

Application Under Section 42 of the Town and Country Planning (Scotland) Act 1997 (as amended) to Grant Permission Subject to Conditions Differing from 10, 11, 12, 13 and 14 Attached to 22/00775/FULM

KEY INFORMATION

Ward North East

Address Land to South of Jack Martin Way, Claverhouse East Industrial Estate.

Applicant Scottish Hydro Electric Transmission Plc, 200 Ashgrove Road West, Aberdeen AB16 5NY

Registered 21 April 2023

Report by Head of Planning & Economic Development

Contact: Siobhan Johnson



SUMMARY OF REPORT

- Planning permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary conditions 10, 11, 12, 13 and 14 attached to Planning Application Ref: 22/00775/FULM as granted in March 2023.
- These planning conditions cover detailed design matters relating to the junction of Jack Martin Way and the A90 trunk road and are required to ensure there is no adverse impact on the operation of the trunk road. The application proposes to change the timing element of these conditions from “prior to any development or construction commencing”, to “prior to first use of the development”.
- The statutory neighbour notification process was undertaken and the application advertised in the local press. No letters of objection or letters of support have been received. There is no requirement for pre-application community consultation for an application made under Section 42 of the Act.
- The application is in accordance with the Development Plan.
- As this is a Major planning application it must be determined by the Planning Committee.
- More details can be found at <https://idoxwam.dundeecity.gov.uk/idoxpa-web/applicationDetails.do?keyVal=RTGS2PGCJD600&activeTab=summary>

RECOMMENDATION

The proposal under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary conditions 10, 11, 12, 13 and 14 of Planning Application Ref: 22/00775/FULM is in accordance with the Development Plan. It is therefore recommended that planning permission be **APPROVED** subject to conditions.

1 DESCRIPTION OF PROPOSAL

- 1.1 Planning permission 22/00775/FULM approved the erection of an industrial warehouse, formation of access with associated infrastructure and landscaping subject to several planning conditions. Planning permission is sought under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary conditions 10, 11, 12, 13 and 14 to planning application Ref: 22/00775/FULM.
- 1.2 These planning conditions cover detailed design matters relating to the junction of Jack Martin Way and the A90 trunk road and were attached at the request of Transport Scotland to ensure there is no adverse impact on the operation of the trunk road.
- 1.3 Condition 10 states: *Development shall not begin until information regarding the detailed design for the proposed upgrades to the existing A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout, as generally illustrated on Drawing 11016644/I/SPA/001 (dated 22 May) as contained within the Transport Statement, has been submitted to and approved in writing by Dundee City Council, in consultation with Transport Scotland as the trunk roads authority. Detailed designs shall be prepared to a standard compliant with DMRB CD 116.*
- 1.4 Condition 11 states: *Development shall not begin until a combined Stage 1 and Stage 2 Road Safety Audit, in accordance with DMRB GG 119, has been submitted to and approved in writing by Dundee City Council, in consultation with Transport Scotland as the trunk roads authority. Any amendments to the A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout design resulting from the Road Safety Audit shall thereafter be agreed with Dundee City Council, in consultation with Transport Scotland as the trunk roads authority, and fully implemented thereafter.*
- 1.5 Condition 12 states: *No part of the development shall begin construction until the existing A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout, proposed to be used as a means of access to the trunk road, has been upgraded to a standard compliant with DMRB CD 116, as generally illustrated on Drawing 11016644/I/SPA/001 (dated 22 May) as contained within the Transport Statement, to be approved by Dundee City Council, in consultation with Transport Scotland as the trunk roads authority.*
- 1.6 Condition 13 states: *No part of the development shall begin construction until a study is undertaken (in consultation with Transport Scotland and Dundee City Council) to assess additional mitigation options to accommodate abnormal loads movements at the existing A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout.*
- 1.7 Condition 14 states: *The proposed movement of any abnormal loads on the trunk road network must be approved by Transport Scotland, as the trunk roads authority, prior to the movement of any abnormal load. Any accommodation measures required, including the removal of street furniture, junction widening, traffic management, must similarly be approved. Full details of proposed works should be developed in consultation with the trunk road Operating Company and Transport Scotland Area Manager at the earliest opportunity through a Minute of Agreement (<https://www.transport.gov.scot/ourapproach/industry-guidance/work-on-the-scottish-trunk-roadnetwork>) and issued for their approval prior to the commencement of construction operations.*
- 1.8 All of these conditions require submission of details and approval of matters 'prior to any development or prior to construction commencing on site'. This application seeks to vary this timing element of all of the conditions to be 'prior to first use of the development'. The proposed variations to the conditions are to change the timescale only and not the actual works or studies required.

