

PLANNING STATEMENT

Section 73 Application for the Variation of Conditions 36 and 37 following the grant of planning permission F/20/87841, to agree a revised timetable for the implementation of the approved pedestrian and access improvement works and allow the occupation of plots 200 and 205 by new tenants.

On behalf of Diageo Pension Trust Ltd

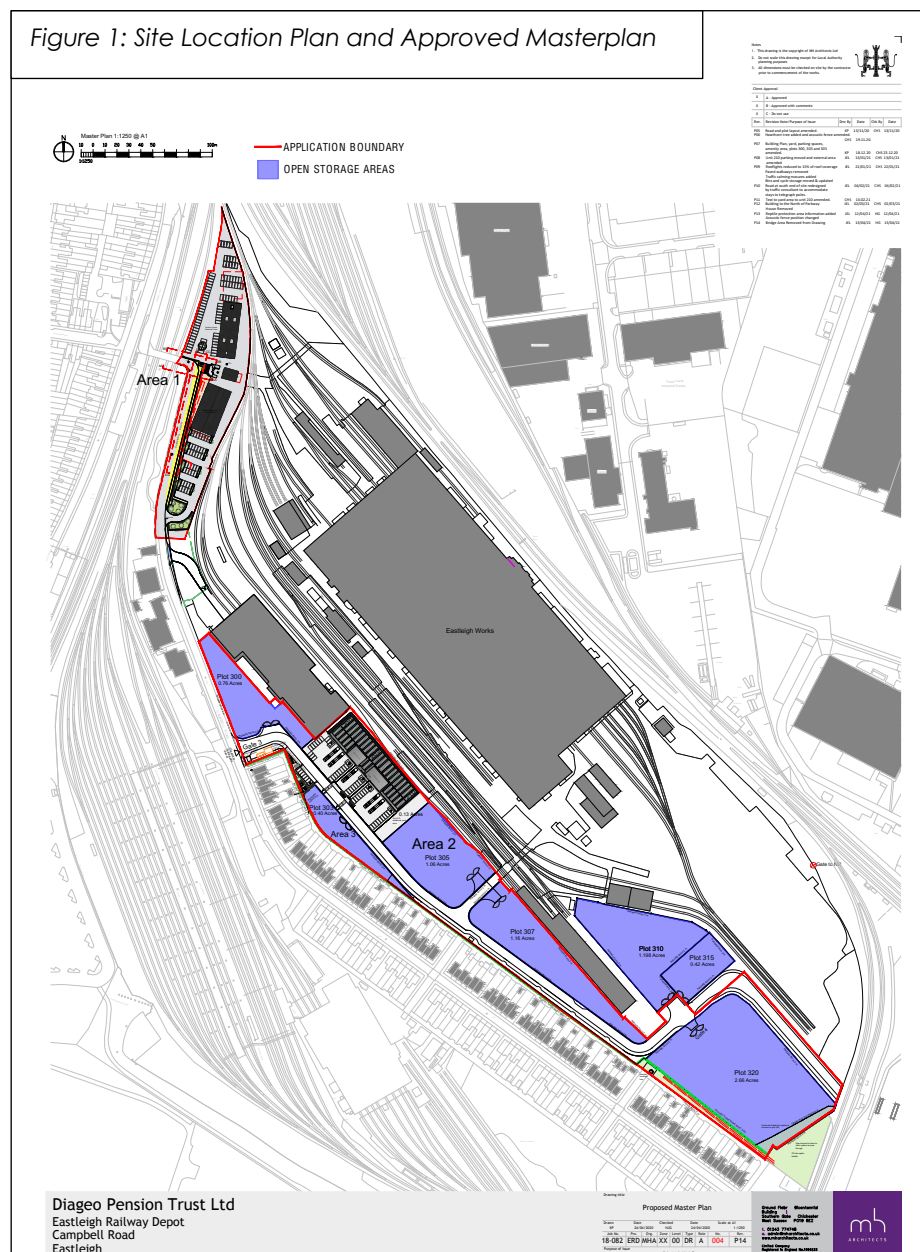
September 2023

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1. Introduction:

