

**Date of Committee:** 13 February 2020

**Planning Application No:** 19/0433

**Date Received:** 19 June 2019

**OS Grid Ref:** NY 355453,  
526282

**Expiry Date:** 14 February 2020

**Parish:** Hartley

**Ward:** Kirkby Stephen

**Application Type:** Full

**Proposal:** Change of use of agricultural building to Class B8 (storage or distribution) and addition of new access

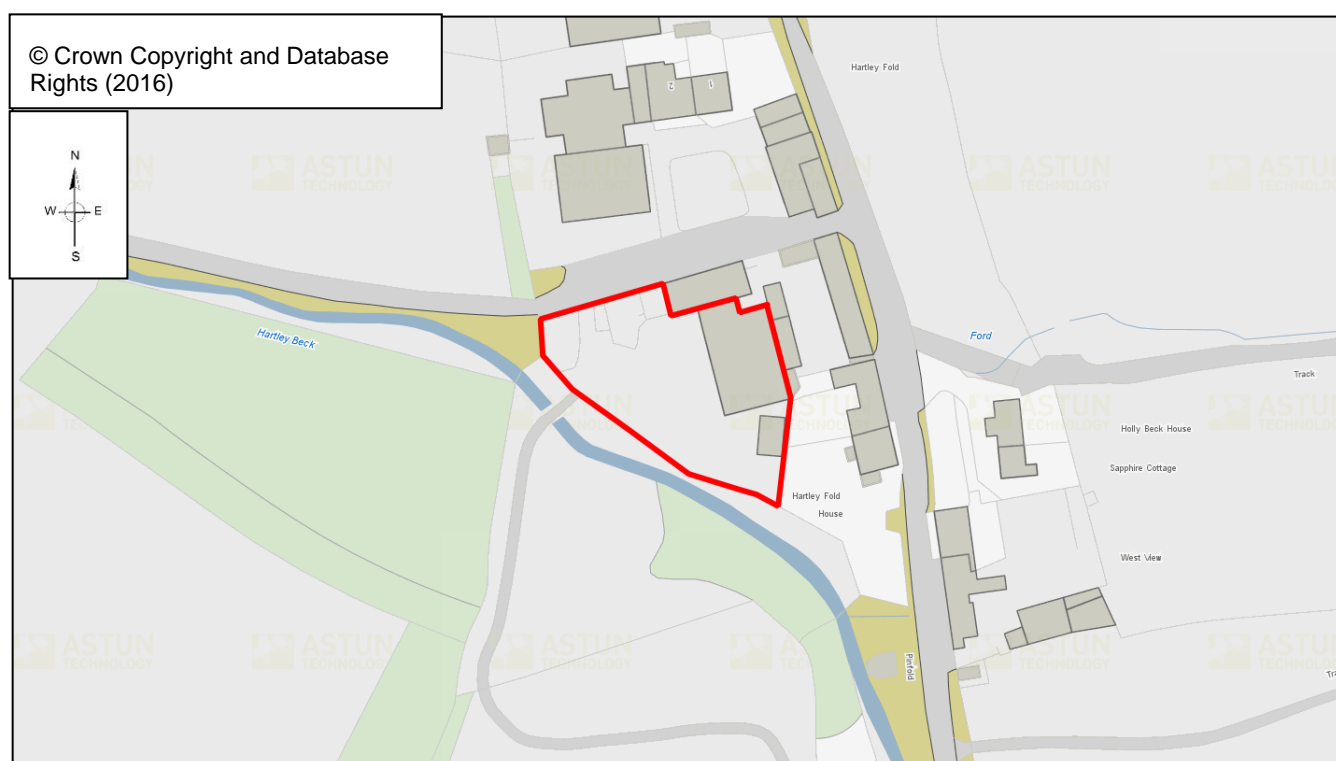
**Location:** Cattle Shed, Hartley Fold, Hartley

