

Planning and Rights of Way Panel 3rd November 2020
Planning Application Report of the Head of Planning & Economic Development

Application address: Unit 2, Leornain House, Itchen Business Park, Kent Road, Southampton			
Proposed development: Change of use to storage and distribution (Use Class B8). Siting of a shipping container and re-siting of commercial waste bins (Retrospective).			
Application number:	19/01469/FUL	Application type:	FUL
Case officer:	Mathew Pidgeon	Public speaking time:	5 minutes
Last date for determination:	23.10.2019	Ward:	Portswood
Reason for Panel Referral:	Request by Ward Member & five or more letters of objection have been received	Ward Councillors:	Cllr Mitchell Cllr Savage Cllr Cooper
Referred to Panel by:	Cllr Savage	Reason:	Impact of HGV's on highways network and residential amenity.
Applicant: Byronswell Ltd.		Agent: Goadsby Planning & Environment	

Recommendation Summary	Refuse
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Community Infrastructure Levy Liable	Not applicable
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Appendix attached	
1	Development Plan Policies.
2	A simplified guide to lorry types and weights
3	Palletmove decision notice '20/00954/FUL'

Recommendation in Full: REFUSAL

01.Impact on neighbouring business operations and sewage disposal associated with the Portswood Waste Water Treatment Works & highways safety.

On the basis of inadequate plans and supporting information, and owing to the proximity of the site to neighbouring businesses and the access to Portswood Waste Water Treatment Works; and the access into the parking area associated with the business park the Local Planning Authority is not satisfied that the proposed use can be adequately serviced by vehicles (in particular large articulated commercial vehicles) without obstructing access to other businesses and access to the Portswood Waste Water Treatment Works. The proposal therefore prejudices the operation of neighbouring businesses and the Waste Water Treatment Works and undermines the vitality and viability of Itchen Business Park. Failure to demonstrate safe vehicle tracking might also lead to servicing vehicles having to reverse back

out onto Kent Road (and vice versa) which would also represent a highways safety hazard. There is also no confirmation that the development would have indefinite and unfettered access over the likely amount of space required within the private roads to perform the turning manoeuvre. As such the proposal is considered contrary to the provisions of Policies SPD1 (i) and TI 2 of the City of Southampton Local Plan Review (2015) and CS6 and Cs18 of the amended Local Development Framework Core Strategy Development Plan Document (2015); as supported by the NPPF (2019).

1. **Background**

- 1.1 The retrospective application has been submitted following a planning enforcement enquiry, dated 10th April 2019. The enquiry was initiated as a result of alleged harm caused by large/heavy commercial vehicles, associated with the proposed storage use, using Kent Road to access and egress the site and site access is the principal issue for consideration of this planning application.
- 1.2 *It should be noted that lorries are permitted to use any classification of road for access and deliveries.* HGVs currently use Kent Road to service the Wastewater treatment works, business premises within Itchen Business Park and to serve housing within the street (deliveries/removals/refuse collection). There are no parking restrictions within Kent Road and vehicles can park on either side of the street, however any vehicle owner parking in a manner that obstructs the flow of traffic (including any vehicles permitted to use the road), is at risk of a penalty fine under Section 137 of the Highways Act 1980. It is understood that TRO parking restrictions could be introduced to remove some kerbside parking from Kent Road to ensure parked vehicles do not obstruct all permitted vehicles using Kent Road, however such a measure would require public consultation with local residents and does not form part of this recommendation.
- 1.3 The report refers to a number of different standard vehicle sizes for clarity a simplified guide to lorry types and weights from the Drivers and Vehicle Standards Agency is provided at **Appendix 2**.
- 1.4 The business 'Bryonswell', which operates out of the application site, collects donated clothes and textiles for resale. Various sized commercial vehicles are used to collect donations and deliver them to the building within the application site for sorting. Once sorted the clothing and textiles are then transported by large articulated vehicles to continental Europe for resale. Bryonswell was established in 2008.
- 1.5 The planning application seeks a retrospective change of use from a training centre associated with the waste water treatment works (granted by permission 1458/C10 (1973) to storage and distribution (use class B8).
- 1.6 Adjacent to the site is another plot within the business park which was also the subject of a recent planning enforcement enquiry due to large/heavy commercial vehicles requiring Kent Road to access and egress the site. The business, 'Palletmove', operates from the site and successfully gained planning permission on the 6th October 2020 following Panel consideration. Permission was granted with conditions including:
 1. Restricted use – personal consent.
 2. Hours of use (8:00 – 16:00 Mon – Fri)
 3. Business operations location restriction – no business operations including loading or unloading outside of the fenced enclosure.
 4. No vehicles with more than 3 axels, or which are articulated, or which exceed 26 tonnes shall be used on the site or used to service/deliver to or from the site
 5. No storage of refuse on outside of the fenced area other than on collection days.