- 1.1 Neame Sutton Limited, Chartered Town Planners, is instructed by Diageo Pension Trust Ltd (the Applicant), to assist in the preparation and submission of a Section 73 Variation of Condition application to Eastleigh Borough Council.
- 1.2 Planning permission F/20/87841 for the “demolition of existing buildings and erection of up to 2,444sqm of floorspace (GIA) for use within Class B1 (c); Class B2 and/or Class B8; provision for ‘open storage’ (Class B8) from up to circa 2.5 hectares (part permanent and part temporary): alterations to access including road widening, new footpath and creation of new vehicular access via Campbell Road; installation of acoustic barrier and associated works including parking, services, landscape, infrastructure and groundworks” was granted subject to Conditions on 22nd June 2021, on part of the land known as Eastleigh Works.



1.3 Pursuant to Section 73 of the Town and Country Planning Act 1990, this application seeks permission for the variation of Conditions 36 and 37.

1.4 Condition 36 states that:

'The proposed pedestrian improvement works on the eastern side of Campbell Road (as shown in principle on drawing number 2019-6096-003 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096)), shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the improvement works must be made within 12 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of the industrial units hereby approved within Area 2 (excluding any occupation by an existing tenant of the application site at the time of this decision). In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To secure improvements to pedestrian infrastructure and enhanced access to nearby amenities and facilities.'

1.5 Condition 37 states that:

'The proposed access works to Area 1 and Area 2 (as shown in principle on drawing number 2019-6096-001 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096) and drawing number 2019-6092-201 Revision B in the Transport Technical Note (Bright Plan, February 2021, Ref: 6096) shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the access works must be made within 12 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of the industrial units hereby approved within Area 2 (excluding any occupation by an existing tenant of the application site at the time of this decision). In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To provide a satisfactory means of access to the development in the interests of highway safety.'

2.0 Background Context:

2.1 Having discharged all necessary pre-commencement Conditions, the Applicant, Diageo Pension Trust Ltd, first implemented permission F/20 87841 in October 2021 by the carrying out of works, including the demolition of existing buildings in Area 2 and the installation of the acoustic fence.

2.2 Consequently, Conditions 36 and 37 were triggered, and the Applicant was required to have made a material start on the pedestrian improvement works and access to Areas 1 and 2 within 12 months i.e by October 2022.

2.3 The works comprise:

Pedestrian Improvement works as shown in principle on approved drawing no. 2019-6096-003 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096)), required by Condition 36:

- New 2m wide pedestrian footpath to commence on the eastern side of the Campbell Road bridge before continuing south connecting with the existing footway on Campbell Road;
- Virtual pedestrian footway on the bridge with highway warning signs; and
- Opening the existing unused steps into Area 1.

Access works as shown in principle on approved drawing no. 2019-6096-003 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096)) and drawing no. 2019-6092-201 Revision B in the Transport Technical Note (Bright Plan, February 2021, Ref: 6096)), required by Condition 37:

- New vehicular access to serve Areas 1 and 2.

2.4 However, due to delays in securing the necessary S278 Agreement for the works to be carried out, it has not been possible to comply with Conditions 36 and 37, as currently worded, and the works remain outstanding.

2.5 In the meantime, construction on site has continued with the 3 no. new commercial units (units 200, 205 and 210) and a number of the open storage areas have now been let.

2.6 Units 200, 205 and 210 are scheduled for completion shortly and will therefore be available for occupation ahead of the delivery of the pedestrian improvement works and completed access to areas 1 and 2.

2.7 As currently worded, Conditions 36 and 37 only allow for the occupation of these units ahead of the delivery of the pedestrian improvement works and access to areas 1 and 2, by *"an existing tenant of the application site at the time of this decision"*.

2.8 In this respect, the Applicant has agreed a lease on unit 210 for existing tenant P&M (Packing) Ltd.

2.9 Units 200 and 205 will however remain vacant and unoccupied until such time as the works required by Conditions 36 and 37 are carried out.