**Applicant:** The John Strutt Conservation Fund

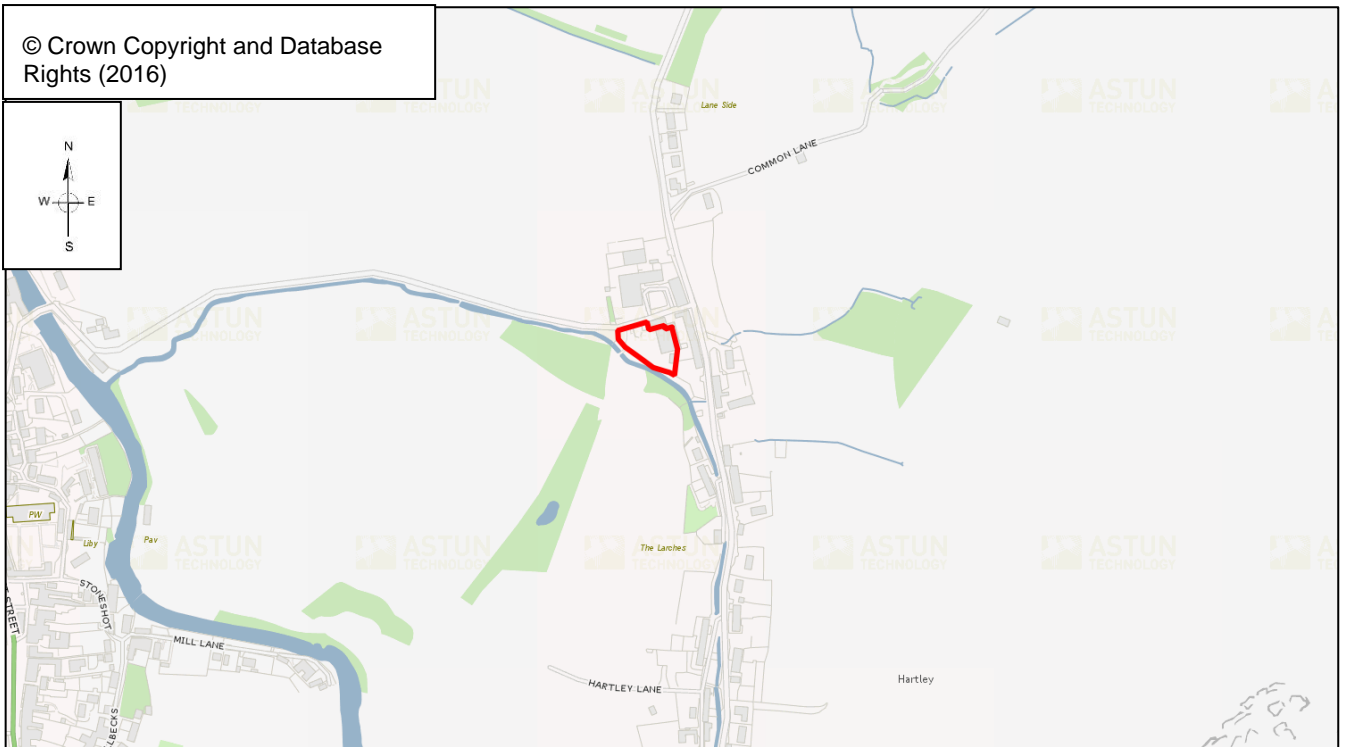
**Agent:** Mr R deRobeck

**Case Officer:** Mr N Unwin

**Reason for Referral:** Officer recommendation is contrary to that of the Parish Council.



© Crown Copyright and Database Rights (2016)



## 1. Recommendation

It is recommended that planning permission be Approved subject to the following additional conditions:

