, other below-ground works, impermeable areas and landscape planting, along with any water table mitigation measures, shall not result in the water table within the site or the adjacent "blue land" labelled "Archaeological Preservation Area" on the Illustrative Masterplan (drawing number AP0201 Revision U) falling below 1.90m AOD at any time. Reserved matters applications shall therefore accord with the Water Table Minimum Level Preservation Scheme and development shall be implemented in accordance with the approved Scheme. Any mitigation measures identified in the approved Scheme shall be implemented in full and retained for the lifetime of the development.
 - b. Only in the event that the applicant is unable to secure the Local Planning Authority's written approval for a Water Table Minimum Level Preservation Scheme then a Written Scheme of Investigation ("WSI") in respect of the Late Iron Age and Later Bronze Age post alignments shown at Figure 4 of the Archaeological Evaluation Report (Cambridge Archaeology Unit, University of Cambridge, June 2022) shall be submitted to and approved in writing by the Local Planning Authority. The WSI shall fulfill the requirements specified in a Brief issued by Peterborough City Council Archaeological Services. The WSI shall detail the programme of archaeological work and include a statement of significance, research objectives, the programme and methodology of site investigation and recording, and the nomination of a competent person(s) or organisation to undertake the agreed works, with timetables and any phased of work. It will also detail the programme for post-investigation assessment and subsequent analysis, publication and dissemination, and deposition of archival materials. Thereafter, for the land that is included within the WSI, the development

shall not take place except in complete accordance with the approved WSI, which shall be implemented in full prior to the commencement of any development.

Reason: To preserve archaeology in-situ or, where this is not possible to achieve, to mitigate the impact of the development on the historic environment and to ensure investigation, recording, reporting and presentation of the Late Iron Age and Later Bronze Age posts affected by the scheme, in accordance with Policy LP19 of the adopted Peterborough Local Plan (2019) and Chapter 16 of the National Planning Policy Framework (2021). This is a pre-commencement condition as measures to safeguard the minimum level of the water table to ensure preservation in-situ of archaeological assets must inform reserved matters designs or, if this is not possible, the works set out in the WSI must be submitted, approved and undertaken before any development works take place.

C16 Prior to the submission of any reserved matters applications a Written Scheme of Investigation ("WSI") in respect of the alignment and extent of the Bronze Age ditch and rampart shown in part at Figures 2 and 4 of the Archaeological Evaluation Report (Cambridge Archaeological Unit, University of Cambridge, June 2022) shall be submitted to and approved in writing by the Local Planning Authority.

The WSI shall fulfill the requirements specified in a Brief issued by Peterborough City Council Archaeological Services. The WSI shall detail the programme of archaeological work and include a statement of significance, research objectives, the programme and methodology of site investigation and recording, and the nomination of a competent person(s) or organisation to undertake the agreed works, with timetables and any phased of work. It will also detail the programme for post-investigation assessment and subsequent analysis, publication and dissemination, and deposition of archival materials. Thereafter, for the land that is included within the WSI, the development shall not take place except in complete accordance with the approved WSI, which shall be implemented in full prior to the commencement of any development.

Reason: To preserve archaeology in-situ and to ensure the investigation, recording, reporting and presentation of the ditch and rampart archaeological heritage assets affected by the scheme, in accordance with Policy LP19 of the adopted Peterborough Local Plan (2019) and Chapter 16 of the National Planning Policy Framework (2021). This is a precommencement condition as the works set out in the WSI must be submitted, approved and undertaken in order to inform the subsequent reserved matters application(s) in respect of internal means of access, siting and landscaping.

C17 In respect of those parts of the site not included within conditions 15 and 16 above, no development shall commence until an archaeological mitigation strategy, including a Written Scheme of Investigation ("WSI"), has been submitted to and approved in writing by the Local Planning Authority. The WSI shall fulfill the requirements specified in a Brief issued by Peterborough City Council Archaeology Services. Thereafter, for the land that is included within the WSI, no development shall take place except in complete accordance with the approved WSI, which shall be implemented in full.

The WSI shall detail the programme of archaeological work and include a statement of significance, research objectives, the programme and methodology of site investigation and recording, and the nomination of a competent person(s) or organisation to undertake the agreed works, with timetables and any phasing of work. It will also detail the programme for

post-investigation assessment and subsequent analysis, publication and dissemination, and deposition of archival materials.

This condition may be discharged in stages but shall not be fully discharged until the whole mitigation strategy set out in the WSI has been fulfilled to the satisfaction of the Local Planning Authority. Stages for discharge may be as follows:

1. Submission and approval of the WSI
2. Completion of the agreed fieldwork and post investigation assessment, as applicable(iii) Reporting/publication

(iv) Archiving

Should significant remains be encountered in the course of the fieldwork, the Local Planning Authority shall be immediately informed and the applicant shall ensure that any such exposed remains are undisturbed until their significance can be determined and consideration of their reburial/retention in situ or other mitigation is addressed.

Reason: To preserve archaeology in-situ and to ensure the investigation, recording, reporting and presentation of archaeological heritage assets affected by the scheme, in accordance with Policy LP19 of the adopted Peterborough Local Plan (2019) and Chapter 16 of the National Planning Policy Framework (2021). This is a pre-commencement condition as the works set out in the WSI must be submitted, approved and undertaken before any development works take place.

C18 Development shall be undertaken in accordance with the Sustainability Strategy dated 14 February 2023.

Reason: In accordance with sustainability objectives set out at Policy LP31 of the Adopted Peterborough Local Plan (2019).

C19 No works except demolition shall takes place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme should include but not be limited to:

The appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753.

- Detailed engineering drawings of each component of the drainage scheme.
- A written report summarising the final strategy and highlighting any minor changes to the approved strategy.
- An Implementation Programme sequencing the elements of and order within which the entirety of the approved strategy will be implemented

The scheme shall subsequently be implemented in accordance with the approved details.

Reasons:

- To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.
- To ensure the effective operation of SuDS features over the lifetime of the development. - To provide mitigation of any environmental harm which may be caused to the local water environment
- Failure to provide the above required information before commencement of works may result in a system being installed that is not sufficient to deal with surface water occurring during rainfall events and may lead to increased flood risk and pollution hazard from the site.
- In order to accord with Policy LP32 of the Adopted Peterborough Local Plan (2019).

