

**Recommendation Report for Application under Section 73 for the Removal or Variation of Conditions
Under a Previously Approved Permission**

REF NO: LU/209/25/S73

LOCATION: BCMY Ltd
1 Fort Rd
Wick
BN17 7QU

PROPOSAL: Variation of conditions 2-plans condition, 4-colour schedule for materials, 5-Biodiversity Enhancement Layout and 8-vehicular parking following the approval of LU/300/23/PL relating to design amendments.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION

This application seeks permission for the variation of conditions 2 (Plans), 4 (Materials), 5 (Biodiversity Enhancement Layout) and 8 (Vehicular Parking) approved by LU/300/23/PL, to reflect design amendments.

This variation would amend the wording of Condition 2 from:

'The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan MAN MDB Z1 XX DR W 01001 P1
- Block Plan FRT MDB Z1 XX DR W 01002 P2
- Proposed Elevations FRT MDB Z1 XX DR W 01003 P1
- Proposed Floor Plans FRT MDB Z1 XX DR W 01003 P1'

To:

'The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan MAN MDB Z1 XX DR W 01001 P1
- Site Block Plan FRT MDB Z1 XX DR W 01002 P3
- Elevations as Proposed (General Arrangement of Building) MID-5076-01 Rev D
- Floor Plan as Proposed (Grid-Line Plan) MID-576-02 Rev C'

Condition 4 from:

'No development above slab level shall take place unless and until a detailed colour schedule of materials and finishes to be used for external walls and roofs of the building has been submitted to and approved in writing by the Local Planning Authority and the materials so approved shall be used in the

construction of the building.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of character and appearance in accordance with Arun Local Plan Policy D DM1.'

To:

'The development shall be carried out in accordance with the material details as set out in the Elevations as Proposed (drawing ref General Arrangement of Building MID-5076-01 Rev D). The materials hereby approved shall be used within the construction and finish of the building, and must be retained in perpetuity, unless an application is submitted to the Local Planning Authority and approved on that behalf.'

Condition 5 from:

'Prior to first use of the building, a Biodiversity Enhancement Layout, providing the finalised details and locations of the enhancement measures such as:

- bird/bat boxes,
- log piles,
- tree planting (native species),
- landscaping including plans from the RHS 'Plants for Pollinators' list,
- bee bricks,
- bug houses,
- hedgehog house shall be submitted to and approved in writing by the Local Planning Authority.

The enhancement measures shall be implemented in accordance with the approved details prior to first occupation of any part of the development and all features shall be retained in that manner thereafter.'

To:

'Prior to first occupation of any part of the development, the details as set out in the approved Site Block Plan FRT MDB Z1 XX DR W 01002 P3 shall be implemented in accordance with this plan. All features shall be retained in that manner thereafter.'

Condition 8 from:

'No part of the development shall be first occupied until the vehicle parking has been constructed in accordance with the approved Block Plan FRT MDB Z1 XX DR W 01002 P2. These spaces shall thereafter be retained for their designated

use.'

To:

'No part of the development shall be first occupied until the vehicle parking has been constructed in accordance with the approved Site Block Plan FRT MDB Z1 XX DR W 01002 P3. These spaces shall thereafter be retained for their designated use.'

This application has been amended during its lifetime. The request to remove Conditions 6 (Contamination) and 7 (Unexpected Contamination) has been withdrawn from the application description and scope of the proposal following objections from ADC Environmental Health and the Environment Agency. The conditions can be addressed separately within a discharge of condition application.

SITE AREA	4,160 sqm.
TOPOGRAPHY	Predominantly flat.
TREES	None of any significance affected by the development.
BOUNDARY TREATMENT	Open fronted with 2m high metal fencing to sides and rear.
SITE CHARACTERISTICS	Situated amongst other industrial units the site is open grassland. Storage containers are on the west edge of site.
CHARACTER OF LOCALITY	Industrial estate adjacent to the railway line.

RELEVANT SITE HISTORY

LU/300/23/PL	Construction of extension to industrial unit. This application is in CIL Zone 4 (Zero Rated) as other development.	ApproveConditionally 05-06-24
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Relevant planning history noted.

REPRESENTATIONS

Littlehampton Town Council - Support.

No letters of representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC ENVIRONMENTAL HEALTH:

Objection. Insufficient information has been submitted pertaining to conditions 6 and 7. Condition 7 is additionally precautionary, and is not something that EH allow to be removed.

WSCC HIGHWAYS:

No objection.

ENVIRONMENT AGENCY:

Objection. The submitted documents only indicate that historic contamination could be foreseen and that any intrusive works may disturb it. Submitted details indicate intrusive works may occur at the site. The submitted details are therefore not sufficient to allow removal of Conditions 6 and 7.