The decision notice is copied as **Appendix 3**.

- 1.7 To the north of the site is Portswood Waste Water Treatment Works. The works benefit from a historic planning permission whereby there are no restrictions on the type/size or number of vehicles used to service the site.

2. The site and its context

- 2.1 The site is formed of part of the former Portswood Waste Water Treatment Works that has since become the Itchen Business Park, which alongside the Portswood Waste Water Treatment Works is accessed from Kent Road. Situated at the eastern end of the building, Unit 2 Leornian House, has a floor area of 208 square metres. The majority of floor space is used for storage, although there are also two ancillary offices. There is a loading bay located on the front elevation which is accessed from the shared car parking area.
- 2.2 Retrospective permission is also being sort for a container required to provide additional storage space, and commercial bins located to the east of the unit.
- 2.3 There are four other operators within the business park, three of which are also within Leornian House, which are:
1. Ash creative wireless electronics,
 2. Wessex Drivability, a charity who specialise in helping disabled or those with a disability to drive independently,
 3. Covenant Church; and
 4. Palletmove; which operates from the open storage area to the east.
- 2.4 The site is situated within the northern part of Portswood, immediately to the west of the River Itchen. To the north are filtration tanks and an open area used by Southern Water. The Southampton to London railway line is to the west. There are houses to the south, accessed from Saltmead. This also provides access into the site. Kent Road is a narrow resident's street which links to the arterial St Denys Road (A3035) to the south and to Portswood Road to the north via a railway and road bridge. There is a height restriction for vehicles passing under the railway and road bridges to the north of 8ft 9in (2.6m).
- 2.5 Within the front forecourt of Unit 2 there are three allocated parking spaces. All other onsite parking is within the demise of Unit 1.
- 2.6 Narrow residential streets surrounding the site result in a high percentage of parked vehicles straddling the pavement. Kent Road is the main vehicle route used by large commercial vehicles associated with Southern Water's waste water treatment works and other commercial vehicles, including large vehicles (three or more axels) visiting the business park.

3. Proposal

- 3.1 Retrospective planning permission is being sought for the change of use of the land from use class D1, training associated with Southern Water's occupancy of the site which started in 1973, to a storage and distribution use (class B8) associated with 'Byronswell', a clothing and textiles recycling company. The business was established in 2008 and has partnership agreements that aim to fund raise for children's charities. The application form suggests the business supports 8 full time jobs and operates between 8:30am and 5pm (Mon-Sat).

- 3.2 The application includes the retention of a shipping container that is used for overflow storage. It is also proposed to re-site the commercial refuse bins from the forecourt to the side of the building. A new dropped kerb will facilitate easy collection. The shipping container and bins are located on land which was previously laid to grass and provided as an area of soft landscaping.
- 3.3 The applicant Byronswell Ltd. deals with textile re-cycling through the provision of textile banks and house to house bag distribution and collection. Clothes, shoes, bags, bedding and bric a brac are collected and sold on to buyers in Eastern Europe and Africa. A proportion of the money generated is donated to charity. The vehicles used to deliver the textiles to the unit are light goods vehicles with two fixed axels; once sorted an articulated vehicle with three or more axels and which exceeds 26 tonnes is used to transport the goods off site for resale.
- 3.4 To identify the number of servicing vehicles that visit the site a survey was requested from the applicant. The submitted results cover a period from 18th November 2019 to 15th October 2020 (364 days/approximately 12 months). However the Christmas break was between 17th December and 14th January (27 days) and there was also a pause in operation between 19th February and 28th May due to Covid-19 (100 days) and so the overall working length of time is 237 days. During that time the results identify that there were 12 (possibly 8) articulated vehicles associated with this company that visited the site and used Kent Road for access/egress therefore resulting in potentially 16 journeys along Kent Road (8 in and 8 out); although it is acknowledged that on at least two occasions articulated vehicles arrived at the site and then departed on the same day to visit a weighbridge and then returned the same or following day. Some vehicles stay overnight also or over a weekend which spread the impact over a longer time period. This averages out at one servicing vehicle driving up and down Kent Road every 20 days so approximately one every 3 weeks. The applicants findings have been questioned by neighbouring residents.
- 3.5 Non articulated vehicles visiting the site are more numerous. During the assessment period a total of 155 vehicles visited the site using the Kent Road north/under the railway bridge therefore resulting in 312 journeys under the bridge. This works out to be one servicing vehicle driving up and down Kent Road north (under the bridge) every 1.5 days.