### **Time Limit for Commencement**

1. The development permitted shall be begun before the expiration of three years from the date of this permission.

**Reason:** In order to comply with the provisions of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

### **Approved Plans**

2. The development hereby granted shall be carried out in accordance with the documents and drawings hereby approved:

- i. Application Form, dated 18 June 2019;
- ii. Road Safety Audit, dated 4 December 2019;
- iii. Technical Note, dated 18 December 2019;
- iv. Access and Internals Fig 1, dated 17 December 2019;
- v. Access and Internals Fig 2, dated 17 December 2019;
- vi. Access and Internals Fig 3, dated 17 December 2019;
- vii. HGV Crossover Revised, dated September 2019;
- viii. Proposed Elevations Revised, September 2019;
- ix. Proposed Floor Plan, dated December 2018;
- x. Location Plan, February 2019;
- xi. Flood Risk Assessment; dated 3 June 2019;
- xii. Proposed Yard and Drainage Plan, dated June 2019;
- xiii. Arboricultural Impact Assessment, dated 12 December 2019;
- xiv. Email specifying operational hours and vehicle movements, dated 7 August 2019.

**Reason:** To ensure a satisfactory development and to avoid any ambiguity as to what constitutes the permission.

### **Prior to commencement:**

3. Prior to the commencement of development a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented so that planting is carried out in the first planting season following approval. All planted materials shall be maintained for five years and any trees or plants removed, dying, being damaged or becoming diseased within that period shall be replaced in the next planting season with others of similar size and species to those originally required to be planted.

**Reason:** To protect the amenity of the area and to offset the loss of the three ash trees.

**Ongoing conditions:**

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure, vehicle or object of any kind shall be erected, parked or placed and no trees, bushes or other plants shall be planted or be permitted to grow within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.  
**Reason:** In the interests of highway safety.
5. Any existing highway fence/wall boundary shall be reduced to a height not exceeding 1.05m above the carriageway level of the adjacent highway in accordance with details submitted to and approved by the Local Planning Authority and shall not be raised to a height exceeding 1.05m thereafter.  
**Reason:** In the interests of highway safety.
6. The whole of the access area bounded by the carriageway edge, entrance gates and the splays shall be constructed and drained to the specification of the Local Planning Authority.  
**Reason:** In the interests of highway safety.
7. All oils and other materials shall be stored within the building hereby approved as detailed on the plan, 'Proposed Floor Plan, dated December 2018'. There shall be no external storage of any materials associated with the development hereby approved, within the red line boundary of the hereby approved document 'Location Plan, February 2019'.  
**Reason:** In the interest of amenity.
8. No waste materials other than waste cooking oils shall be stored on site.  
**Reason:** In the interest of residential amenity.
9. No processing of waste oil shall take place on site.  
**Reason:** In the interest of residential amenity.
10. The operational hours shall be restricted to 9:00am – 5:00pm Monday - Friday.  
**Reason:** In the interest of residential amenity.
11. HGV and Van movements to and from the site shall be restricted to 10 HGV movements per week and 8 van movements per day.  
**Reason:** In the interest of highway safety and residential amenity.
12. Excluding times of vehicles entering and exiting the building, the roller shutters shall remain closed at all times.  
**Reason:** In the interest of residential amenity.

## **2. Proposal and Site Description**

### **2.1 Proposal**

- 2.1.1 The proposal is for full planning permission for the change of use of an agricultural building to Class B8 (storage or distribution) and formation of new access.

- 2.1.2 The proposal would involve an existing business relocating to the proposed site. The existing business is seeking a larger premises to facilitate their storage and distribution business of cooking oil. The business would import cooking oil to the proposed site via Heavy Goods Vehicles (HGVs). Vans will then be used to transport this cooking oil to local businesses and remove the used cooking oil stored in sealed drums returning it to the proposed site which will then be removed from site via HGVs. The development would not involve any recycling or processing of any material on the site, and as such this is not a waste operation.
- 2.1.3 The proposal would involve a new access to the site to the C3079 103 approximately 100 metres to the North of the existing cattle shed. The entrance to the proposed access will be concrete, as will the Western corner as the access connects to the existing access to the West in accordance with the recommendations of the submitted Road Safety Audit. The remainder of the track will be constructed of a permeable CELLPAVE ecogrid system permitting grass to grow through the surface. The proposed access track will be approximately 5.5 metres in width adjoining existing hard standing and agricultural buildings to the South. The proposed access will require the removal of three ash trees adjacent to the proposed access entrance. A crossover is additionally proposed for the HGV's to gain access from the new entrance. The crossover involves the C3079 102 connecting the site to Kirkby Stephen to the West.
- 2.1.4 A single vehicle movement is defined as a vehicle entering or exiting the site, therefore a single HGV entering and leaving the site is defined as two vehicle movements. The proposed HGV movements will be 10 per week which will comprise three HGV's delivering new cooking oil and two HGV's removing the used cooking oil from the site to be recycled. The proposed van movements will be eight per day which will comprise four vans delivering new cooking oil to local businesses and returning the used cooking oil to the site.
- 2.1.5 The proposal additionally involves the renovation of the existing cattle shed with the existing timber panelled walls to be stained green to match a similar conversion of an agricultural building to B8 use (approval 00/0930) approximately 20 metres North of the proposed site. The roof is to be dove grey coated profiled steel with roof lights. There are to be four large steel roller shutters painted green to the warehouse and a single door to reception in the front elevation.