- 1.9 The applicant has advised that the need for these variations is to ensure the timely implementation of the development to ensure obligations to the industry regulator Ofgem can be met.
- 1.10 Through this application the applicant has also submitted additional information relating to several other 'pre-commencement' planning conditions attached to the original planning permission.
- 1.11 The applicant has submitted the following in support of the application:
- Planning Statement
 - Drainage Impact Assessment
 - Archaeological Assessment
 - Ground Investigation Report
 - Landscaping scheme

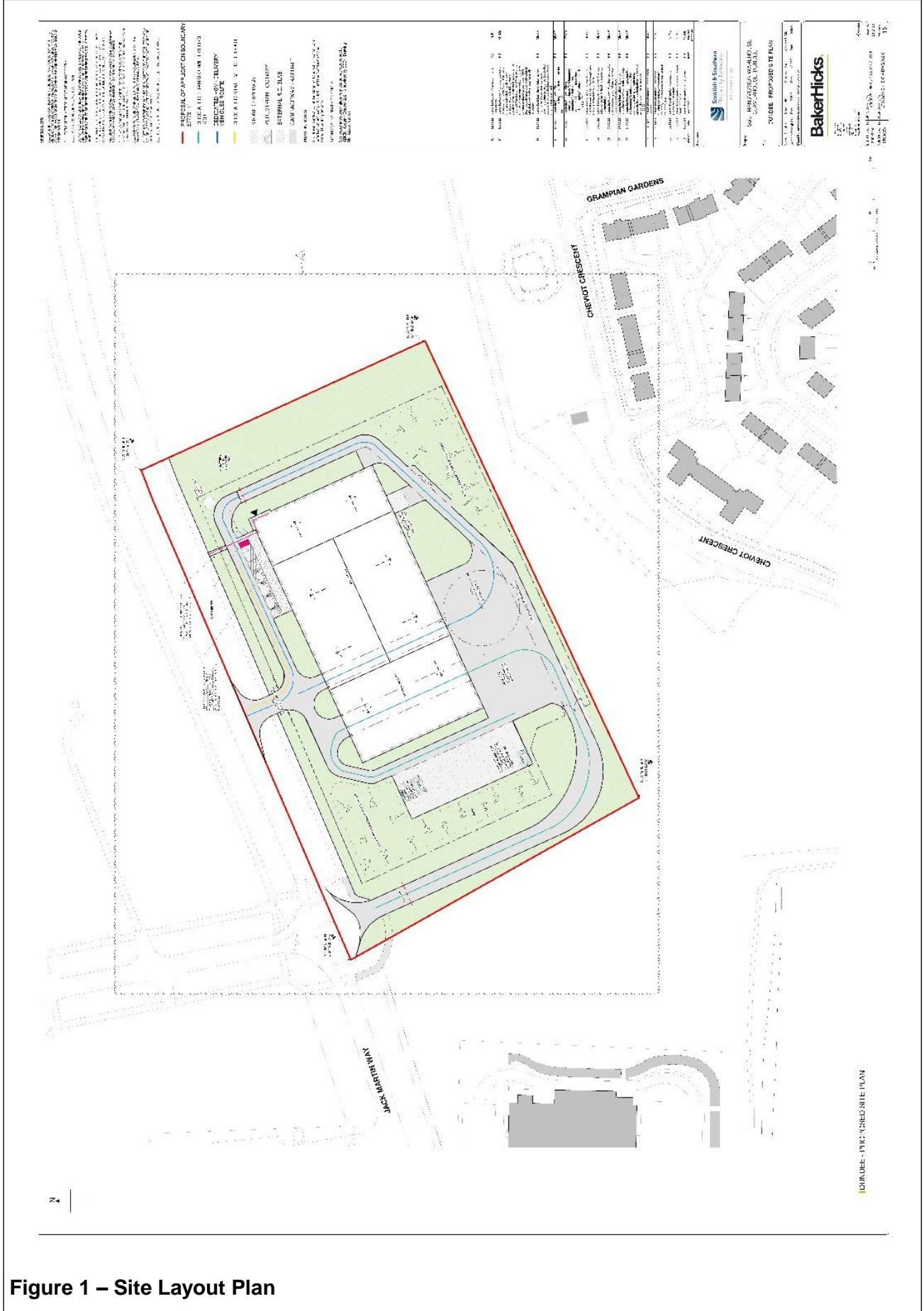


Figure 1 – Site Layout Plan

2 SITE DESCRIPTION

- 2.1 The site is located to the south of Jack Martin Way within the Claverhouse East Industrial Estate. It is 3.7 hectares in area and is currently undeveloped and covered in rough grass and self-seeded bushes. It is a serviced employment land site with an adopted access road and footway to the north. It is bound by some open space and woodland planting areas to the south, beyond which are residential properties. Other serviced employment land plots are located to the north and east. A warehouse and office building are located to the west.
- 2.2 The proposed development is partly screened from the existing residential area to the south, along Cheviot Crescent, with established trees which are within land owned by Dundee City Council.

3 POLICY BACKGROUND

- 3.1 The following plans and policies are considered to be of direct relevance:

NATIONAL PLANNING FRAMEWORK 4

Policy 1: Tackling the climate and nature crisis
Policy 3 b: Biodiversity
Policy 4 f: Natural places
Policy 6 a: Forestry, Woodlands and Trees
Policy 7 a, o: Historic Assets and Places
Policy 9 b, c: Brownfield, Vacant and Derelict Land and Empty Buildings
Policy 12 a: Zero Waste
Policy 13 b: Sustainable Transport
Policy 14 b: Design, Quality and Place
Policy 26 a, e: Business and Industry
Policy 22 c, e: Flood Risk and Water Management
Policy 23 d, e: Health and Safety

DUNDEE LOCAL DEVELOPMENT PLAN 2019

Policy 1: High Quality Design and Placemaking
Policy 2: Public Art Contribution
Policy 3: Principal Economic Development Areas
Policy 28: Protecting and Enhancing the Dundee Green Network
Policy 34: Protected Species
Policy 35: Trees and Urban Woodland
Policy 36: Flood Risk Management
Policy 37: Sustainable Drainage Systems
Policy 39: Environmental Protection
Policy 40: Air Quality
Policy 41: Land Contamination
Policy 44: Waste Management Requirements for Development
Policy 46: Delivery of Heat Networks
Policy 48: Low and Zero Carbon Technology in New Development
Policy 49: Listed Buildings