C20 No works shall take place until a scheme to minimise the risk of offsite flooding caused by surface water run-off and groundwater during construction works and prevent pollution has been submitted to, and approved in writing by, the local planning authority. The scheme shall subsequently be implemented as approved.

Reasons:

- The National Planning Policy Framework paragraphs 163 and paragraph 170 state that local planning authorities should ensure development does not increase flood risk elsewhere and does not contribute to water pollution.
- Construction may lead to excess water being discharged from the site. If dewatering takes place to allow for construction to take place below groundwater level, this will cause additional water to be discharged. Furthermore the removal of topsoils during construction may limit the ability of the site to intercept rainfall and may lead to increased runoff rates. - To mitigate increased flood risk to the surrounding area during construction there needs to be satisfactory storage of/disposal of surface water and groundwater which needs to be agreed before commencement of the development.
- Construction may also lead to polluted water being allowed to leave the site. Methods for preventing or mitigating this should be proposed.
- In order to accord with Policy LP32 of the Adopted Peterborough Local Plan (2019).

C21 Prior to the occupation of any part of the development a Drainage Maintenance Strategy detailing the maintenance arrangements including who is responsible for different elements of the surface water drainage system and the maintenance activities/frequencies, has been submitted to and agreed, in writing, by the Local Planning Authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

Thereafter the surface water drainage provision within the site shall be maintained in perpetuity in accordance with the approved Drainage Maintenance Strategy. An annual Maintenance Log demonstrating compliance with the approved Drainage Maintenance Strategy must be kept and must be made available to the Local Planning Authority upon request.

Reason: To ensure appropriate maintenance arrangements are put in place to enable the surface water drainage system to function as intended to ensure mitigation against flood risk, in accordance with Policy LP32 of the Adopted Peterborough Local Plan (2019). Failure to provide the above required information prior to occupation may result in the installation of a system that is not properly maintained and may increase flood risk or pollution hazard from the site.

C22 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, the foul water drainage works relating to that phase must have been carried out in complete accordance with the approved scheme.

Reason To prevent environmental and amenity problems arising from flooding

C23 The development shall only be carried out in accordance with all of the recommendations for mitigation and compensation set out in the following documents:

- o Preliminary Ecological Appraisal (James Blake Associates, September 2021)
- o Landscaping and Ecological Management Plan (James Blake Associates, March 2021)
- o Landscape Master Plan (James Blake Associates, March 2021)

These documents detail the methods for maintaining the conservation status of Ecological Constraints and must be complied with at all times.

Reason: In order to safeguard ecological interests, in accordance with Policy LP28 of the Adopted Peterborough Local Plan (2019).

C24 No development shall take place (including any ground works or site clearance) until a method statement for the resurvey of Badgers has been submitted to and approved in writing by the Local Planning Authority. The content of the method statement shall include the:

- a. purpose and objectives for the proposed works;
- b. detailed design(s), survey requirements and/or working method(s) necessary to achieve stated objectives (including, where relevant, type and source of materials to be used);
- c. extent and location of proposed works shown on appropriate scale maps and plans;
- e. persons responsible for implementing the works;
- f. initial aftercare and long-term maintenance, as applicable;
- g. disposal of any wastes arising from works, as applicable.

The works shall be carried out strictly in accordance with the approved details and shall be retained in that manner thereafter.

Reason: In order to safeguard ecological interests, in accordance with Policy LP28 of the Adopted Peterborough Local Plan (2019).

C25 No development shall take place (including demolition, ground works, vegetation clearance) until a construction environmental management plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP (Biodiversity) shall include the following:

- a. Summary of potentially damaging activities.
- b. Identification of "biodiversity protection zones".

- c. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction on possible nesting birds, reptiles and Great Crested Newts that may use the habitat (may be provided as a set of method statements) including ensuring no Non-Native Invasive Species are spread across the site.
- d. The location and timing of sensitive works to avoid harm to biodiversity features.
- e. The times during construction when specialist ecologists need to be present on site to oversee works.
- f. Responsible persons and lines of communication.
- g. The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- h. Use of protective fences, exclusion barriers and warning signs.

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

Reason: In order to safeguard ecological interests, in accordance with Policy LP28 of the Adopted Peterborough Local Plan (2019).

C26 No building or construction work or any kind shall take place within 30 metres of any part of the site containing material evidence of Barn Owl occupation unless survey-based evidence has been provided to the Local Planning Authority that no birds are nesting at the identified feature within 3 days of work commencing.

Reason: In order to safeguard ecological interests, in accordance with Policy LP28 of the Adopted Peterborough Local Plan (2019).

C27 Prior to the first occupation of any part of the development a Full Fibre Broadband Scheme shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall demonstrate how each of the premises is to be provided with a Full Fibre Broadband connection of not less than one gigabit (1,000 megabits) per second. The approved Full Fibre Broadband Scheme shall be implemented prior to the first occupation of each premises.

Reason: To ensure adequate telecommunications infrastructure is provided in accordance with Policy LP14 of the Adopted Peterborough Local Plan (2019).

C28 The plans and particulars to be submitted as reserved matters under condition C1 shall include details of existing and proposed site levels including the finished floor levels of all new buildings and any associated parking. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of visual and residential amenity in accordance with Policies LP16 and LP17 of the Peterborough Local Plan.

C29 The plans and particulars to be submitted as reserved matters under condition C1 shall include details of the following, as appropriate:

- Details of new footpaths and cycleways including how these tie into the existing foot/cycle ways and bridleways;
- Details of the internal access roads/cycleways/footways and junctions within the site - Car parking, circulation, turning areas and loading and unloading areas. - Electric charging points/infrastructure;

Development shall be carried out in accordance with the approved details.

Reason: In order to ensure that the highway network is suitable for the traffic volumes predicted and to allow for safe/easy access by pedestrians, in accordance with Policy LP13 of the Local Plan (2019).

C30 Notwithstanding the details shown on drawing Y411-PL-SK-202 C, prior to commencement of development above slab level a revised design for the western pedestrian and cycle access to the site, connection(s) to the Green Wheel, new bus stops and crossing of Whittlesey Road along with the associated refuge island shall be submitted to and approved in writing by the Local Planning Authority. No building shall be occupied until the means of access for pedestrians and cyclists has been constructed in accordance with the approved plans.

Reason: In the interests of Highway safety, in accordance with Policy LP13 of the Adopted Peterborough Local Plan (2019).