4. Relevant Planning Policy

- 4.1 The Development Plan for Southampton currently comprises the “saved” policies of the City of Southampton Local Plan Review (as amended 2015) and the City of Southampton Core Strategy (as amended 2015) and the City Centre Action Plan (adopted 2015). The most relevant policies to these proposals are set out at **Appendix 1**.
- 4.2 The National Planning Policy Framework (NPPF) was revised in 2019. Paragraph 213 confirms that, where existing local policies are consistent with the NPPF, they can be afforded due weight in the decision-making process. The Council has reviewed the Development Plan to ensure that it is in compliance with the NPPF and are satisfied that the vast majority of policies accord with the aims of the NPPF and therefore retain their full material weight for decision making purposes, unless otherwise indicated.
- 4.3 The National Planning Policy Framework (NPPF) states in section 6. ‘Building a strong, competitive economy’ paragraph 80: *‘Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant*

weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'

4.4 Paragraphs 109 and 110 of the NPPF sets out clear circumstances when planning applications should be prevented or refused on highway grounds indicating:

'109. 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.

110. Within this context, applications for development should:

- a. *give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;*
- b. *address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- c. *c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- d. *d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- e. *e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.'*

4.5 The site is not safeguarded for any use within the Development Plan. The adopted proposals map does however define the site as 'open riverside character' (Local Plan Policy NE5 ii relates). NE5 ii states that development is not permitted if it would cause damage to the open character of the riverside and landscape.

5. Relevant Planning History

5.1 The earliest planning history for the site, detailing the use as a waste water treatment works, held by the City Council, is 1959 whereby an extension to the existing works was approved.

5.2 In 1973 permission was granted for a training centre (D1 use) associated with the waste water treatment works (1458/C10). The training centre took the form of the buildings at the southern end of the site. Those buildings are now occupied by a place of worship approved in 2008 (07/01989/FUL), Ash, a wireless electronics company, Wessex drivability, a charity who specialise in helping disabled people or those with a disability to drive independently and the site/unit which is the subject of this retrospective application.

5.3 Planning permission 960043/7072/W was granted on 12th March 1996 for the change of use of part of the wastewater treatment works site to an area proposed for the storage of materials and plant and operated by 'Pipeworks Ltd. The permission was granted having consideration to the applicant's personal circumstances and accordingly a restrictive condition was added so that the operation of the site for vehicle parking and material/plant storage could occur only for the benefit of 'Pipeworks' (condition 3 refers). Other conditions were also applied, including hours of use.

5.4 In 2013 retrospective planning permission was granted for part of the former waste water treatment works to be used as an area for car parking for cruise ship and airport passengers (13/01020/FUL). The application covered the site area associated with the

Pipeworks consent as well as an additional area to the south east. Condition 3 specified that the use allowed the parking of a maximum of 125 cars and for the car parking layout to be in accordance with the submitted and approved plans.