Policy 54: Safe and Sustainable Transport
Policy 56: Parking

- 3.2 There are no other plans, policies and non-statutory statements that are considered to be of direct relevance.

4 SITE HISTORY

- 4.1 Planning permission 03/00349/DLA for the provision of new roads and drainage infrastructure to facilitate 30,000 square metres gross floor area (GFA) of employment development off Jack Martin Way was approved subject to conditions in February 2004.
- 4.2 Proposal of Application Notice 21/00601/PAN Erection of two warehouse buildings, formation of access and associated junction arrangements and all associated infrastructure, fencing, construction compound and landscaping closed March 2022
- 4.3 Planning Application Ref: 22/00312/FULM Erection of industrial warehouse, formation of access, associated infrastructure and landscaping was withdrawn in September 2022.
- 4.4 Planning Application Ref: 22/00481/FULL Erection of two warehouse buildings, formation of access and associated junction arrangements and all associated infrastructure, fencing, construction compound and landscaping. Approved June 2023.

5 PUBLIC PARTICIPATION

- 5.1 The statutory neighbour notification procedure has been undertaken and the application advertised in the local press.
- 5.2 No objections and no letters of support have been received.

6 CONSULTATIONS

- 6.1 Archaeological Consultant - has reviewed additional information relating to Condition 30 (Application Ref: 22/00775/FULM) and advised that the Written Scheme of Investigation can be approved however the condition remains until the submission of a Data Structure Report.
- 6.2 Head of Community Safety and Protection – commented on the following matters:
- Contaminated Land – Additional information has been provided relating to Condition 2 (Application Ref: 22/00775/FULM). This information has been reviewed and the condition will be attached to the new consent.
 - Lighting – Additional information has been provided relating to Condition 29 (Application Ref: 22/00775/FULM). This information has been reviewed and the condition will not be attached to the new consent.
- 6.3 Head of Environment – has no objection to the application. Additional information has been provided relating to Condition 5 (Application Ref: 22/00775/FULM). This information has been reviewed and the condition will not be attached to the new consent.
- 6.4 Head of Sustainable Transport and Roads – has no objection to the proposal. Additional information has been provided relating to Condition 22 (Application Ref: 22/00775/FULM). This information has been reviewed and the condition will not be attached to the new consent.