2.10 However, both Conditions expressly allow for an alternative programme of works to be agreed in writing with the Local Planning Authority.

2.11 As such, the Applicant is seeking to agree an alternative timetable to allow the occupation of units 200 and 205 by way of this Section 73 Variation of Condition application

3.0 Programme of Works Undertaken To Date and Future Work Programme:

- 6.1 The Applicant has discussed the above position with the Local Planning Authority, who are concerned about the potential occupation of the new commercial units in advance of the vehicle and pedestrian access improvements, given that the Conditions 36 and 37 timeframes were agreed with Hampshire County Council Highways in the interest of highway safety.
- 6.2 At the same time, the Council recognises that it is far from ideal to have much needed newly built commercial floorspace sitting empty on a key strategic employment site within the Borough.
- 6.3 To date the Applicant has invested significantly in the redevelopment of the site and clearly would have wished to avoid a situation where they are unable to secure an immediate return on their investment.
- 6.4 Since the grant of planning permission in June 2021 the Applicant has worked with its technical design team to:
- formulate those details necessary to satisfactorily discharge all pre-commencement Conditions to allow a material start on site;
 - secured the necessary approval of Network Rail to carry out the works; and
 - commenced with the detailed design of the pedestrian and access works at risk pending the S278 approval.
- 6.5 Taking each in turn.
- i) *Discharge of Pre-Commencement Conditions and Material Start on Site*
- 6.6 Following the grant of planning permission in June 2021 the Contractor ADI was appointed and those details necessary to satisfactorily discharge all pre-commencement Conditions were submitted to the Council and duly discharged, as follows:
- DC/21/91051 - approved on 29th October 2021, dealing with Conditions 10 (CEMP), 12 (External Lighting), 16 (Landscaping), 17 (LEMP), 22 (Protection of public water apparatus), 30 (Contamination/Remediation scheme), 32 (Borehole installations) and 34 (dense scrub removal).
- DC/22/93308 - approved on 6th September 2022, dealing with Condition 10 (CEMP) in relation to Area 2.
- DC/22/93573 - approved on 1st November 2022, dealing with Conditions 24 (noise mitigation) in respect of unit 210 and open storage plots 307 and 320, and Condition 31 (contaminated land verification) in respect of plots 307 and 320.
- 6.7 A material start on site was subsequently made and included extensive enabling works, including the removal of existing hardstanding, site remediation, borehole decommissioning, scrub and fly tipping clearance supervised by an Ecologist, laying of a geotextile membrane and importation of top soil.

6.8 The above site assembly and enabling works were followed by the demolition of the existing buildings, installation of the acoustic fence and construction of the new commercial units 200, 205 and 210.

6.9 The formulation and discharge of pre-commencement Conditions, site assembly, site enabling works including extensive remediation and development works has all taken place within 24 months of the planning permission being granted and demonstrates the Applicant's commitment to deliver much needed commercial floorspace in a timely manner.

ii) *Basic Asset Protection Agreement (BAPA) approval from Network Rail*

6.10 As the proposed road widening to facilitate a 2m wide pedestrian footway includes works which may impact on the existing operational railway, a BAPA (Basis Asset Protection Agreement) needs to be agreed between the Developer and Network Rail.

6.11 The Developers application to Network Rail needs to include a Risk Assessment and Method Statement for all works to be undertaken within 10m of the operational railway. As such this required detailed engineering drawings to be prepared.

6.12 A BAPA application was submitted to Network Rail in April 2021 and subsequently approved in May 2022.

iii) *Work to secure the necessary S278 Agreement*

6.13 Conditions 36 and 37 require the approved pedestrian improvement and access works to be carried out pursuant to a Section 278 agreement, under the Highways Act 1980, and it is this process that has caused the delay and consequently the Applicant's inability to comply with the requirements of Conditions 36 and 37, as currently worded.