- 5.5 Once the car parking for cruise ship and airport passengers use of the site had ceased part of the open storage area previously used for vehicle storage became occupied by McNicholas Construction Services Ltd. McNicholas used the site for the storage of construction related equipment and vehicles needed to service their development projects within the local area/region. This use didn't secure the correct planning consents.
- 5.6 A planning enforcement notice (EN), dated 1st December 2017, was served on McNicholas as the Council considered that a breach of planning control had occurred in the past 10 years. The breach of permission being the use of the land for the storage of plant, equipment and vehicles (use class B8); rather than the permitted storage of cars associated with cruise ship and airport customers (*sui generis* use).
- 5.7 The enforcement notice was appealed by McNicholas, however the appeal was dismissed by the inspector who agreed with the council that there had been a breach of planning control on the site on the basis that car parking for cruise ship and airport passengers is a *sui generis* use. The Inspector did not consider the merits or otherwise of the site's vehicular access.
- 5.8 Part of the waste water treatment works site was also proposed to be re-developed into 41 dwellings in 2007 however the application was not supported.
- 5.9 Within the waste water treatment works itself there have recently been two planning applications that have been approved by the Planning and Rights of Way Panel. The first, in June 2018, was granted for the construction of a 20 Mega Watt gas standby facility and in January 2020 planning permission was granted for the construction and operation of a motor control centre kiosk, poly dosing kiosk and polymer powder handling kiosk (3 detached buildings) These developments facilitated the operation of two centrifuges which removes water from sewage thus reducing its volume prior to further processing and disposal. Within the application approved in January 2020 it was confirmed that there would be a total of 24 HGV trips associated with the improved dewatering process on site (12 in and 12 out) per week. The use of the infrastructure was set to start in April 2020 given that that date would see the end of the operational lifespan of the existing barge used to transport liquid waste (sewage sludge).
- 5.10 Retrospective planning permission has also been granted for the neighbouring site to the east which since November 2016 has been used in association with the business 'Pallettmove Ltd' (20/00954/FUL). The application was approved by the Planning Panel on the 6th October 2020 with conditions; the decision notice is included as **appendix 3**.

6. Consultation Responses and Notification Representations

- 6.1 Following the receipt of the planning application a publicity exercise in line with department procedures was undertaken which included notifying adjoining and nearby landowners, and erecting a site notice **04.10.2019**. At the time of writing the report **19** representations have been received from surrounding residents, as well as an objection and request that the application goes to planning panel for determination by Ward Councillor Savage. The following is a summary of the points raised:
- 6.2 ***Kent Road and Priory Road cannot support the weight and size of large/heavy commercial vehicles (in particular articulated vehicles) resulting in damage to***

roads, private vehicles and houses.

Response

- Damage to houses and cars locally cannot be categorically attributed to traffic associated with the business. Residents would need to settle any disputes with businesses as a civil matter.
- The Highways Development Management Team do not object to the application on the basis of road damage. There are no weight restrictions or limits on local roads preventing access by large/heavy commercial vehicles
- Driver behaviour, and highway laws, rather than planning permission, will control traffic speeds.
- Separate legislation is used to enforce traffic speed.

6.3 *Use of shipping container for storage will increase frequency of large/heavy commercial vehicles.*

Response

- Use of the shipping container increases the storage potential on site. The purpose is to facilitate a more efficient collection and distribution operation and enables large/heavy commercial vehicles to be loaded/filled before being transported to Europe for resale. Without the storage container it is likely that there would be a greater frequency of trips to and from the site however the operation would be less efficient.
- There is no visual harm caused by the shipping container; there is no direct impact on residential amenity in terms of being overbearing, dominant or by reducing light to habitable rooms.

6.4 *The need for large vehicles to access the site results in private vehicles being parked on the pavement causing an obstruction. Pram and wheelchair users must use the road resulting in reduced highway safety. The council and police do not enforce against this behaviour.*

Response

- Larger vehicles are permitted to use Kent Road for access, refuse collection, and deliveries. There are no parking restrictions within Kent Road and vehicles can park on either side of the street – see Background section above.

6.5 *Impact of potential active travel zones.*

Response

- The Council is exploring the implementation of an Active Travel Zone in the area. The main changes that are relevant to the application will prevent vehicles from passing under the railway bridge and using Kent Road/Priory Road as a short cut. The purpose of the Active Travel Zone is to stop the route from being used as a vehicular ‘rat run’ avoiding the St Denys Road/Thomas Lewis Way traffic light junction. The active travel zone, whilst resulting in commercial vehicles needing to use Kent Road, will also prevent rat running within this residential area and so the proposals are not anticipated to result in a significant increase of articulated vehicle traffic on Kent Road.