C31 Construction shall not begin until detailed drawings (based upon drawing Y411-PL-SK-203 B) for the design of the junction between the proposed access road and the highway have been approved in writing by the Local Planning Authority; and the building(s) shall not be occupied until that junction has been constructed in accordance with the approved details.

Reason: In the interests of Highway safety, in accordance with Policy LP13 of the Adopted Peterborough Local Plan.

C33 Visibility splays clear of any obstruction over a height of 600mm above carriageway level shall be provided on either side of the junction of the proposed access road with the public highway. The minimum dimensions to provide the required splay lines shall be 2.4m measured along the centre line of the proposed access road from its junction with the channel line of the public highway, and 120m measured along the channel line of the public highway from the centre line of the proposed access road. The channel line must be measured along the edge of the carriageway or the line of the face of the kerbs on the side of the existing highway nearest the new access.

Reason: In the interests of Highway safety, in accordance with Policy LP13 of the Adopted Peterborough Local Plan (2019).

C34 The existing 'Crane Depot' access junction with the A605 shown on Location Plan reference 2472-AP0101 Revision D shall be permanently closed to vehicular traffic before the new access hereby approved has been brought into public use or in accordance with a timetable agreed in writing by the Local Planning Authority. Details of the means of closure

shall be submitted to and approved in writing by the Local Planning Authority. The permanent closure shall be carried out prior to the first occupation of any building on the site.

Reason: In the interests of highway safety in accordance with Policy LP13 of the Adopted Peterborough Local Plan.

C35 The gradient of the access shall not exceed 1:20 for a distance of 20 metres from the back edge of the existing public highway.

Reason: In the interests of highway safety in accordance with Policy LP13 of the Adopted Peterborough Local Plan.

C36 Development shall not commence until a fully operational jetted drive-thru bath type wheel cleaning apparatus has been installed within the site on all exits and the area between this and the public highway is hard surfaced in either concrete or tarmac and maintained free of mud, slurry and any other form of contamination whilst in use. All vehicles leaving the site shall pass through the wheel cleaning apparatus which shall be sited to ensure that vehicles are able to leave the site and enter the public highway in a clean condition and free of debris which could fall onto the public highway. The wheel cleaning apparatus shall be retained on site in full working order for the duration of the construction of the development.

Reason: In the interest of highway safety in accordance with Policy LP13 of the Adopted Peterborough Local Plan.

C37 No development shall take place until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction

Traffic Management Plan shall include the following:-

a. A scheme of chassis and wheel cleaning for all construction vehicles to include the details of location and specification of a fully working jetted drive-thru bath type wheel wash system together with hard surfacing laid between the apparatus and public highway in either concrete or tarmac, to be maintained free of mud, slurry, and any other form of contamination whilst in use. A contingency plan including, if necessary, the temporary cessation of all construction operations to be implemented in the event that the approved vehicle cleaning scheme fails to be effective for any reason. b. Haul routes to the site and hours of delivery.

- a. Measures to ensure that vehicles can access the site upon arrival to ensure that there is no queuing on the public highway.
- b. Details of site compounds, storage area and contractor and visitor parking.
- c. A scheme for dealing with complaints.
- d. Details of any temporary lighting which must not directly light the public highway. The development shall thereafter be carried out in accordance with the approved Construction Management Plan.

Reason: In the interests of highway safety in accordance with Policies LP13 of the Adopted Peterborough Local Plan. This is a pre-commencement condition as the Construction Traffic Management Plan needs to be in place before works start on site.

C38 Notwithstanding the details shown on the Illustrative Masterplan (drawing number AP0201 Revision U) this permission confers approval only for the first 20m of the new site access from channel line of the A605 as measured along the edge of the carriageway on the side of the highway in the location of the new access. Reserved matters application(s) submitted pursuant to condition C1 shall include details of the alignment and arrangement of the remainder of the internal access road required to serve the development.

Reason: The site layout shown on the Illustrative Masterplan does not take into account archaeological and other constraints and requires revision, meaning that that it is not appropriate to approve or fix the extent of the internal access road at this time.

C39 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any subsequent Order revoking or re-enacting that Order with or without modification) no occupation of any building or its curtilage shall take place other than within Use Class E (offices), B2 (industrial) or B8 (storage and distribution) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended). No occupation with Use Class E shall take place other than as offices falling within Use Classes (E)(c), E(e) or E(g).