6.14 A summary of the steps to secure a S278 approval, along with commentary on the actions undertaken to date is set out below:

Steps to S278 Approval:	Date achieved:	Commentary:
Initial Design	August 2021 to November 2022	This is a complex structurally driven highways scheme and as such WSP were instructed to liaise with Evolve (Structural Engineer), H&H (specialist retaining wall Engineer) and Brightplan (Civils and Highways) in order to complete the engineering design.
Submission of draft Approval in Principle (AIP) application	21 st November 2022	In order to engage early with HCC a draft AIP application was submitted seeking initial feedback
AIP Feedback from HCC	16 th March 2023	There was a delay in receiving structural feedback from HCC

Submission of finalised AIP application	20 th April 2023	The Applicant team worked quickly to incorporate HCC's initial comments and submit a finalised AIP for approval.
Further AIP Feedback from HCC	Geotechnical comments received 27 th July 2023 Construction comments received 3 rd August 2023	Despite carrying out an initial draft pre-application consultation, HCC responded with further detailed comments which the Applicant's team is currently seeking to address. It is anticipated that a response to HCC's feedback will be submitted by 1 st September 2023.
AIP Approval from HCC		Awaited.
Detailed Design		Whilst the AIP approval remains pending, the Applicant elected to instruct the detailed design stage (now complete), and therefore did so at risk in an attempt to speed up the process as much as they can.
Road Safety Audit (RSA)		An RSA will be undertaken upon completion of the detailed design work and is anticipated to take circa 2 weeks.
S278 Technical Submission		The Applicant has completed the detailed design at risk in an attempt to reduce the time needed at this stage to prepare a S278 technical submission.
S278 Technical Approval		HCC has 6 weeks to determine but this is not a statutory period and is therefore dependent upon HCC.
S278 Legal Agreement		Work on the Legal Agreement can commence on submission of the S278 application should this approach be acceptable to HCC Legal Advisors..
Contractor Procurement finalised		Ordinarily a 12 week procurement process would take place at this stage. However, in a further attempt to speed up the process, the Applicant has appointed Landbuild as the Contractor and procured a Budget Price Schedule for the road widening works.
Road space booking and materials lead in		The programme allows for a 12 week period for road space booking and 2 week materials lead in.

6.15 It is evident from the above that the Applicant has made all reasonable attempts to progress with all stages of the process to secure the S278 Agreement, including working at risk on some stages.

6.16 It is therefore regrettable that the development of the commercial units has simply accelerated beyond the time taken for the necessary S278 to be agreed with HCC Highways.

6.17 The Applicant's Project Managers, Savills, have driven forward the programme since their appointment and are having to continually update the Master Programme to reflect the delays experienced. A copy

of the most updated Master Programme dealing only with the road widening/pedestrian improvement works in Area 1 and the access to Areas 1 and 2 is attached at Appendix 1.

4.0 Proposed Amendments:

- 4.1 On the basis of the above, the Applicant is seeking to vary the wording of Conditions 36 and 37 to allow:
- For an extended period of time for the approved pedestrian improvement works and access to Areas 1 and 2 to be carried out; and
 - The occupation of the newly constructed commercial units 200 and 205 by new tenants.
- i) Extended period of time for the approved pedestrian improvement and access works to Areas 1 and 2 to be carried out.
- 4.2 For the reasons set out above, the Applicant has been unable to comply with the requirements of Conditions 36 and 37, which required a material start to have been made on the approved pedestrian improvement works and access to areas 1 and 2 within 12 months i.e by October 2022. It is therefore necessary to agree an extended period of time to enable these works to commence.
- 4.3 Having regard to the stage reached to date and the anticipated timetable going forward (as set out in the Master Programme attached at Appendix 1), it is anticipated that works will commence by April 2024, and as such an extended period of 18 months is sought such that the Condition allows for the works to be carried out within 30 months of first implementation.
- 4.4 The proposed amended wording to Conditions 36 and 37 is set out in paragraph 4.11 below.
- ii) The occupation of units 200 and 205 by new tenants.
- 4.5 Under the above amended timeframe, the pedestrian improvement works and access to Areas 1 and 2 would take place by April 2024 and take circa 20 weeks to complete i.e. by September 2024.
- 4.6 As currently worded, Conditions 36 and 37 prevent the occupation of these units, unless by an existing tenant. Existing tenant P&M Packing are due to occupy Unit 210, leaving units 200 and 205 vacant potentially for over a year.
- 4.7 It is evident from the numerous expressions of interest by potential occupiers that there is a real need for new employment floorspace now. As such, the Applicant would like to be able to enter into an Agreement for Lease so that they may deliver these much needed units when complete and allow occupation by new tenants and not have to wait potentially until September 2024.