6.6 *The site, its access and the location was not designed for large/heavy commercial vehicles.*

Response

- There is no restriction on the road to prevent access by commercial vehicles including 40 tonne articulated vehicles.
- The southern water site benefits from an historic planning permission.
- The potential obstruction to other units and sites within the business park, caused as a consequence of manoeuvring, turning & parked articulated

vehicles required in association with Brysonwell, is a concern shared by officers.

6.7 ***The road is frequently gridlocked.***

Response

- The commercial vehicles operated by Bryonswell are a small proportion of overall number of vehicles using Kent Road.
- As noted above the Highways Team do not objection the basis of the associated articulated vehicles using Kent Road to access the site.

6.8 ***Impact of traffic generated noise and air pollution, nuisance – impact on amenity.***

Response

- Separate legislation manages air pollution.
- The public highway can be used by all road legal vehicles and therefore it would be unreasonable to refuse the planning application on the basis of noise impact.

6.9 ***Trees and hedges should not be removed within the city where there is little soft landscaping for climate change and ecology reasons.***

Response

- Compensatory planting could have been used to offset the loss in the event that a favourable recommendation was proposed.

Consultation Responses

6.10

Consultee	Comments
Cllr Savage	<p>The distribution of goods on a regular basis especially at current scale and frequency should be refused.</p> <p>Typically vehicles are extremely large and heavy causing substantial harm to the amenity of the residents of Kent Rd. Nothing bigger than a refuse vehicle should use this route.</p> <p>Southern water are currently moving to smaller purpose made vehicles for distribution of cake waste and occupiers of this site should be subject to similar limits. There is no control over the Southern Water use of the site for historic reasons.</p> <p>The access is not suitable, causing damage to residential property though vibration. Private vehicles park on the kerb blocking buggies and wheelchair access – highways safety and local amenity.</p> <p>This area is scheduled for Transforming Cities funding to create liveable streets and approval of this plan will jeopardise these scheduled developments.</p> <p>The decision to refuse Kier industries at a neighbouring property to run a distribution business, upheld by the planning inspectorate supports the view to refuse.</p>

Highways Development Management	<p>Objection:</p> <p>The established use of the site as a training centre associated with Southern Water would not have relied heavily on the need for servicing by articulated vehicles.</p> <p>Based on the survey information provided it is judged that significant harm to the highway network, in terms of capacity and traffic flow, has not occurred as a result of the development.</p> <p>A personal condition is recommended to restrict the use to the current operator to ensure that the suggested/surveyed trip rates will not exceed should there be a change in operators.</p> <p>The main concern is the lack of information on how articulated lorries are accommodated on site and how they manoeuvre in and out of the loading dock. Tracking diagrams have not been provided and the accuracy of the parking plan is questioned.</p> <p>Without confirmation that the access, turning & parking space for articulated vehicles can be guaranteed in perpetuity it cannot confidently be asserted that articulated vehicles would always be able to perform a safe turning manoeuvre preventing the need to reverse in or out of the site and onto the public highway. This would be unacceptable from a highway safety perspective.</p> <p>In summary, there is a highway safety concern and the application would not be able to be supported without further information addressing this.</p>
SCC Sustainability (Flooding)	<p>The site is located within Environment Agency flood zone 3 for high flood risk. No objection subject to a condition to anchor the container to the ground. Also advisable to sign up to the Environment Agency's flood warning service at https://www.gov.uk/sign-up-for-flood-warnings. It is also advisable to produce a Site Flood Plan, advising staff and those using the site on what to do in the event of a flood and include flood resilience measures.</p>
Health and Safety Executive (HSE)	<p>The proposal falls outside of HSE's remit and is not a statutory consultee unless hazardous substances are involved.</p>
SCC Refuse Team	<p>Standard sized 26 tonne refuse collection vehicle is used to service the properties on Kent Road. Residents do tend to park straddling the pavement on collection days. The refuse management team do have a narrower vehicle used to service roads which are difficult to access with the standard sized vehicle.</p>

7. Planning Consideration Key Issues

7.1 The key issues for consideration in the determination of this planning application are:

- Principle of development.
- Character and appearance; and neighbouring amenity.
- Parking, highways and transport.
- Economic growth.
- Flooding.