ADC ECOLOGY:

No objection to variation of condition 5.

WSCC MINERALS AND WASTE:

No response.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Following receipt of objections from ADC EH and EA, the applicant has agreed to the withdrawal of conditions 6 and 7 from the application. The description has been amended to reflect this change, and encompass only the variation of conditions 2, 4, 5 and 8.

POLICY CONTEXT

Designation applicable to site:

Built-up Area Boundary

2km Buffer SSSI

Flood Risk Zone 2

Prone to Ground Water Flooding

Economic Growth Area

Mineral Consultation Area

DEVELOPMENT PLAN POLICIES

[Arun Local Plan 2011 - 2031:](#)

SDSP2	SD SP2 Built-up Area Boundary
DSP1	D SP1 Design
QESP1	QE SP1 Quality of the Environment
TSP1	T SP1 Transport and Development
EMPSP2	EMP SP2 Economic Growth Areas
DDM1	D DM1 Aspects of form and design quality
EMPDM1	EMP DM1 Employment Land: Development Management
ENVDM5	ENV DM5 Development and biodiversity
WDM2	W DM2 Flood Risk
WDM3	W DM3 Sustainable Urban Drainage Systems

[West Sussex Waste Local Plan 2014:](#)

West Sussex Waste W2 Safeguarding Waste
Management Sites

[Littlehampton Neighbourhood Plan 2014 Policy 2](#)

A Spatial Plan for the Town

Littlehampton Neighbourhood Plan 2014 Policy 1

The Presumption in Favour of Sustainable
Development

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

SUPPLEMENTARY POLICY GUIDANCE:

SPD11	Arun Parking Standards 2020
SPD13	Arun District Design Guide (SPD) January 2021

POLICY COMMENTARY

The Development Plan consists of the Arun Local Plan 2011 - 2031, West Sussex County Council's Waste and Minerals Plans, The South Inshore & South Offshore Marine Plan and Made Neighbourhood Development Plans. The policies are published under Regulations 19 and 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states:-

"If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

The proposal is considered to comply with relevant Development Plan policies in that the proposal does not harm the character, appearance or amenity of the area.

Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that

(2) in dealing with an application for planning permission the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (aza) a post examination draft neighbourhood development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

PRINCIPLE

LU/300/23/PL remains implementable, subject to any related works being started on or before 05/06/27.

The application form states that works have not yet commenced. There are additionally outstanding Pre-Commencement Conditions which are yet to be approved; and therefore an application to discharge these conditions must be made and approved by the Local Planning Authority prior to any works commencing on site before the expiry date of the permission.

The policies of the Arun Local Plan remain in force now as at the time of the original decision. There have been no amendments to the Neighbourhood Plan and its policies implemented at the time. It is not necessary to reconsider the whole application scheme afresh since the original permission is still extant. The only aspect to consider under this s73 application is whether the design amendments has a material impact on the issues previously assessed, and is unduly more harmful than previously approved.

SUMMARY

This Section 73 concerns design amendments to the proposed building. The previous proposal comprised a unit with footprint measuring approximately 1,136sqm; with a length of 53m, height 7.65m, and maximum width of 27.4m. The amended design has resulted in the new proposed unit being smaller in scale (991sqm), but still retaining the same length and height. The elevational design is additionally different, with both the north east and south west elevation now comprising 2 No. roller shutters, 2 No. access doors and 4 No. windows at first floor. The north west and south east elevations, where previously had 2 No. windows now have none, and just comprise access doors.

Goosewing Grey (BS 10A05) coloured sheeting is to be used to the wall and roof cladding. Pacific Blue (RAL 260 70 25) coloured flashings are also proposed. The existing unit to which this building will connect comprises grey cladding with blue accents. This colour scheme is additionally characteristic of neighbouring units within the locality. As such, whilst varying in design from the original proposal, the design amendments to the unit are acceptable, and remain in keeping with the appearance and character of the surrounding area. The materials are acceptable, in respect of their colour and specification. Condition 4 of LU/300/23/PL previously required details of the materials and their colours to be submitted for approval. This condition is now amended to accept the details which have been provided under this application. It is no longer required that this condition be discharged; rather the wording has been amended to secure the building being built in line with the materials and colours as set out within the proposed elevations.

The design amendments will subsequently have no additional impact to visual and design amenity than that originally proposed. As with the previous proposal, this development will have no adverse impact to residential amenity; and there amendments will have no change to the noise and disturbance produced by the site. There are also no changes to the drainage and flood risk requirements of the development; these remain as conditioned under LU/300/23/PL. It is noted that these matters are marginally improved, with the footprint of the unit being smaller than previously considered.