The other remaining conditions and informative from the previous application should be attached to the new consent.

- 6.5 Transport Scotland - have advised that the proposed amendments would be acceptable on the basis that an additional condition requiring the preparation of a Construction Traffic Management Plan was applied to any approval. Additional information has been provided relating to Condition 18 (Application Ref: 22/00775/FULM). This information has been reviewed and the condition will not be attached to the new consent.

7 DETERMINING ISSUES

- 7.1 **Section 25 of the Town and Country Planning Act 1997 as amended provides that an application for planning permission (other than for a national development) shall be determined in accordance with the Development Plan unless material considerations indicate otherwise.**

THE DEVELOPMENT PLAN

- 7.2 The provisions of the Development Plan relevant to the determination of this application are specified in the Policy Background section above.

NATIONAL PLANNING POLICY FRAMEWORK 4 AND DUNDEE LOCAL DEVELOPMENT PLAN 2019

- 7.3 **NPF Policy 13 g: Sustainable Transport** – states development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.
- 7.4 **LDP Policy 54: Safe and Sustainable Transport** – all development proposals* that generate travel should be designed to be well served by all modes of transport. In particular the sustainable modes of walking, cycling and public transport should be afforded priority and provide for easy access to local amenities, education facilities and other services.
- 7.5 **LDP Policy 56: Parking – Developments Outwith the City Centre** – vehicle parking – all new developments shall be required to comply with Dundee City Council's adopted guidance on road standards; with the national maximum parking standards; and the national minimum disabled parking standards. All parking facilities at commercial developments should include the provision of charging stations for electric vehicles. Cycle Parking – all new developments should include cycle parking facilities in accordance with Dundee City Council's adopted guidance on roads standards and the Appendix 4 design standards.
- 7.6 In terms of these three policies, this Section 42 application seeks to vary the wording of conditions 10, 11, 12, 13 and 14 to change the timescales for submission and approval of details only and it would not change the nature of the works in relation to the specific conditions. Should the additional information required by those conditions subsequently identify the need for works or upgrades to the Jack Martin Way/A90 trunk road junction then the varied conditions would still require these works to be completed prior to the development first coming into use. The proposed variation to the conditions will not have any significant effect on the capacity or safe functioning of the existing local or trunk road network.

- 7.7 Transport Scotland have been consulted and have advised they have no objection to the proposed changes and that the proposed amendments would be acceptable on the basis that an additional condition requiring the preparation of a Construction Traffic Management Plan was applied to any approval. This Plan would ensure that construction traffic did not create a road safety issue during the construction period.
- 7.8 The proposed variations to the timing element of these conditions will not have any significant effect on the capacity or safe functioning of the existing local or trunk road network.
- 7.9 **Subject to the addition of an additional planning condition, the proposed variations to conditions 10, 11, 12 13 and 14 of planning permission 22/00775/FULM are in accordance with Policy 13 g of National Planning Framework 4 and Policy 54 and Policy 56 of the Dundee Local Development Plan 2019.**
- 7.10 **It is concluded that the proposal is in accordance with the Development Plan.**

MATERIAL CONSIDERATIONS

- 7.11 The material considerations to be taken into account are as follows:
- A – SCOTTISH GOVERNMENT CIRCULAR 4/1998 THE USE OF CONDITIONS IN PLANNING PERMISSIONS**
- 7.12 Circular 4/1998 provides guidance on the use of conditions in granting planning permission and stipulates that while the power to impose planning conditions is very wide, it need to be exercised in a manner which is fair, reasonable and practicable. The Circular demonstrates that conditions that are fair, reasonable and practicable satisfy 6 tests:
- Necessary;
 - Relevant to planning;
 - Relevant to the development to be permitted;
 - Enforceable;
 - Precise; and
 - Reasonable in all other respects.
- 7.13 Conditions 10, 11 and 12 of planning permission ref: 22/00775/FULM relate to access and the A90 trunk road. The applicant wishes to vary the timing element of those conditions. The original conditions prevented any development on site until the works to the A90 had been agreed.
- 7.14 Condition 13 prohibits any development until a study has been provided in relation to abnormal loads and Condition 14 requires Transport Scotland's approval prior to any movement of abnormal loads. Whilst the applicant has undertaken a study based on one of their largest transformer units, the exact details of the abnormal load movements have yet to be established and delaying until the movement of an abnormal load will allow for a more detailed study to be undertaken. It may also be the case that the design required under condition 10 may have an impact on any proposed mitigations.