Principle of development

7.2 The site is not safeguarded for any use within the Development Plan. The adopted proposals map does however define the site as 'open riverside character' (Local Plan Policy NE5 ii relates). NE5 ii states that development is not permitted if it would cause damage to the open character of the riverside and landscape. The proposal is not deemed to be at odds with policy NE5 ii in principle. The scale of the proposal and whether it can be seen from the public realm surrounding the River Itchen will determine if the scheme is contrary to that policy. Officers consider the storage container and refuse bins are limited in their scale and will not be harmful to the visual quality of the public realm surrounding the River Itchen.

7.3 With no underlying policy protection for use of the site as a non-residential training centre this suggests that in policy terms the principle of changing away from the use is acceptable. B8 uses are, in principle, acceptable in this location – see Palletmove decision for instance, and the creation of 8 jobs is clearly welcome.

Character and appearance; and neighbouring amenity

7.4 The land is within the Itchen Business Park which is accessible to the public; the site cannot however be seen clearly from outside of the Business Park.

7.5 The nearest residential dwellings are 32m to the south at Saltmead. There are mature trees situated along the southern boundary of the business park. These act as a visual screen. The scale of the storage container and additional external bins will also not harm visual amenity achieved from nearby residential properties and no objections have been received on this basis.

7.6 By the nature of the storage use and distance from residential properties there is little noise generated that would adversely impact residential amenity. Again no objections have been received on the basis of noise generated whilst vehicles are being loaded and unloaded.

7.7 The business model used by Bryonswell relies upon bulk transportation of goods from the site to Europe for resale. The applicant advises that the most efficient method of transportation is by articulated vehicles that can move large loads and the principles of economies of scale are relevant. It is therefore in the interests of the business to use the largest vehicles possible when transferring the goods from the site to its destination. Little information has been provided by the applicant clarifying the vehicles that are used to transport goods to and from the site, however from officer site visits and letters of representation received, including third party photographs, it is clear that vehicles with as many as six axels have been used to for this purpose and vehicle weights can exceed 40 tonnes when fully loaded.

- 7.8 Whilst the applicant's survey shows that there are articulated vehicles (with more than 2 axels) visiting the site on average once every three weeks, the letters of representation received from nearby residents suggest that visits by articulated vehicles are more frequent averaging one articulated vehicle each week; and on some occasions there are two.
- 7.9 The impact of noise and vibration generated by the vehicles servicing the application site can have a negative impact on amenity enjoyed by residents and it is noted that the vehicles can arrive and depart from the site at any time of the day. It is also noted that the length of Kent Road to St Denys, which articulated vehicles use to enter and exit the business park, is in excess of 380m and vehicles need to pass more than 100 dwelling houses before they can access St Denys Road.
- 7.10 There are however other large commercial vehicles that also use Kent Road. In particular vehicles used by Southern Water, SCC refuse collection team, other commercial businesses delivering to residential properties, as well as vehicles associated with other businesses operating from the Business Park. When considered against the background of other traffic using Kent Road the impact of one articulated vehicle per week does not seem unreasonable. Overall the articulated vehicles associated with the development generates only a small proportion of vehicles using Kent Road and at the low frequency of one articulated vehicle per week it is recommended that the impact on neighbours in terms of noise, vibration and disturbance is not deemed to be significantly harmful. In coming to this recommendation, it is also necessary to bear in mind that there are no weight restrictions on Kent Road for vehicles and there is no legal method to prevent articulated vehicles from using the road.
- 7.11 Residents fearing that their cars will be damaged by commercial vehicles using the road has caused to residents to frequently be parked so that they straddle the pavement. This behaviour can also harm residential amenity by causing an obstruction to the footway leading to residents having to walk in the road. This is especially relevant for less ambulant members of society; in particular wheelchair and pushchair users. This situation does, however, occur on numerous streets in the city and as there is no legal way to prevent any specific vehicle from using Kent Road to access the business park, the only way to resolve this problem would be to add a parking restriction preventing parking on one side of the road. It is not, however, likely to be met with support from the residents on Kent Road who would have their on-street parking spaces reduced by half. So whilst officers are recommending a refusal, with subsequent enforcement action to cease the use, the reason for the recommendation is not one that suggests Kent Road is inappropriate for HGV use of the type and frequency proposed. The Panel could decide to add further refusal reasons but should be mindful that at an appeal the Council would need to evidence to an independent Inspector how HGVs using residential roads is harmful given that they are legally entitled to do so as explained further below.