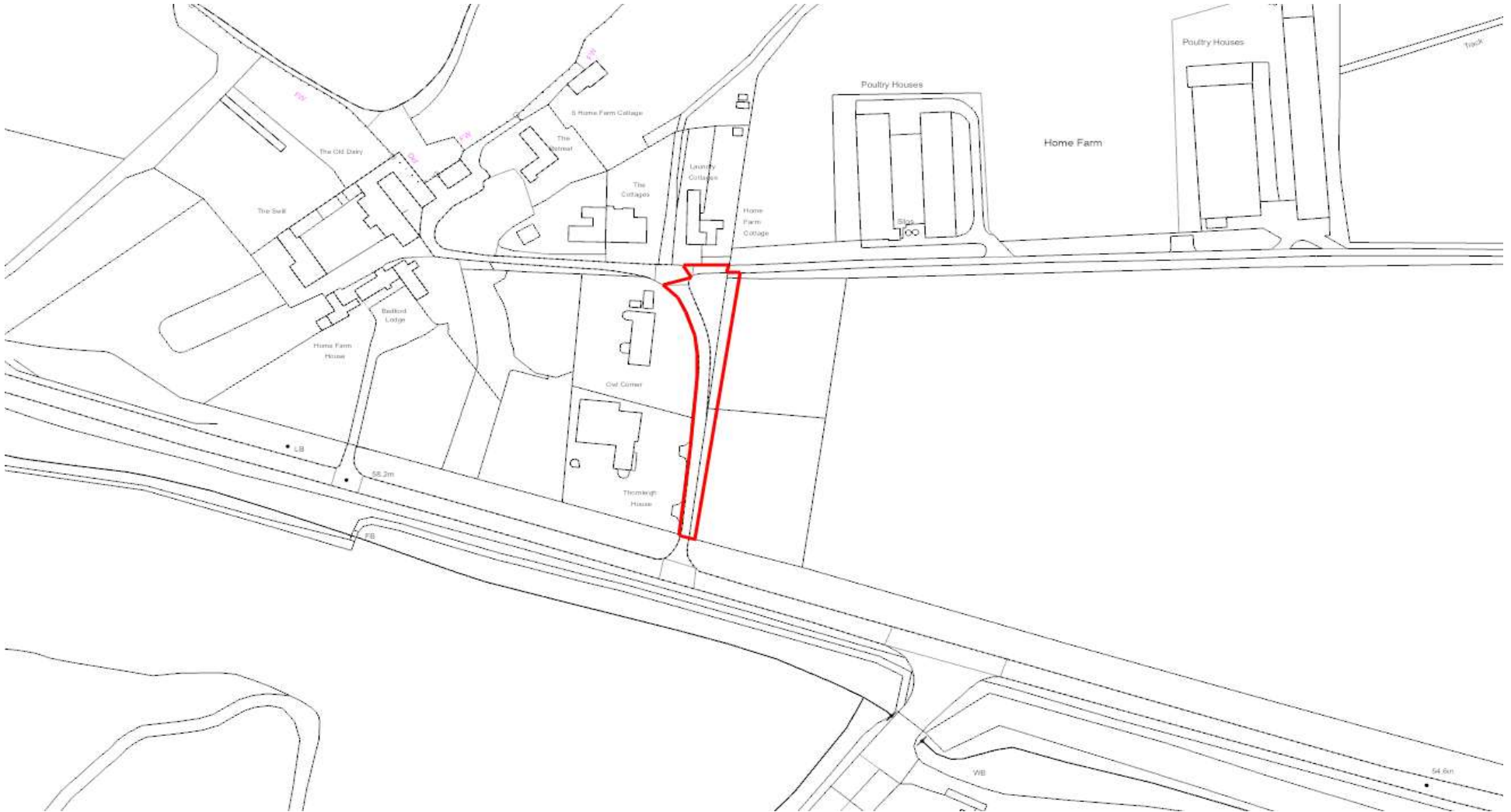
Reason: A further assessment would be necessary to ascertain whether any alternative use would be acceptable in this location, in accordance with Policies LP16 and LP17 of the Peterborough Local Plan (2019). Reason: The s

C40 The development hereby permitted shall be carried out in accordance with the following approved plans/details:

- Location Plan reference 2472-AP0101 Revision D
- Junction design drawing reference Y411-PL-SK-203 Revision B
- Landscape and Ecological Management and Maintenance Plan Revision A (James Blake Associates, May 2021)
- Flood Risk Assessment Revision V1 (Parsons Consulting Engineers, November 2022)
- Framework Travel Plan (Cannon Consulting Engineers, May 2021)

Reason: For the avoidance of doubt and in the interests of proper planning.

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Reference: CAS15A/0001/22

Site address: Land to the East of Tolmers, Leicester Road, Thornhaugh, Peterborough, PE8 6NL

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Application Ref: CAS15A/0001/22

Proposal: Common Land Register - Section 15(8) of the Commons Act 2006: Land to the East of Tolmers, Leicester Road, Thornhaugh, Peterborough, PE8 6NL

Site: Land To The East Of Tolmers, Leicester Road, Thornhaugh, Peterborough

Applicant: Mr Martin Witherington

Reason: Not applicable for determination under delegated powers

Site visit: 20.10.2022

Case officer: Miss Molly Hood
Telephone No. 07967 318633
E-Mail: Molly.Hood@peterborough.gov.uk

Recommendation: GRANT

1 Description of the site and surroundings and Summary of the proposal

Site Description

The site forms a piece of land at the entrance to the small settlement of Thornhaugh. The site includes part of the existing single width access track, a 3.3m strip of land which runs to the east of the access track and leads into a small area of open grassland which currently has the village the notice board.

The site has a maximum length of 96.2m in length and at the greatest width measures 22m.

The Proposal

The Committee is asked to consider whether or not to register the land subject of this application as a Village Green. The application seeking Village Green status is by Mr Martin Witherington relating to land off Leicester Road, Thornhaugh.

Peterborough City Council is the Commons Registration Authority under the Commons Act 2006 which administers the Registers of Common Land and Town or Village Greens. Under Section 15 of the 2006 Act, the City Council is able to register new land as a Town or Village Green upon application.

This is not a planning application where the policies of the Local Plan or NPPF are applicable. Members are not to consider whether the site is suitable for a village green in planning terms but to confirm whether the landowner has demonstrated compliance with the legal requirements set out in the Commons Act 2006.

2 Planning History

No relevant planning history

3 Planning Policy

The application shall be made in accordance with the following legislation:

Commons Act 2006

Section 15 – Registration of Greens

4 Consultations/Representations

PCC Peterborough Highways Services

No objection.

The land in question does not form part of the public highway maintainable at public expense, therefore the LHA have no comment on this proposal.

Local Residents/Interested Parties

A public site notice was posted on the village notice board of Thornhaugh and at the application site. No public representations were received from the site notice or by any other means.

5 Assessment of the Legal Issues

On 10th October 2022 Peterborough City Council received an application for a new village green for the Land to the East of Tolmers, accessed of Leicester Road in Thornhaugh.

The application was made to register approximately 900sqm of land, which includes part of the access road into the settlement, as a Village Green.

The Commons (Registration of Town or Village Greens) (Interim Arrangements) (England) Regulations 2007 sets out the process to be followed by any applicant seeking to register a new town or village green and the process to be followed by the Commons Registration Authority.

Committee are to consider this application as the Council's Constitution does not make provision for these matters to be determined under delegated powers. It should be noted the application is purely a registration process in accordance with the legislation and the main requirement upon the applicant is to demonstrate ownership of the land.

Mr Witherington has submitted the application in accordance with Section 15(8) of the Commons Act 2006, which provides the mechanism for the owner of any land to apply to the Commons Registration Authority to register the land as a town or village green. In accordance with section 15(9), an application under subsection (8) may only be made with the consent of any relevant leaseholder of, and the proprietor of any relevant charge over, the land.

The application has been supported by a Land Registry Title and Plan evidencing Mr Witherington's ownership of the land. Two public notices were placed in Thornhaugh, with no comments received on the application. The applicant has confirmed their ownership of the land and subsections (8) and (9) of the Commons Act 2006 have been met.