- 7.15 The need for these variations is to ensure the timely implementation of the development to ensure the obligations to the regulator Ofgem can be met. The proposed variations to the conditions are to change the timescale only and not the actual works.
- 7.16 The proposal to vary Conditions 10, 11, 12, 13 and 14 of planning permission ref: 22/00775/FULM does not undermine the necessity, purpose, relevance or precision of the original conditions. Therefore, the proposal adheres to the requirements of Circular 4/1998.

B – SCOTTISH GOVERNMENT CIRCULAR 3/2022 DEVELOPMENT MANAGEMENT PROCEDURES

- 7.17 In accordance with section 42(2) of the 1997 Act and the advice contained in the above Circular if it is considered that permission should be granted subject to different conditions then the new permission would need to be granted with all of the conditions to which the development should be subject attached. Therefore, in addition to the varied Conditions 10, 11, 12, 13 and 14, all the other conditions on the original permission would need to be attached to this new consent.
- 7.18 In this case, however, since the consent was granted, the applicant has submitted additional information relating to a number of the other original conditions with a view to the information being accepted and agreed in respect of those outstanding matters. The following paragraphs consider whether this additional information is satisfactory and in turn whether the relevant original planning condition requires to be attached to the new planning permission.

Contaminated Land

- 7.19 The applicant has submitted additional information to address the matters contained within conditions 2 and 3 of planning permission ref: 22/00775/FULM in respect of contaminated land site investigations and reporting. This has been assessed against Policy 9 of National Planning Framework 4 (NPF4) and Policy 39 and Policy 41 of the Dundee Local Development Plan (LDP) and is not sufficient to address this particular issue. The Head of Community Safety and Protection has advised that these conditions will still require to be attached to the new planning permission.

Landscaping

- 7.20 The applicant has submitted additional information to address the matters contained within condition 5 of planning permission ref: 22/00775/FULM. This required a scheme of landscaping to be submitted. The Head of Environment has reviewed this information and considers this information to be satisfactory. This has been assessed against Policies 3, 4, 6, and 26 of NPF4 and Policies 28, 34 and 35 of the LDP. An amended version of condition 5 will be attached to the new planning permission to ensure that the landscaping is implemented in accordance with the approved details and that any trees or shrubs removed, dying, being severely damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required.

Drainage

- 7.21 The applicant has submitted additional information to address the matters contained within conditions 6 and 7 of planning permission ref: 22/00775/FULM. Dundee City Council Engineers have reviewed the information and have advised it is not sufficient to fully satisfy these conditions. This information has been assessed against Policies 3 and 22 of NPF4 and Policies 36 and 37 of the LDP. Amended conditions will be attached to the new planning permission.

Construction Waste Management

- 7.22 The applicant has submitted additional information to address the matters contained within condition 9 of planning permission ref: 22/00775/FULM in respect of construction waste management. This information has been reviewed and assessed against Policy 12 of NPF4 and Policy 44 of the LDP and is satisfactory. As such there is no need to attach condition 9 to the new planning permission.

External Lighting

- 7.23 The applicant has submitted additional information to address the matters contained within conditions 18 and 29 of planning permission ref: 22/00775/FULM. This information has been assessed against Policy 14 of NPF4 and Policy 39 of the LDP. The Head of Community Safety and Protection has also reviewed the information and considers this information to be satisfactory in terms of condition 29.
- 7.24 Transport Scotland have reviewed the information and have advised that the information meets their requirements.
- 7.25 There is no need to attach conditions 18 or 29 to the new planning permission.

Cycle Storage

- 7.26 The applicant has submitted additional information to address the matters contained within condition 22 of planning permission ref: 22/00775/FULM. This information has been reviewed and assessed against Policy 13 of NPF4 and Policies 54 and 56 of the LDP. An amended version of condition 22 will be attached to the new planning permission to ensure the cycle storage is provided as detailed.

