

a new industrial park for B2 and B8 uses.

19/01706/OUT	Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,117 sqm of B1c / B2 and B8 uses rising to a maximum building height of 12m, together with associated access, landscaping, parking and drainage pond.	Approved	12.11.2020
19/01898/DISCON	Discharge of conditions 11 (wheel cleaning) and 21(dust management) for approved application 13/00745/OUT, and condition 2 (Construction Method Statement) for approved application 14/01296/DETAIL.	Approved	07.02.2020
20/00023/DOVO5	Formal application to modify a Section 106 Planning Obligation for planning permission 13/00745/OUT.	Determination	22.06.2022
22/00410/NMA	Non-material amendment to planning permission 19/01706/OUT to alter, Condition 22 to all changes in ground levels, hard and soft landscaping, planting, seeding or turfing shown on the landscaping details approved pursuant to Conditions 1, 3, 4 and 5 of this planning permission for each phase shall be carried out during the first planting and seeding season, October - March inclusive, following the occupation of the development of that phase or in such other planting season as shall first have been agreed, in writing, by the Local Planning Authority having had regard to the Strategic Phasing Plan, Condition 24 to the reserved matters submission for each phase shall include full written details of the areas to be provided for the loading, unloading, turning and parking of vehicles, including adequate cycle and disabled parking spaces. No building shall be occupied within that phase until the approved details have been implemented. The approved areas	Approved	04.04.2022

shall be retained and kept available for their specified purpose thereafter, Condition 26 to the reserved matters submission for each phase shall include full written details for the storage of refuse and or other waste. No building shall be occupied within that phase until the approved details have been implemented. The approved areas shall be retained and kept available for their specified purpose thereafter and Condition 36 no development within the relevant phase shall be occupied until full written details of measures to control odours, including extraction systems, within that phase have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details.

22/00774/NMA	<p>Non-material amendment sought to 19/01706/OUT for a minor increase in building heights and floorspace including; the revision of the outline planning permission description to 'Outline planning application for employment development, comprising Phase 1 for 15,350 sqm of B2 development rising to a maximum building height of 21.7m and Phase 2 for up to 18,750 sqm2 of B1c / B2 and B8 uses rising to a maximum building height of 13.82m, together with associated access, landscaping, parking and drainage pond' and changes to Condition 8 of the outline permission to reflect the proposed revisions to the finished heights of the buildings and increases in floorspace.</p>	Approved	31.05.2022
22/01042/DETAIL	<p>Reserved matters application for the erection of 8 commercial units (7 buildings) on the eastern section of the site along with the internal spine road and strategic landscaping considering appearance, scale, layout and landscape, pursuant to outline planning consent 19/01706/OUT.</p>	Approved	28.09.2022
22/01047/FUL	<p>Proposed erection of three buildings (use classes Eg (iii), B2 and B8), a new access and highway works, parking and</p>	Approved	31.03.2023

	servicing and hard and soft landscaping.		
22/01103/DISCON	Discharge of conditions 3, (Strategic phasing plan) 4, (Design code) 10, (Written details of the illumination works) 12, (Construction traffic management plan) 33 (Scheme to minimise the potential impact of the development on wildlife present on site) and 35 (Strategic phase plan) of application 19/01706/OUT.	Approved	28.11.2022
22/02132/DOVU5	Deed of variation under TCPA 1990 Section 106A of the terms of the Unilateral Undertaking (UU) dated 31 July 2014 linked to planning permission 13/00745/OUT, to update the definition of Commencement of Development to exclude works to the Mast.		20.06.2023
23/00747/DISCON	Discharge of condition 34 (programme of archaeological evaluation) of application 19/01706/OUT.	Approved	13.06.2023
23/01175/DISCON	Discharge of condition 7 (Construction Method Statement) of application 22/01042/DETAIL.	Current	
23/01176/DISCON	Discharge of conditions 6 (Details of Existing and Proposed Ground Levels), 27 (Dust Management Plan), 29 (Surface Water Drainage Scheme), 30 (Scheme to Minimise the Risk of Offsite Flooding) and 32 (Foul Water Strategy) of application 19/01706/OUT.	Current	
23/01179/NMA	Non Material Amendment to 22/01042/DETAIL to replace the approved Proposed Site Layout Plan PA-400C with new drawing 2606 C-SK02.	Current	
23/01180/DISCON	Discharge of condition 2 (Construction Methodology) of application 22/01047/FUL.	Current	

4. Relevant Policies / Government Guidance

n/a

Status of the Local Plan

Planning law requires that decisions on applications must be taken in accordance with the development plan unless there are material considerations that indicate otherwise (Section 70(2) of the 1990 Town and Country Planning Act and Section 38(6) of the Planning and Compulsory Purchase Act 2004). This is set out in Paragraph 2 of the National Planning Policy Framework (the Framework). The 'development plan' for Tendring comprises, in part, Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (adopted January 2021 and January 2022, respectively), supported by our suite of evidence base core documents (<https://www.tendringdc.uk/content/evidence-base>) together with any neighbourhood plans that have been brought into force.