If the Land is registered as a Village Green it will be subject to the same statutory protection as other village greens and local people will have a guaranteed legal right to indulge in sports and pastimes over it on a permanent basis. Registration is irrevocable and so the Land must be kept free from development or other encroachments.

6 Conclusions

The onus is on the Applicants to show, by their submissions and supporting evidence that, on the balance of probabilities, all of the statutory criteria under Section 15 of the Commons Act 2006 have been met in this case. The evidence illustrates the land is within the ownership of the applicant and no additional consents are required. The Applicants have demonstrated the statutory criteria with Section 15(8) of The Commons Act 2006 has been met.

7 Recommendation

The recommendation is made to GRANT the land subject of the application to be registered as a Village Green.

Copies to Councillors – Councillor Gavin Elsey

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PLANNING AND ENVIRONMENTAL PROTECTION COMMITTEE	AGENDA ITEM 5
21 March 2023	PUBLIC REPORT

Cabinet Members responsible:	Councillor Cereste - Cabinet Member for Climate Change, Planning, Housing and Transport	
Contact Officer:	Sylvia Bland (Head of Planning)	Tel: 07920 160772

PLANNING APPEALS QUARTERLY REPORT ON PERFORMANCE OCTOBER TO DECEMBER 2022

RECOMMENDATIONS	
FROM: Executive Director: Place and Economy	Deadline date: March 2023
It is recommended that the Committee: 1. Notes past performance and outcomes.	

1. PURPOSE AND REASON FOR REPORT

- 1.1 The Government monitors the performance of local planning authorities in deciding applications for planning permission. This is based on their performance in respect of the speed and quality of their decisions on applications for major and non-major development.
- 1.2 Where an authority is designated as underperforming, the Town and Country Planning Act 1990 (as amended) affords applicants the option of submitting their planning applications (and connected applications) directly to the Planning Inspectorate (who act on behalf of the Secretary of State) for determination.
- 1.3 This report focuses on just the performance of Peterborough City Council in regard to the quality of its decisions on planning applications. It is useful for Committee to look at the Planning Service's appeals performance and identify if there are any lessons to be learnt from the decisions made. This will help inform future decisions and potentially reduce costs.
- 1.4 This report is presented under the terms of the Council's constitution Part 3 Section 2 – Regulatory Committee Functions, paragraph 2.6.2.6.
- 1.5 This report covers the period from 1 October to 31 December 2022, and a list of all appeal decisions received can be found at Appendix 1.
- 1.6 For the purposes of 'lesson learning', these update reports will normally cover a selected number of cases in detail whereby the Local Planning Authority (LPA) has lost its case. Attention will be paid to the difference in assessment of the selected schemes between the LPA and Planning Inspector.

2. TIMESCALE.

Is this a Major Policy Item/Statutory Plan?	NO	If Yes, date for relevant Cabinet Meeting	N/A
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3. MAIN BODY OF REPORT

- 3.1 In the period of 1 October to 31 December 2022, a total of 9 appeal decisions were issued. This number is similar to the corresponding periods in 2020 and 2021 when 6 and 8 appeal decisions were issued respectively.
- 3.2 The planning application decisions appealed during this quarter related to the refusal of a mix of planning permissions, advertisement consents and a prior approval for a telecoms mast. All the decisions resulted from Officer delegated decisions. This is not unusual given the relatively low number of applications which are referred for determination by Members.
- 3.3 Of the appeal decisions issued, 4 cases were dismissed by the Planning Inspector appointed by the Secretary of State for Communities and Local Government. Therefore, the percentage of appeals dismissed is 45%. There were 5 appeals allowed (55%). None of the decisions were subject to an award of costs either for, or against, the Council.
- 3.4 This represents a lower level of performance when compared to previous quarters during the preceding 2 year period, as shown in the following table. Performance is discussed further in paragraph 3.7 of the report.

	Appeals decided	Appeals Allowed	% Allowed
Jan - Mar 2021	8	1	13 %
Apr - Jun 2021	3	1	33 %
Jul - Sep 2021	3	1	33 %
Oct - Dec 2021	8	3	37.5 %
Jan - Mar 2022	8	2	25 %
Apr – Jun 2022	8	1	13%
Jul – Sept 2022	9	3	33%
Oct – Dec 2022	9	5	55%
TOTAL	53	13	30 %

- 3.5 With regards to the measure against which the Government assesses appeal performance, this is calculated based upon the number of appeals lost (allowed against the Authority's decision) as a percentage of the total number of decisions made by the authority. The Government has set the target at no more than 10% across a rolling 2-year period.
- 3.6 The table provided at Appendix 2 sets out the performance of the Council against the Government target between January 2020 and December 2022 (inclusive). As can be seen, the Council is performing well within the threshold set by Government and as such, this does not pose any concerns in terms of the quality of planning decisions being issued.
- 3.7 Turning to any lessons learnt from the appeal decisions, there were four appeals relating to the installation of LCD advertisement display screens within telecoms hubs in the city centre at Midgate and Hereward Cross. These formed part of a larger number of advertisement applications which were mainly approved by the Council. In three of the appeal cases, officers considered that the advertisements were detrimental to the nearby Conservation Areas, however, these were allowed due to the modern surroundings of the location. One appeal, at Laxton Square, however, was dismissed by the Inspector because of the harmful impact the modern design of the installation would have on the setting of nearby Listed Buildings.

- 3.8 In the telecoms Prior Approval appeal, this was allowed because the Inspector considered that the relatively minor impact on trees within a shelterbelt was outweighed by the benefits of improving telecommunications coverage.
- 3.9 The dismissal of the appeal at Helpston is useful in that it supports the Council's policy LP4 which requires an applicant to demonstrate that existing employment land is no longer required before it may be considered for an alternative use.
- 3.10 Finally, the appeal that was dismissed at 17 Crowland Road is of note to Committee as the original permission was granted by Committee for a car tinting business and storage within a predominantly residential area in Eye. The appeal was to remove a condition that restricted the use of the building to window tinting purposes. The Inspector found that while this specific use may be compatible with surrounding residential properties, other commercial uses that could be carried out under Class E may potentially be detrimental to residential amenity (appeal decision attached).

4. IMPLICATIONS

- 4.1 **Legal Implications** – There are no legal implications relating to this report on performance, although the planning/appeal processes themselves must have due regard to legal considerations and requirements.
- 4.2 **Financial Implications** – This report itself does not have any financial implications.
- 4.3 **Human Rights Act** – This report itself has no human rights implications but the planning/appeals processes have due regard to human rights issues.
- 4.4 **Equality & Diversity** – This report itself has no Equality and Diversity Implications, although the planning/appeals processes have due regard to such considerations.