Archaeology

- 7.27 The applicant has submitted additional information to address the matters contained within condition 30 of planning permission ref: 22/00775/FULM. This information has been reviewed and assessed against Policies 7 and 26 of NPF4 and Policy 52 of the LDP. Dundee City Council's Archaeological Consultant has also reviewed this additional information and advised that the Written Scheme of Investigation is satisfactory, however there is still a requirement for the developer to undertake fieldwork and associated reporting. An amended version of condition 30 will be attached to the new planning permission.

Heat Networks

- 7.28 The applicant has submitted additional information to address the matters contained within condition 31 of planning permission ref: 22/00775/FULM. This information has been reviewed and assessed against Policy 46 of the LDP and it is considered satisfactory. There is no need to attach condition 31 to the new planning permission.
- 7.29 It is therefore concluded that not all of the original conditions require to be attached to the new planning permission.
- 7.30 **It is concluded that there are no material considerations of sufficient weight in this case to justify refusal of planning permission.**

8 CONCLUSION

- 8.1 The application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to vary conditions 10, 11, 12, 13 and 14 attached to Planning Application Ref: 22/00775/FULM is in accordance with National Planning Framework 4 and the Dundee Local Development Plan 2019. There are no material considerations of sufficient weight that would justify refusal of this application.

9 RECOMMENDATION

- 9.1 It is recommended that a Section 42 Application be approved and consent GRANTED subject to the following conditions:

- 1 **Condition** - the development hereby permitted shall be commenced within three years from the date of this permission.

Reason - to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

- 2 **Condition** – no below ground site works shall commence until further site investigations are completed and, if necessary; a remediation scheme to deal with any contamination at the site has been submitted to and approved in writing by the planning authority. The scheme shall contain proposals to deal with contamination to include:

- a the nature, extent and type(s) of contamination on the site;
- b measures to treat/remove contamination to ensure the site is fit for the use proposed and does not contain any significant pollution linkages;
- c measures to deal with contamination during construction works; and
- d verification of the condition of the site on completion of decontamination measures.

Reason - In the interests of providing a site suitable for development.

- 3 **Condition** – before any part of the building is occupied any remediation scheme required by Condition 2 shall be fully implemented and a verification report with relevant documentation demonstrating that the objectives of the remediation strategy have been achieved shall be submitted to and approved by the planning authority.

Reason - in the interests of providing a site suitable for development.

- 4 **Condition** - prior to the commencement of work on site details of a scheme of public art shall be submitted to the Council for written approval. Thereafter, the approved scheme of public art shall be installed within 12 months of the development hereby approved being occupied.

Reason - in the interests of enhancing the amenity and environmental quality of the development.

- 5 **Condition** – prior to the first use of the development hereby approved, the hard and soft landscaping shall be implemented in accordance with proposals illustrated on the drawing – Biodiversity Enhancements. Any trees or shrubs removed, dying, being severely

damaged or becoming seriously diseased within 5 years of planting shall be replaced by trees or shrubs of similar size and species to those originally required.

Reason – in the interests of providing an attractive and pleasant environment and local biodiversity.

- 6 **Condition** - prior to the commencement of any works on site, a detailed surface water drainage/SUDS design including drawings, calculations, full modelling, simulation results, design risk assessment, signed Dundee City Council Design Compliance and Independent Check Certification, and where appropriate SEPA comments shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to the first occupation of the development hereby approved.

Reason - in the interests of flood protection

- 7 **Condition** – prior to the commencement of any works on site, details of measures proposed to manage surface water run-off from the site during construction shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out prior to construction works commencing on any part of the development hereby approved.

Reason - in the interests of flood protection

- 8 **Condition** – prior to the commencement of any works on site, maintenance responsibilities along with a maintenance schedule for the surface water drainage system/SUDS features shall be submitted to the Council for written approval. Thereafter, all works approved by virtue of this condition shall be carried out in perpetuity.

Reason - in the interests of flood prevention and visual amenity.

- 9 **Condition** – prior to first use of the development hereby approved, electric vehicle charging infrastructure shall be provided within the site as illustrated on drawing 30002752-BHK-ZZ-XX-DR-A-0002 Rev 15 dated 22 September 2023.

Reason - in the interests of promoting sustainable transport.