The proposal also seeks to vary conditions 5 and 8 to reflect the details that have been submitted. Condition 5 requested details of Biodiversity enhancements to be made on site; though no enhancements have been specified within the details submitted under this application. This application has been subject to a consultation with the ADC Ecologist, who has reviewed the submitted details. Whilst there are no enhancement features included, they are content with this condition being accepted as complied with, as the site already has limited ecological value. The surrounding area is also heavily urban and industrial, and therefore the incorporation of ecological features in this location is unlikely to offer substantial benefits to local wildlife and biodiversity. As such, the wording of this condition has been amended to no longer require further details of enhancements to be submitted for approval.

Condition 8 seeks only to amend the revision number of the block plan, showing details of parking spaces. There are no changes to the quantum of parking spaces (29 new spaces), and EV Charging is

still incorporated. As such, there are no amendments to the highways, access and parking considerations as assessed under LU/300/23/PL. WSCC Highways have been consulted under this application, and raise no objection.

The design amendments therefore remain in accordance with ALP policies SD SP2, D SP1, QE SP1, T SP1, EMP SP2, D DM1, EMP DM1, ENV DM5, W DM2, W DM3, Arun Parking Standards, Arun Design Guide, LNDP policies 1 and 2, WSCC policy W2, and the NPPF.

OTHER MATTERS

As this is a Section 73 application any new permission sits alongside the original permission, which remains intact and unamended. Government guidance states that for the purpose of clarity to reinstate the conditions imposed on earlier permissions that continue to have effect. The application form states that works have not yet commenced, and therefore the permission will expire on 05/06/27 should the development remain unimplemented. The time condition for LU/300/23/PL has subsequently been reimposed.

As of 22/12/25, no conditions imposed on the original permission have been discharged or amended. Therefore, in accordance with government advice all conditions have been re-imposed to this permission.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

Duty under the Equalities Act 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

CIL DETAILS

This application is CIL liable, therefore, developer contributions towards infrastructure will be required (dependent on any exemptions or relief that may apply).

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 The development hereby permitted shall be begun before the expiration of 3 years from the date of the original permission (LU/300/23/PL) approved on the 05/06/24.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

- 2 The development hereby approved shall be carried out in accordance with the following approved plans:

- Location Plan MAN MDB Z1 XX DR W 01001 P1
- Site Block Plan FRT MDB Z1 XX DR W 01002 P3
- Elevations as Proposed (General Arrangement of Building) MID-5076-01 Rev D
- Floor Plan as Proposed (Grid-Line Plan) MID-576-02 Rev C

Reason: For the avoidance of doubt and in the interests of amenity and the environment in accordance with Arun Local Plan Policy D DM1.

- 3 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) the development shall be used for purposes falling in E (g), B2 and B8 only and for no other purpose.

Reason: To enable the Local Planning Authority to control the use of the premises in detail having regard to the amenities of nearby residential properties in accordance with policy D DM1 of the Arun District Local Plan.

- 4 The development shall be carried out in accordance with the material details as set out in the Elevations as Proposed (drawing ref General Arrangement of Building MID-5076-01 Rev D). The materials hereby approved shall be used within the construction and finish of the building, and must be retained in perpetuity, unless an application is submitted to the Local Planning Authority and approved on that behalf.

Reason: To enable the Local Planning Authority to control the development in detail in the interests of character and appearance in accordance with Arun Local Plan Policy D DM1.

- 5 Prior to first occupation of any part of the development, the details as set out in the approved Site Block Plan FRT MDB Z1 XX DR W 01002 P3 shall be implemented in accordance with this plan. All features shall be retained in that manner thereafter.

Reason: To enhance protected and priority species & habitats in accordance with Arun Local Plan policies ENV SP1 and ENV DM5 and allow the Local Planning Authority to discharge its duties under the NPPF 2023 and s40 of the Natural Environment and Rural Communities Act 2006 (Priority habitats & species).

- 6 Prior to commencement of the development hereby approved (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved in writing by the Local Planning Authority:

1. A 'Preliminary Risk Assessment' which has identified: all previous (historical) uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the

site.

2. A 'Site Investigation Scheme', based on (1) above to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3. Based on the 'Site Investigation Scheme' and the detailed risk assessment (2), an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

Prior to first use of the building hereby approved the following details shall be submitted:

4. A 'Verification Plan' providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these parts, (1) to (4) require the express written consent of the Local Planning Authority.

The scheme shall be implemented as approved above and, prior to occupation of any dwelling or part of the site (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), a Verification Report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of that remediation shall be submitted to and approved in writing by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved Verification Plan to demonstrate that the site remediation criteria have been met. The report shall also include a 'long-term monitoring and maintenance plan' for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the Verification Plan, and for the reporting of this in writing to the Local Planning Authority.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4. This is required to be a pre-commencement condition because these details have to be agreed and in place before any work commences.