5. APPENDICES

1. Table of appeal decisions made October to December 2022 (inclusive)
2. Percentage of appeals allowed compared to total decisions issued October to December 2022 (inclusive)
3. Appeal decision pursuant to 21/00477/FUL - 17 Crowland Road, Eye.

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Appendix 1 – Appeals Performance from 01.10.22 – 31.12.22

Application reference	Address	Proposal	Officer Recommendation	Committee Decision / Date	Reasons for Refusal	Appeal Procedure	Appeal Decision / Date	Costs Decision	Inspector's Reasons
21/01331/PRIOR	Bretton Way Bretton Peterborough	Proposed 20.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works	Refuse	06.01.22	Insufficient information has been submitted to demonstrate that the siting of the proposal would not result in undue impact or harm to adjacent Council owned trees located within the shelterbelt which are of key amenity value to the surrounding area. It is therefore considered that the proposal poses an unacceptable danger to the health of these trees which are of key amenity value to the site and surrounding area and whose loss would result in harm to the character, appearance and visual amenity of the locality. According, the proposal is contrary to Policy LP29 of the Peterborough Local Plan (2019).	Written Reps	Allowed 24.10.22	n/a	The inspector considered that due to the extensive nature of the tree belt, any harm or damage would be relatively minor and outweighed by the need for 5G equipment They also considered that the onus is on LPAs to suggest evidence other available sites when they are minded to refuse on the grounds that more preferable sites are available Furthermore they concluded that conditions, other than those in the GPDO could not be imposed
21/01393/ADV	Former Fifth Avenue Night Club Laxton Square City Road Peterborough	Two digital 75 inch LCD display screen, one on each side of the hub unit	Refuse	07.01.22	The proposed advertisements, by virtue of their siting, size, design and illumination, would result in harm to the setting of the adjacent building of local historic importance (former Fifth Avenue nightclub), the setting of the nearby Grade II Listed Building, and the character, appearance and visual amenity of the streetscene. The advertisements would appear unduly obtrusive and dominant features, contributing to the unnecessary proliferation of advertisements within the locality. The harm arising to heritage assets should be afforded great weight and would not be outweighed by the limited public benefit of the advertisements and their associated telecom hubs. Therefore, the advertisements are considered to be contrary to Policies LP16 and LP19 of	Written Reps	Dismissed 09.12.22	n/a	The inspector considered that overtly modern, vibrant digital displays, would appear incongruous in the historic surroundings. This harm would be exacerbated by the size of the advertisements and would not be mitigated by existing street furniture.

					the Peterborough Local Plan (2019) and paragraphs 197, 199 and 202 of the National Planning Policy Framework (2021).				
21/01371/FUL	Path To The Front Of 15 Midgate Peterborough	Two digital 75 inch LCD display screen, one on each side of the hub unit	Refuse	23.12.22	The proposed street hub, by virtue of its siting, size and design, would result in harm to the character, appearance and visual amenity of the streetscene and the character and appearance of the nearby City Centre and Park Conservation Areas. The development would appear an unduly obtrusive and dominant feature, contributing to the unnecessary proliferation of street furniture within the locality. The harm arising to designated heritage assets should be afforded great weight and would not be outweighed by the limited public benefit of the hub and its features. Therefore, the development considered to be contrary to Policies LP16 and LP19 of the Peterborough Local Plan (2019) and paragraphs 197, 199 and 202 of the National Planning Policy Framework (2021).	Written Reps	09.12.22 Allowed	n/a	The inspector considered the advert to be sufficiently distant from the conservation area, and amongst modern development to not harm its setting
21/01397/ADV	Path To The Front Of 15 Midgate Peterborough	Two digital 75 inch LCD display screen, one on each side of the hub unit	Refuse	23.12.22	The proposed advertisements, by virtue of their siting, size, design and illumination, would result in harm to the character, appearance and visual amenity of the streetscene and the character and appearance of the nearby City Centre and Park Conservation Areas. The advertisements would appear unduly obtrusive and dominant features, contributing to the unnecessary proliferation of advertisements within the locality. The harm arising to designated heritage assets should be afforded great weight and would not be outweighed by the limited public benefit of the advertisements and their associated telecom hubs.	Written Reps	09.12.22 Allowed	n/a	The inspector considered the advert to be sufficiently distant from the conservation area, and amongst modern development to not harm its setting

					Therefore, the advertisements are considered to be contrary to Policies LP16 and LP19 of the Peterborough Local Plan (2019) and paragraphs 197, 199 and 202 of the National Planning Policy Framework (2021).				
21/00477/FUL	17 Crowland Road Eye Peterborough PE6 7TP	Proposed workshop, store and replacement hobbies classic car garage	Approve	18.01.22	n/a - the appeal was against a condition	Written Reps	Dismissed 11.11.22	n/a	The inspector considered that the condition, restricting the permission to a specified use (window tint business) within the wider E use class was reasonable and justified as whilst the specific use would not adversely affect neighbour's amenity via noise, disturbance etc, other industrial/commercial uses within the same use class would potentially be detrimental
21/01800/FUL	68 Helpston Road Glington Peterborough PE6 7JT	Construction of a single storey dwelling and change of use of former commercial buildings to domestic use only.	Refusal	25.02.23	<p>The proposed development, by virtue of the principle of development, is not acceptable. The proposal results in a loss of an existing employment site. Compliance with Policy LP4 has not been demonstrated, through marketing of the unit and through demonstrating why it is no longer appropriate or viable to continue, to show that the loss of an employment site can be supported and thus the proposal would result, without acceptable justification, the loss of a local employment site. Accordingly, the proposal is contrary to Policy LP4 of the Peterborough Local Plan (2019).</p> <p>The proposal, by virtue of layout, would unacceptably impact upon the layout character of the surrounding area. This is specifically in relation to the scale and size of the red-lined area, which if approved, would result in a residential curtilage that does not respect the development pattern of the surrounding area which is unacceptable. Helpston Road and Chestnut Close are served by regular development patterns,</p>	Written Reps	Dismissed 07.10.22	n/a	<p>The inspector agreed that the appellant hadn't demonstrated that the loss of the employment use was justified contrary to LP4.</p> <p>However they did not agree that the use would adversely affect the character of the area as the proposal would largely make use of existing buildings.</p>