Neighbourhood Plans

A neighbourhood plan introduced by the Localism Act that can be prepared by the local community and gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan to promote development and uphold the strategic policies as part of the Development Plan alongside the Local Plan. Relevant policies are considered in the assessment. Further information on our Neighbourhood Plans and their progress can be found via our website <https://www.tendringdc.uk/content/neighbourhood-plans>

5. Officer Appraisal (including Site Description and Proposal)

Site Description

The application site is approximately 11.2 ha and is presently open agricultural land, with part of the site having previously been used for weekly car boot sales during the months of March to October. It is in a rural area in the centre of the District and to the immediate south west of the A120/B1035 roundabout at Horsley Cross. Colchester is about 8 miles to the west and Harwich is about 9 miles to the east.

There is a small cluster of buildings, including The Cross Inn pub; a farm and some cottages to the north and to the south is Kelly's Poultry Farm, but most notable in terms of its visual impact is the nearby water tower. The A120 is dualled for a short section either side of the roundabout and the B1035 is a single carriageway road.

The surrounding landscape within the immediate vicinity of the site is characterised by large open fields, occasionally broken up by small groups of/or individual buildings. The site is near the top of a plateau and is roughly rectangular in shape. It has a northern boundary with the A120; a southern boundary to Kelly's Farm; the eastern boundary is shared with the B1035; and the western boundary to Holland Brook (this part of the site is crossed by electricity pylons). There is a fall of approximately 15 metres between the middle of the site and the western boundary.

The site is largely devoid of any significant vegetation, but there are some existing trees adjacent to the A120 roundabout and extending for a short distance down the B1035, in addition to where it adjoins the A120 closer to the brook.

The site is the subject of planning permission for a large-scale employment use under planning references 19/01706/OUT, 22/01042/DETAIL and 22/01047/FUL.

Proposal

This is an application for a non-material amendment to drawing no. PA-400C (Proposed Site Layout Plan) approved under the reserved matters application (22/01042/DETAIL).

The following changes have been made to the approved site layout to align with the S278 designs, namely;

- Unit 1 has moved west 0.5m, with the footpath to the west of unit 1 reduced from 2m to 1.5m wide.
- Eastern edge of the unit 1 and 2 yard has moved into the site by 1m to introduce a landscape strip between the highway drainage ditch and the yard.

- Estate road entrance re-aligned.
- Unit 11 yard entrance re-positioned and increased in width to 10m from 9m.
- Direct pedestrian access route added from the estate road to unit 11.

Assessment

This is an application for a Non-Material Amendment (NMA). Section 96A of the Town and Country Planning Act 1990 says in deciding whether a change is material, a Local Planning Authority must have regard to the effect of the change on the planning permission as originally granted. The Planning Practice Guidance confirms there is no statutory definition of 'non-material'. It will be dependent on the context of the overall scheme - an amendment that is non-material in one context may be material in another. The local planning authority must be satisfied that the amendment sought is non-material in order to grant an application.

The key test as to the acceptability of an NMA application is whether the change is material to any development plan policy. The proposed changes to the wording of the outline description and Condition 8 (to reflect proposed increases in the height and footprint to buildings in Phase 2) are, in relation to the scale and size of the whole development, considered to be minor and not material to any development plan policy. Then three further tests should be applied:

1. Is the proposed change significant in terms of its scale, in relation to the original approval?
2. Would the proposed change result in a detrimental impact either visually or in terms of amenity?
3. Would the interests of any third party or body who participated in, or were informed of, the original decision be disadvantaged in any way?

The degree of changes proposed compared to the original approval would not be significant in terms of the overall appearance of the development. The proposed amendments reflect the agreed S278 (Highway Works) consent, are minor in nature and do not alter the quantum or size of the approved units.

As such, no third parties would be disadvantaged by way of the proposed alterations and the changes are sited a significant distance from any residential properties. There would be no detriment to visual amenity.

Therefore, officers are satisfied that the proposed amendments fall under the considerations set out within Section 96A of the Town and Country Planning Act and are considered as a non-material amendment to the approved permission reference 22/01042/DETAIL.

Conclusion

In this instance it is considered that the amendments being sought are minor and are therefore acceptable as a non-material amendment to the approved plans attached to 22/01042/DETAIL.

6. Recommendation

Approval – Non Material Amendment

7. Conditions

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

- C-SK02 (Proposed Site Plan)

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

8. Informatives

Are there any letters to be sent to applicant / agent with the decision? If so please specify:	YES	NO
Are there any third parties to be informed of the decision? If so, please specify:	YES	NO