- 7 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development complies with approved details in the interests of protection of the environment and prevention of harm to human health in accordance with Arun Local Plan policies QE SP1 and QE DM4.

- 8 No part of the development shall be first occupied until the vehicle parking has been constructed in accordance with the approved Site Block Plan FRT MDB Z1 XX DR W 01002 P3. These spaces shall thereafter be retained for their designated use.

Reason: To provide adequate on-site car parking and turning space for the development in accordance with policy T SP1 of the Arun Local Plan.

- 9 Prior to the commencement of development, detailed groundwater monitoring results over a suitable period as agreed with the Local Planning Authority shall be submitted to and

approved in writing. The results will need to demonstrate that the highest recorded ground water level is 1m below the base of any proposed infiltration structure.

Reason: To ensure that the development achieves a high standard of sustainability, that the proposed surface water drainage scheme functions as designed and to comply with NPPF and Arun Local Plan Policy W DM3.

- 10 Prior to the commencement of development, construction drawings of the surface water drainage network, associated sustainable drainage components and flow control mechanisms and a construction method statement shall be submitted and agreed in writing by the Local Planning Authority. The scheme shall then be constructed as per the agreed drawings, method statement, Flood Risk Assessment and remaining in perpetuity for the lifetime of the development unless agreed in writing by the Local Planning Authority.

No alteration to the agreed drainage scheme shall occur without prior written approval from the Local Planning Authority.

Reason: To ensure that the development achieves a high standard of sustainability and to comply with NPPF and Arun Local Plan Policy W DM3.

- 11 Prior to the first use of the building details of the maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:

- I. a timetable for its implementation,
- II. details of SuDS features and connecting drainage structures and maintenance requirement for each aspect,
- III. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime.

Reason: To ensure that the development achieves a high standard of sustainability and ensure the flood risk is adequately addressed for each new dwelling and not increased in accordance with NPPF and Arun Local Plan Policy W DM3.

- 12 Prior to the commencement of development a detailed construction phase Surface Water Management Plan for the site shall be submitted to and approved in writing by the Local Planning Authority which demonstrates that the proposed SuDS methods shall be protected during construction from any contamination and silt and how run off will be intercepted to ensure it is not discharge freely from the site. The scheme shall subsequently be carried out in accordance with the approved details.

Reason: To ensure that the construction of the site does not result in any flooding both on and off site and that all surface water Drainage features are adequately protected in accordance with the NPPF and Arun Local Plan Policy W DM3.

- 13 Upon completion of the surface water drainage system, including any SuDS features, and prior to the first occupation of the development; a survey and report from an independent surveyor shall be submitted to and approved in writing by the Local Planning Authority. The survey and report shall demonstrate that the surface water drainage system has been constructed in accordance with the details approved pursuant to condition . Where necessary,

details of corrective works to be carried out along with a timetable for their completion, shall be included for approval in writing by the Local Planning Authority. Any corrective works required shall be carried out in accordance with the approved timetable and subsequently re-surveyed with the findings submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the flood risk is adequately addressed, not increased and users remain safe for the lifetime of the development in accordance with NPPF and Policy W DM3 of the Arun Local Plan.

- 14 No part of the development shall be first occupied until covered and secure cycle parking spaces have been provided in accordance with plans and details to be submitted to and approved in writing by the Local Planning Authority. The spaces so provided shall be retained in perpetuity.

Reason: To provide alternative travel options to the use of the car in accordance with Arun Local Plan Policy T SP1.

- 15 The development shall achieve a minimum of 10% energy supply reduction from either the use of decentralised/renewable or low carbon energy sources (as described in the glossary at Annex 2 of the NPPF). Any physical features that are required as part of the works must be installed prior to the occupation of the building and shall be permanently maintained in good working condition.

Reason: In order to secure a reduction in on site energy use in accordance with Arun Local Plan Policy ECC SP2 and the NPPF.

- 16 INFORMATIVE: A License is required to formally stop up the existing access. The applicant is required to obtain all appropriate consents from West Sussex County Council, as Highway Authority, to cover the off-site highway works. The applicant is requested to contact the Area Highway Manager (01243 642105) to commence this process. The applicant is advised that it is an offence to undertake any works within the highway prior to the agreement being in place.

- 17 INFORMATIVE: Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the NPPF.

- 18 INFORMATIVE: The Applicant/Agent are advised to rear the full comments prepared by the Environment Agency relating to 'The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2)' for further information surrounding waste removal from site.