					where dwellings are sited to the front of their serving highway, and are served by regular sized gardens that are proportionate to neighbouring properties. The size and scale of the retained commercial outbuilding for a domestic use for the dwelling proposed is inappropriately large and not of a domestic scale. It is out of keeping with the scale of the dwelling proposed, and would be harmful to the established character and layout pattern of residential development in the surrounding area. The red line curtilage, and retained outbuilding would be incongruous and out-of-keeping to this established development pattern, which is not acceptable. Accordingly, the proposal is contrary to Policy LP16 of the Peterborough Local Plan (2019) and Policy GNP3 of the Glinton Neighbourhood Plan (2021).				
22/00252/HHFUL	2 Exeter Road Millfield Peterborough PE1 3QN	First Floor Rear Extension - Retrospective	Refusal	06.05.2022	The first floor rear extension, by virtue of its design, siting and scale, represents an unduly dominant and obtrusive feature, creating unacceptable overbearing impact to the adjacent first floor primary habitable room serving No.4 Exeter Road to the west and reducing outlook for the occupants of this room. This results in unacceptable harm to the amenities of occupants of that neighbouring dwelling. Accordingly, the development is contrary to Policy LP17 of the Peterborough Local Plan (2019).	Householder appeals service	Allowed 03.11.2022	n/a	- The extension was most visible from No 4's rear facing bedroom window when stood closest to the window. Its visibility reduced the greater the distance from the window, as the view narrowed. When looking out of the middle of this window, the prominence of the extension did not feel overbearing. - Owing to the degree of separation between the window and extension, the limited size and projection of it, its hipped roof design, together with the large size of the existing window opening itself. Consequently, I do not find the presence of the new extension to create an unacceptable tunnelling effect; or to adversely affect the outlook from this window towards No.4's rear garden.

21/00697/FUL	Land Off Peterborough Road, Wansford, Peterborough	Erection of a two storey detached dwelling, together with associated works on vacant plot within existing Wansford Mews development	Refusal	15.10.2021	<p>The proposal by virtue of existing constraints, would fail to provide an acceptable level of amenity for future occupiers. This is specifically in relation to noise and the size of usable outdoor amenity space. Daytime noise levels within the proposed garden would exceed World Health Organisation (WHO) recommendations, resulting in serious annoyance to future occupiers. This would further exacerbate the poor quality and quantum of space which would be dominated by the substantially overbearing and dominance acoustic treatment to the site boundaries.</p> <p>In addition, the proposed dwelling would be served by a mechanical heat ventilation system with sealed-shut windows, thereby meaning that future occupiers would not be able to open their windows, resulting in an enclosing effect to the detriment of the amenity of future occupiers. Without such measures, the internal noise levels within the property would also exceed WHO guidelines, affording an unacceptable place in which to reside.</p> <p>Accordingly, the proposal would provide future occupants with a poor quality of amenity, contrary to Policy LP17 of the Peterborough Local Plan (2019).</p>	Written Representation	Dismissed 01.12.2022	n/a	The Inspector agreed that the proposed development would be contrary to the development plan in relation to the provision of suitable living conditions for future occupiers with regards to noise. It would conflict with the development plan as a whole, and there are no material considerations that indicate that a decision should be taken other than in accordance with the development plan.
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21/01392/ADV	Path To The Front Of 3 Hereward Cross, Broadway, Peterborough PE1 1TA	Two digital 75 inch LCD display screen, one on each side of the hub unit	Refusal	N/A	The proposed advertisements, by virtue of their siting, size, design and illumination, would result in harm to the character of the adjacent Park and City Centre Conservation Areas and streetscene. The advertisements would appear unduly obtrusive and dominant features, contributing to the unnecessary proliferation of advertisements within the locality. The harm arising to designated heritage assets should be afforded great weight and would not be outweighed by the limited public benefit of the advertisements and their associated telecom hubs. Therefore, the advertisements are considered to be contrary to Policies LP16 and LP19 of the Peterborough Local Plan (2019) and paragraphs 197, 199 and 202 of the National Planning Policy Framework (2021).	Written representation	Allowed 22.12.2022	n/a	<ul style="list-style-type: none"> - Only the Advert has been allowed on appeal. The FUL application for the hub was not regarded and did not form part of this appeal. The hub has not been installed yet. - The advert is considered acceptable as it is in a high street modern location. The advert would not impact the adjacent conservation area and is in context with the surroundings. The advert would not impact amenity of the area. - The presence of these heritage assets does not prevent the display of well-sited signs of suitable size and design, particularly in mainly commercial areas. - Broadway is busy, but it is also a wide street and has an open nature as a result. The proposed advertisements would be illuminated, have a changing display and contribute to an already busy streetscene. However, existing signage on commercial buildings and the presence of street furniture, including other illuminated advertisements, means that they would not stand alone, nor appear unduly prominent. Any impact would also be partially mitigated and softened, to an extent, by existing mature trees
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Appendix 2 – Appeals Quarterly Monitoring from January 2021 to December 2022 (inclusive)

	Jan - Mar 2021	Apr - Jun 2021	Jul - Sep 2021	Oct - Dec 2021	Jan - Mar 2022	Apr - Jun 2022	Jul - Sep 2022	Oct - Dec 2022	Period TOTAL	
M A J O R	Total decisions	11	13	9	15	17	5	13	12	97
	Allowed appeals	0	0	0	0	0	0	0	0	0
	Percentage	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0 %	0.00 %

N O N - M A J O R	Total decisions	231	229	231	256	215	208	246	223	1,839
	Allowed appeals	1	1	1	3	2	1	3	5	15
	Percentage	0.43 %	0.44 %	0.43 %	1.17 %	0.93 %	0.48 %	1.22 %	2.69 %	0.81 %

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Appeal Decision

Site visit made on 18 October 2022

by **G Bayliss BA (Hons) MA MA MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/J0540/W/22/3294694

17 Crowland Road, Eye, Peterborough, Cambridgeshire PE6 7TP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr Desmond Jarvis (PSSC Window Film Ltd) against the decision of Peterborough City Council.
 - The application Ref 21/00477/FUL, validated by the Council 12 March 2021, was approved on 18 January 2022 and planning permission was granted subject to conditions.
 - The development permitted is proposed workshop, store and replacement hobbies classic car garage.
 - The condition in dispute is No 10 which states that: *"The space within the building hereby approved labelled 'Workshop', on the approved drawing no.4690/2 shall be used solely for the application of window tint to motor vehicles, and the other spaces within the building hereby approved labelled 'Store' and 'Office' and 'Reception' shall remain ancillary uses for the window tinting use."*
 - The reason given for the condition is: *"In the interest of neighbour amenity, in accordance with Policy LP17 of the Peterborough Local Plan (2019)."*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against the Council. This is the subject of a separate Decision.