- 10 **Condition** - prior to the first use of the development, the detailed design for the proposed upgrades to the existing A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout, as generally illustrated on Drawing 11016644/I/SPA/001 (dated 22 May) as contained within the Transport Statement, shall be submitted to and approved in writing by Dundee City Council, in consultation with Transport Scotland as the trunk roads authority. Detailed designs shall be prepared to a standard compliant with DMRB CD 116.

Reason – in the interests of road safety; to ensure the provision of adequate design.

- 11 **Condition** - prior to the first use of the development, a combined Stage 1 and Stage 2 Road Safety Audit, in accordance with DMRB GG 119, shall be submitted to and approved in writing by Dundee City Council, in consultation with Transport Scotland as the trunk roads authority. Any amendments to the A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout design resulting from the Road Safety Audit shall thereafter be agreed with Dundee City Council, in consultation with Transport Scotland as the trunk roads authority, and fully implemented thereafter.

Reason – in the interests of road safety; to ensure the provision of adequate design.

- 12 **Condition** - prior to the first use of the development, the existing A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout, proposed to be used as a means of access to the trunk road, shall be upgraded to a standard compliant with DMRB CD 116, as generally illustrated on Drawing 11016644/I/SPA/001 (dated 22 May) as contained within the Transport Statement, to be approved by Dundee City Council, in consultation with Transport Scotland as the trunk roads authority.

Reason - to ensure that the standard of access layout complies with the current standards and that the safety of traffic on the trunk road is not diminished.

- 13 **Condition** - prior to the movement of any abnormal load, a study shall be undertaken (in consultation with Transport Scotland and Dundee City Council) to assess additional mitigation options to accommodate abnormal loads movements at the existing A90(T)/Jack Martin Way/William Fitzgerald Way Roundabout.

Reason – to ensure no adverse impact on the operation of the trunk road.

- 14 **Condition** - the proposed movement of any abnormal loads on the trunk road network must be approved by Transport Scotland, as the trunk roads authority, prior to the movement of any abnormal load. Any accommodation measures required, including the removal of street furniture, junction widening, traffic management, must similarly be approved. Full details of proposed works should be developed in consultation with the trunk road Operating Company and Transport Scotland Area Manager at the earliest opportunity through a Minute of Agreement (<https://www.transport.gov.scot/ourapproach/industry-guidance/work-on-the-scottish-trunk-road-network>) and issued for their approval prior to the movement of any abnormal load.

Reason – to ensure no adverse impact on the operation of the trunk road.

- 15 **Condition** - no development shall commence until a Construction Traffic Management Plan (CTMP) has been prepared and approved in writing by the Planning Authority, in consultation with Transport Scotland as the trunk roads authority.

Reason – to minimise interference with the safety and free flow of the traffic on the trunk road, to ensure the safety of pedestrians and cyclist using the trunk road and adjacent facilities, and to be consistent with current guidance and best practice.

- 16 **Condition** - any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by Dundee City Council in consultation with Transport Scotland as the trunk roads authority before delivery commences.

Reason - to ensure that abnormal loads will not have any detrimental effect on the trunk road network.

- 17 **Condition** - the developer shall submit proposals for an abnormal loads delivery trial-run to be undertaken with the involvement of Police Scotland and prior to the commencement of abnormal loads deliveries. Trial-run proposals shall be submitted to and approved in writing by Dundee City Council in consultation with Transport Scotland as the trunk roads authority.

Reason – to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

18 **Condition** - there shall be no advertising signage visible from the trunk road network.

Reason – to ensure no adverse impact on the operation of the trunk road.

19 **Condition** - prior to the occupation of any part of the development, a comprehensive Travel Plan that sets out proposals for reducing dependency on the private car has been submitted to and approved in writing by Dundee City Council, after consultation with Transport Scotland as the trunk roads authority. The Travel Plan shall identify measures to be implemented, the system of management, monitoring, review, reporting and the duration of the plan.

Reason – in the interests of promoting sustainable transport.

20 **Condition** - all vehicles transporting dry/loose construction material to and from the proposed development shall be sheeted.

Reason – to ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

21 **Condition** - prior to the commencement of any works on site, vehicle wheel cleaning facilities shall be installed and brought into operation on the site, the design and siting of which shall be subject to the prior approval of Dundee City Council, in consultation with Transport Scotland as the trunk road authority.

Reason – to ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

22 **Condition** – prior to the commencement of any works on site details of the proposed accesses including proposed road markings and swale alterations must be agreed and the accesses must be formed and constructed to Dundee City Council standards and specifications.