- 4.8 The Applicant recognises however that Conditions 36 and 37 were imposed for highway safety reasons, and in particular not wanting to allow the intensification of a sub-standard access until such time as the improvement works were complete.
- 4.9 In seeking to find a solution to allow units 200 and 205 to be occupied by new tenants whilst at the same time not intensifying the traffic movements from the site, the Applicant proposed at a meeting with the Council a compromise position whereby units 200 and 205 could be occupied by new tenants prior to the access improvement works, but agree to keep Parkway House and Unit 6 in area 1 unoccupied until those works were completed. The rationale being that both Parkway House and Unit 6 were occupied and generating traffic movements when the permission was granted in June 2021 and Conditions 36 and 37 imposed. Parkway House and Unit 6 are now both vacant and as such are not generating the traffic movements previously included within the Applicant's assessment at the application stage. Under this scenario the occupation of the 2 new commercial units 200 and 205 would not increase vehicle or pedestrian trips on the local highway network.
- 4.10 A comparison and assessment of the vehicle and pedestrian trips associated with Parkway House and Unit 6 with Units 200 and 205 is set out within the Applicant's Transport Technical Note accompanying this application and examined in Section 5 of this Statement.
- 4.11 Having regard to the above, the Applicant is therefore seeking approval to amend the wording of Conditions 36 and 37 as follows:

Condition 36 as approved:	Proposed Changes to Condition 36:	Condition 36 as amended:
The proposed pedestrian improvement works on the eastern side of Campbell Road (as shown in principle on drawing number 2019-6096-003 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096)), shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the improvement works must be made within 12 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of the industrial units hereby approved within Area 2 (excluding any occupation by an existing tenant of the application site at the time of this decision). In any event	The proposed pedestrian improvement works on the eastern side of Campbell Road (as shown in principle on drawing number 2019-6096-003 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096)), shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the improvement works must be made within 12 30 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of the industrial units hereby approved within Area 2 (excluding any occupation by an existing tenant of the application site at the time of this decision). Parkway	The proposed pedestrian improvement works on the eastern side of Campbell Road (as shown in principle on drawing number 2019-6096-003 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096)), shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the improvement works must be made within 30 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of Parkway House and unit 6 in Area 1. In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in

the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.	House and Unit 6 in Area 1. In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.	writing with the Local Planning Authority.
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Condition 37 as approved:	Proposed Changes to Condition 37:	Condition 37 as amended:
The proposed access works to Area 1 and Area 2 (as shown in principle on drawing number 2019-6096-001 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096) and drawing number 2019-6092-201 Revision B in the Transport Technical Note (Bright Plan, February 2021, Ref: 6096) shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the access works must be made within 12 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of the industrial units hereby approved within Area 2 (excluding any occupation by an existing tenant of the application site at the time of this decision). In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.	The proposed access works to Area 1 and Area 2 (as shown in principle on drawing number 2019-6096-001 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096) and drawing number 2019-6092-201 Revision B in the Transport Technical Note (Bright Plan, February 2021, Ref: 6096) shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the access works must be made within 12 30 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of the industrial units hereby approved within Area 2 (excluding any occupation by an existing tenant of the application site at the time of this decision). Parkway House and Unit 6 in Area 1. In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.	The proposed access works to Area 1 and Area 2 (as shown in principle on drawing number 2019-6096-001 Revision C in the Transport Technical Note (Bright Plan, September 2020, Ref: 6096) and drawing number 2019-6092-201 Revision B in the Transport Technical Note (Bright Plan, February 2021, Ref: 6096) shall be completed pursuant to a Section 278 agreement, under the Highways Act 1980. A material start on the access works must be made within 30 months from the first implementation of the permission hereby granted and shall be completed prior to the occupation of Parkway House and Unit 6 in Area 1. In any event the works shall be completed no later than 12 months after a material start has been made, unless otherwise agreed in writing with the Local Planning Authority.