Preliminary Matters

3. I have made two corrections to the banner heading above, amending the site address post code to PE6 7TP (stated as PE6 7TR on the application form) and amending the company name to PSSC Window Film Ltd, (stated as PSCC Window Film LTD on the application form).
4. Whilst I note that highway safety was not stated as a reason given for Condition 10, the Council has subsequently raised highway concerns during this appeal. I note that a Unilateral Undertaking was also required to prevent the intensification of use in view of the concerns over parking and access on Crowland Road. Given the evidence before me, highway safety will form part of my assessment.

Background and Main Issue

5. The appellant currently operates his window tint business from a garage at the rear of his residential property at 30 Crowland Road (No.30). The appellant is relocating his business to the rear of 17 Crowland Road (No.17) which will

provide a larger building, more on-site parking and better vehicle access. In view of the proximity of nearby dwellings, Condition No.10 was attached to the planning permission to restrict the commercial use to protect the nearby resident's living conditions. The area labelled 'workshop' on drawing no.4690/2 will be solely for the tinting of motor vehicles, and the parts of the building labelled 'workshop', 'store', 'office' and 'reception' will remain ancillary to the window tinting use.

6. The appellant objects to this condition, considering it to be grossly unfair and unreasonable to limit the use of the building in this way. He contends that should he cease these activities; the site and building would become useless unless a window tinting purchaser could be found. The appellant seeks to remove/have a different wording sought.
7. The main issue, therefore, is whether the existing condition is reasonable and necessary to protect the living conditions of nearby residents, with particular regard to noise and disturbance, and in the interests of highway safety.

Reasons

8. The site has a dwelling fronting Crowland Road (No.17) and a yard and workshop to the rear. To the north of the appeal site are terraced dwellings, the closest is 19 Crowland Road, with its rear, linear garden running alongside the appeal site. To the south are several dwellings fronting Green Road which are set back from the road behind front gardens and sited close to the appeal site boundary, some with facing windows. On the western side is a commercial unit for BSD Engineering. Crowland Road is a busy classified throughfare and vehicle access is to the side of No.17, running to the front and side of the existing outbuilding. The yard area is enclosed by high, close boarded fencing.
9. The approved building is to be sited at the rear of the site, immediately behind the existing outbuilding and close to the northern and western boundary. It will be of brick construction with three large openings to its southern side and four parking spaces in front of these openings. The building will be divided into three main bays with one bay to be used as a hobbies unit for the occupant of No.17 in conjunction with his existing outbuilding, and the remainder will be used by the appellant for his window tinting business.
10. The appellant advises that his business, currently undertaken at No.30 is a quiet trade with most work completed on newer cars and there have been no complaints from neighbours. He advises that some of the window tinting work is also off-site on commercial premises as well as internet trade. Despite the indication that this is a quiet trade, there is the potential for some noise and disturbance to nearby neighbours because of the closeness of their windows and gardens. As a result, the planning permission, along with Condition 10, were carefully tailored to take account of the specific nature of the window tinting business and to control its likely impacts.
11. Use Class E, Schedule 2, Part A, of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, relates to commercial, business and service uses. This can include the sale of goods and professional services, medical or health services, day nurseries and other uses, including industrial processes, which can be carried out in a residential area without detriment to its amenity. The appellant considers that the window tint business would fall under this Use Class and amending Condition 10 to extend to all

Class E uses would allow more flexibility for the site in the future. Whilst the Council has concerns that the approved development would be a mixed-use site, with office and storage potentially falling into other Use Classes, I am satisfied that these uses would be ancillary to the window tinting business and would collectively be regarded as falling within Use Class E.

12. Whilst Condition 10 was solely in relation to neighbour living conditions, the proposed variation to Use Class E would have broader impacts beyond living conditions. In this regard, an assessment of the site for any use under Use Class E was not carried out by the Council or its consultees as part of the planning application. Broadening out Condition 10 to extend to any Class E use (although subject to the other conditions attached to the permission) would allow for numerous other activities to take place on site which could drastically change the use of the site and its impacts compared to what has previously been assessed and regulated. It could not be guaranteed that the building in this location, with limited parking provision, accessed off a busy road, and with such a close relationship to neighbouring properties, would be acceptable for any Class E uses, especially when the current approved use is for a quiet trade.
13. Whilst Class E limits industrial processes to those which can be carried out without detriment to the amenity of a residential area, giving the Council the opportunity to enforce if a use has unacceptable impacts, the Use Class is much broader and would allow other uses without such restrictions. By varying the condition in this way, it would not be possible to appropriately protect residential living conditions and it could give rise to other adverse impacts such as highway safety issues.
14. Condition 10 would not render the site useless or unnecessarily limit other businesses from operating. Instead, it would require a new planning application with details of the new use or uses, to enable the Council to undertake a full assessment of the planning impacts and to assess it against the development plan and take account of any other material considerations.
15. The appellant comments that a next-door industrial building is noisier than his approved use but is not so restricted. However, I have insufficient evidence to identify this site, its planning history, or its use to draw any comparisons. Regardless of this, it is not a reason to outweigh the harm identified nor provide justification for development that conflicts with the development plan.
16. The existing condition is reasonable and necessary to protect the living conditions of nearby residents, with particular regard to noise and disturbance, and in the interests of highway safety. It would conflict with Policies LP13 and LP17 of the Peterborough Local Plan which seek to ensure that new development does not have an unacceptable impact on the amenity of existing occupiers and ensures safe vehicular access. It would also conflict with the National Planning Policy Framework which seeks a good standard of amenity for occupants of buildings, and to ensure safe and suitable access for all users.

Conclusion

17. For the reasons given above I conclude that the appeal is dismissed.

G Bayliss

INSPECTOR

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