Reason – in the interests of vehicle and pedestrian safety.

23 **Condition** - roads within the site should be made of porous materials or provision should be made to direct run off water from the hard surface to a permeable or porous area or surface within the curtilage of the site.

Reason – to ensure that surface water from within the curtilage of the site does not drain to the adjacent adopted road.

24 **Condition** - the warehouse hereby approved shall only be brought into use following the full implementation of the noise mitigation measures, as defined within the Operational Noise Impact Assessment. Thereafter it shall only operate in accordance with the operational practices as set out within the Operational Noise Impact Assessment – Rev 01, Report No. 7349A-00-01, dated 27th January 2023, undertaken by New Acoustics in relation to:

a a warehouse servicing and distribution activities being between 0800h and 1700h only,

b unless in relation to a major fault in the electrical network;

- c b consultation and agreement with Dundee City Council prior to any temporary requirements for non-emergency operations or deliveries out with the hours specified in point a);
- d c loading and unloading; and
- f d the use of roller doors.

Reason – in the interests of protecting residential amenity.

- 25 **Condition** - the total noise from the mechanical and electrical plant/services shall not exceed NR45, during daytime, and shall not exceed NR35 during night-time, as measured 1 metre external to the facade of existing adjacent residential property. For the avoidance of doubt, night time hours are from 23:00 to 07:00 hours.

Reason - in the interests of protecting residential amenity.

- 26 **Condition** - with reference to the Operational Noise Impact Assessment - Rev 01, Report No 7349A-00-01, dated 27 January 2023, undertaken by New Acoustics, the rating level, as defined in column 3 of Table 9.1 - Daytime BS4142 Assessment of Operational Activity Noise - shall not be exceeded at 1 metre from the façade of any residential property.

Reason - in the interests of protecting residential amenity.

- 27 **Condition** – prior to the first use of the warehouse hereby approved, a review of the Noise Impact Assessment undertaken by New Acoustics, - Rev 01, Report No. 7349A-00-01, dated 27 January, 2023, must be undertaken:

- a to validate the predicted allowable total sound power level of all plant; and
- b to specify any mitigating measures required in order to meet the allowable total sound power level of all plant for compliance with condition 6 above, as specified in column 10 of Table 7.2, and the requirements of BS4142:2014+A1:2019 Methods of rating and assessing industrial and commercial sound, as specified in column 9 of table A4.1 of the Operational Noise Impact Assessment - Rev 01, Report No: 7349A-00-01, dated 27 January, 2023, undertaken by New Acoustics.

Thereafter, and prior to the first use of the warehouse any noise mitigation measures recommended by the revised Noise Impact Assessment shall be implemented in full.

Reason - in the interests of protecting residential amenity.

- 28 **Condition** – prior to the commencement of any works on site, the developer shall undertake the fieldwork, post-excavation analysis and any further fieldwork and analysis in accordance with the Written Scheme of Investigation prepared by Clyde Archaeology date 18 May 2023. A data structure report detailing the outcome of these works shall be prepared and submitted to the council for approval in writing.

Reason - in order to safeguard the archaeological heritage of the site and to ensure that the developer provides for the investigation, recording and rescue excavation of any remains on the site in advance of their loss to development.

- 29 **Condition** – prior to the first use of the development hereby approved the provision for cycle parking shall be implemented as shown in Drawing LT000254-BKHS-CIV-DWG-002-01 Revision 20.

Reason – in the interest of promoting the use of sustainable travel measures.

Informatives

- 1 A Road Construction Consent (RCC) application, found via the following link on the Dundee City Council website:

<http://www.dundee.gov.uk/a2z/constructionconsent>

must be submitted to Dundee City Council as Roads Authority for work on any proposed roads or the adjacent public road or footway and consent for this must be obtained prior to the commencement of any works on new roads or the public road or footway. For further details please contact 01382 433341 or developmentroads@dundee.gov.uk.

- 2 Any work carried out on site involving the removal of vegetation has the potential to disturb breeding birds and should be carried out with the breeding season or after a breeding bird survey has been completed.
- 3 The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk round boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's Planning Public Access website.
- 4 Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.
- 5 Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.
- 6 The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.
- 7 Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.
- 8 Any additional works required to mitigate the impact on the trunk road will necessitate a Legal Agreement with the Trunk Roads Authority prior to commencement.