## **2.2 Site Description**

- 2.2.1 The proposed site is located within the South-Western extent of Hartley Fold, which forms the Northern extent of the settlement of Hartley. Hartley Fold is accessed via the C3079 102 running through the centre of the settlement. The C3079 102 connects to Kirkby Stephen (access not permitted for HGVs) approximately 500 metres to the West and the C3079 103 road connecting to Hartley to the South and the A685 approximately 1.6km to the North.
- 2.2.2 Hartley Fold is comprised of a number of residential and agricultural buildings, many of these agricultural buildings have been converted to commercial uses. These uses include storage and light industry (99/0644), storage and distribution (00/0930), workshops (92/0868), and offices and art studio (88/0400).
- 2.2.3 The proposed site is currently comprised of a large cattle shed with timber boarding walls, large openings in the front (West) elevation and a corrugated metal roof. There is a large area of concrete hard standing to the South and West adjoining the C3079 102 road to the North. This area of hard standing was part of approval 99/0644 for storage and light industry.

### 3. Consultees

#### 3.1 Statutory Consultees

Consultee	Response
Cumbria County Council - Highway and LLF Authority	No objection subject to conditions.

#### 3.2 Discretionary Consultees

Consultee	Response
Cumbria County Council - Minerals and Waste	No objection subject to conditions.
Environmental Health	No objection subject to conditions.
Environment Agency	No objection.
Arboriculturist	No objection subject to conditions.

### 4. Parish Council

Parish Council	Please Tick as Appropriate			
	Support	Object	No Response	No View Expressed
Hartley Parish Council		✓		

#### 4.1 The Parish Council response is as follows:

Hartley Parish Council – Object

The primary objections relate to:

- The nature of the business and the activity to be carried out at the fold.
- The proposed new access, necessitated by the use of agricultural lorries.
- The traffic implications.

### 5. Representations

#### 5.1 Letters of consultation were sent to nearby neighbours and a site notice was posted on the 16 July 2019.

No of Neighbours Consulted	2	No of letters of support	0
No of Representations Received	20	No of neutral representations	0
No of objection letters	20		

#### 5.2 The following material planning objections were raised by the public:

- Impact on Highway safety
- Impact on the landscape
- Impact on the character of the area
- Impact on amenity
- Impact on biodiversity/the environment
- Impact on the historic environment

### 6. Relevant Planning History

Application No	Description	Outcome
----------------	-------------	---------

88/0400	Conversion of byre into art studio and office.	Approved - 19 May 1988.
92/0868	Workshops and toilet block.	Approved – 21 January 1993.
95/0031	Storage and processing of timber.	Refused – 16 March 1995.
99/0644	Change of use to storage and light industry.	Approved – 21 October 1999.
00/0930	Change of use of agricultural building to B8 (storage and distribution).	Approved – 15 June 2001.