5.0 Assessment of Proposed Amendments:

- 5.1 In order to allow the occupation of units 200 and 205 by new tenants, in advance of the pedestrian improvement works and access to areas 1 and 2 being completed, the Applicant is seeking a variation of Condition that instead restricts the occupation of Parkway House and Unit 6 in area 1, and as such no

increase in vehicle and pedestrian trips on the local highway network occurs in the interests of highway safety.

- 5.2 Both Parkway House and Unit 6 were in occupation and therefore generating trips when the planning permission was granted. However, these units are now vacant and as such are not currently generating any trip movements.
- 5.3 The Applicant's Highway Consultant, Bright Plan, has undertaken a comparative analysis between the trips previously generated by Parkway House and Unit 6 when they were in occupation at the time of the grant of planning permission, and the anticipated trip movements associated with the occupation of units 200 and 205.
- 5.4 The findings are set out within Bright Plans Technical Note submitted in support of this application and set out in the table below which confirms that units 200 and 205 will generate fewer vehicle trips and pedestrian trips than were previously generated by Parkway House and Unit 6.

	Time Period	Vehicle Trips			Pedestrian Trips		
		Arrivals	Departures	Two-way Total	Arrivals	Departure s	Two-way Total
Ceased Operations	AM Peak Hour	11	2	13	1	0	1
	PM Peak Hour	3	10	13	0	1	1
	Daily Traffic	65	66	131	13	13	26
Units 200 and 205	AM Peak Hour	6	2	8	1	0	1
	PM Peak Hour	5	6	10	0	1	1
	Daily Traffic	41	40	82	5	5	9
Comparison	AM Peak Hour	-6	0	-5	0	0	0
	PM Peak Hour	2	-4	-3	0	0	0
	Daily Traffic	-24	-26	-49	-8	-9	-17

- 5.5 Furthermore, Bright Plan's assessment only includes the area of Parkway House that was previously occupied at the time of the grant of planning permission. Were Parkway House to be fully occupied there would be an even greater number of associated vehicle and pedestrian trips and much higher than that generated by units 200 and 205.
- 5.6 Having regard to Bright Plan's comparative analysis it is evident that restricting the occupation of the offices in Parkway House and Unit 6 in area 1 will result in a reduction in overall vehicle and pedestrian trips, even when allowing the occupation of units 200 and 205 by new tenants. Consequently, the proposed variation of Conditions 36 and 37 will not give rise to any adverse impacts on highway safety.

6.0 Summary and Conclusion:

- 6.1 This Section 73 application seeks the variation of Conditions 36 and 37 of planning permission F/20/87841, to agree an extended period of time for the implementation of the approved pedestrian and access

improvement works to take place and to allow the occupation of plots 200 and 205 by new tenants before the aforementioned works are completed.

- 6.2 As currently worded, Conditions 36 and 37 prevent the occupation of units 200 and 205, unless by an existing tenant, and as such would result in much needed newly built commercial floorspace sitting empty on a key strategic employment site within the Borough potentially for over a year.
- 6.3 It is evident from the numerous expressions of interest by potential occupiers that there is a real need for new employment floorspace now. As such, the Applicant would like to be able to enter into an Agreement for Lease so that they may deliver these much needed units now and allow occupation by new tenants and not have to wait potentially until September 2024.
- 6.4 The Applicant recognises that Conditions 36 and 37 were imposed for highway safety reasons, and in particular not wanting to allow the intensification of a sub-standard access until such time as the improvement works were complete.
- 6.5 Consequently, the proposed variation of Conditions 36 and 37 will not give rise to any adverse impacts on highway safety.
- 6.6 We therefore respectfully request that planning permission may be granted for this S73 Variation of Condition application.

Eastleigh Works Campbell Road Widening Programme

Wed 23/08/23