Parking highways and transport

- 7.12 There are no weight restrictions on Kent Road for vehicles and there is no method to prevent vehicles with three or more axels from using the road. Pavement and road obstruction is managed by highways act with prosecution as necessary. No objections have not been received from the Highways Team on the basis of congestion, highway safety, road damage or highway obstruction. It is also the Highways Authority who are responsible for maintaining the quality of the road surface.

- 7.13 There are other larger commercial vehicles that use Kent Road, most notably those used by Southern Water to remove sewage sludge after the processing of raw sewage as well as refuse collection vehicles. These will also cause vehicle owners living on Kent Road to park straddling the pavement. On this basis it is difficult, as a result of the application proposal, to attribute significant harm in highways terms and in particular highways safety and congestion.
- 7.14 The highways team are however concerned by the potential need for articulated vehicles to reverse out onto Kent Road in the event that there is insufficient space to turn on site. A tracking diagram has not been provided to prove where on site articulated vehicles can turn, although these manoeuvres have been witnessed on site. In addition, the application has not been accompanied by details identifying that access, turning & parking space for articulated vehicles can be guaranteed within the business park in perpetuity. As a consequence, it cannot confidently be asserted that articulated vehicles would always be able to perform a safe turning manoeuvre preventing the need to reverse in or out of the site and onto the public highway. This would be unacceptable from a highway safety perspective and could prejudice other businesses on the Estate.

Economic Growth

- 7.15 It is appreciated that the business provides local employment which helps to achieve economic growth. The negative impact of this development is however also felt on neighbouring businesses within the business park through the obstruction of the access onto Kent Road. As a consequence, the access to neighbouring businesses can at times be disrupted when articulated vehicles are loading/unloading.
- 7.16 Whilst a parking plan and details of an articulated vehicle have been provided officers have also seen evidence of larger articulated vehicles serving the business and extending across the car park in front of the Leornain House. The result is articulated vehicles obstructing access into the car park as well as the access route to other sites within the business park and the waste water treatment works to the rear.
- 7.17 Therefore the application has not been supported by sufficient information to justify how the economic benefits outweigh the impacts to the locality.

Flooding

- 7.18 No objection has been raised on the basis of flooding from the City Council's Flooding Risk team or the Environment Agency.

8. Summary

- 8.1 The retrospective application for a change of use to storage and distribution hinges on the suitability of Kent Road, and the private roads within the wider estate, to service the demands of the use and neighbouring businesses.
- 8.2 Residents of Kent Road, supported by Ward Cllr Savage, have provided deputations that the use is not appropriate for reasons of impact on residential amenity as caused by the size and frequency of vehicles servicing the application site. The frequency of HGVs visiting the site is likely to be somewhere between 1 every 3 weeks (the applicant's case) and 1-2 per week (objectors). Officers consider that, given the legal right that servicing vehicles have to use Kent Road, and given the low frequency of trips; and the nature of other traffic that use Kent Road, it is unreasonable to refuse the

application based on residential impact or highway safety per se; the impact is considered to be within tolerable limits.

- 8.3 However there is a highways safety concern based on the failure of the applicant to provide tracking diagrams demonstrating that articulated vehicles can turn within the business park without being obstructed. It is clear that HGVs require large turning areas outside of the application site. It is also apparent that the submitted parking layout is inaccurate, and it has not been proven that access and turning space will remain available for turning purposes in perpetuity. As a consequence, there is the potential for articulated vehicles to be required to reverse out of the site and onto Kent Road causing a highways safety hazard.
- 8.4 As such the positive aspects of the proposal – efficient use of land, employment, recycling & charity fundraising - do not outweigh the potential harm caused to neighboring businesses owing to obstruction of the access and parking area; and highways safety concerns related to vehicles having to reverse onto Kent Road.
- 8.5 In making this recommendation officers have also considered the undying policy designation of the site, which does not protect the site for storage and distribution purposes, although the use is deemed acceptable in principle.

9. Conclusion

- 9.1 It is recommended that planning permission is refused for the reason set out above.

Local Government (Access to Information) Act 1985

Documents used in the preparation of this report Background Papers

1. (a) (b) (c) (d) 2. (b) (c) (d) (f) 6. (a) (b)

MP for 03/11/2020 PROW Panel