## 7. Policy Context

### 7.1 Development Plan

#### Eden Local Plan 2014-2032

- LS1 “Locational Strategy”
- DEV1 “General Approach to New Development”
- DEV3 “Transport, Accessibility and Rights of Way”
- DEV5 “Design of New Development”
- EC3 “Employment Development in Existing Settlements”
- ENV1 “Protection and Enhancement of the Natural Environment, Biodiversity and Geodiversity”
- ENV2 “Protection and Enhancement of Landscapes and Trees”

### 7.2 Other Material Considerations

#### National Planning Policy Framework:

- Chapter 2 Achieving sustainable development
- Chapter 6 Building a strong, competitive economy
- Chapter 12 Achieving well-designed places
- Chapter 15 Conserving and enhancing the natural environment

7.3 The policies detailed above are the most relevant policies relating to this application.

## 8. Planning Assessment

### 8.1 Key/Main Planning Issues

- Principle
- Amenity Impact
- Highways impact

### 8.2 Principle

8.2.1 Policy EC3 of the Local Development Plan states that:

*“Employment development within and adjacent to existing settlements, including proposals outside of the employment allocations listed in the Town Plans, will be permitted where all of the following criteria can be met:*

- *Development is of a scale, type and design sympathetic to the location within which it is proposed.*

- *Development would not have an unacceptable impact on highways or other forms of infrastructure.*
- *Development would not cause harm to local amenity, landscape, ecology, historic environment or other environmental and cultural heritage considerations.*
- *The development is capable of achieving appropriate standards of access, servicing, parking and amenity space.*

*Where development does not meet all of the above criteria, development may still be acceptable when assessed against the wider employment/economic benefits of the scheme”.*

- 8.2.2 The proposal utilises the existing cattle shed with minimal changes proposed to its external appearance. The proposal will improve the condition of the existing structure giving it a similar appearance to that of the commercial building approximately 20 metres to the North of the site which gained approval for storage and distribution use under approval 00/0930, helping the proposal to better harmonise visually with its surroundings.
- 8.2.3 The proposal has a large area of existing hard standing which will permit the turning of HGVs and parking of vans and staff vehicles safely off the public highway. The proposed development would introduce a new access adjacent to the North of Hartley Fold permitting HGV access. The proposal is supported by an in-depth road safety audit and traffic surveys which have been reviewed by the Highways Authority who raised no objection to the proposal. Furthermore the proposal would involve eight HGV movements per week and eight van movements per day which is considered to result in a negligible impact on the existing highway.
- 8.2.4 A mixture of commercial, agricultural and residential uses comprise Hartley Fold, therefore it is important to consider any potential amenity impact. All cooking oil will be stored in sealed drums with no processing to take place on site. Environmental Health were consulted on the proposal and raised no objections. The proposed HGV movements will be 10 per week. The proposed van movements will be eight per day. The operational hours of the proposed development are 9am to 5pm Monday to Friday. Based on the minimal vehicle movements, lack of any processing at the site and 9-5 operational hours, the proposed development is not considered to harm local amenity.
- 8.2.5 The proposed new access would require the removal of three ash trees and a 390sqm section of agricultural grass land to be covered by an ecogrid track. The use of an ecogrid track reduces the loss of the agricultural grass land (with a fairly low biodiversity) and the Arboriculturist raised no objections to the removal of the ash trees but recommends a condition for landscaping be attached to ensure additional planting to offset this loss as mitigation.
- 8.2.6 Based on the above the proposed development is considered to comply with Policy EC3 of the Local Development Plan.
- 8.2.7 Paragraph 80 of the NPPF states that:  
*“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”.*
- 8.2.8 Paragraph 83 of the NPPF states that:  
*“Planning policies and decisions should enable the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed new buildings”.*



- 8.2.9 Hartley Fold has a variety of commercial uses including storage and distribution (00/0930), meaning that the proposal would represent a complementary and appropriate land use for the locality and would not appear as an incongruous development. The hard standing section of the proposed site was previously approved for storage and light industry under approval 99/0644.
- 8.2.10 Given the existing use of part of the proposed site, surrounding uses, economic benefits to the rural economy and compliance with Policy EC3 of the Local Development Plan, the principle of the proposed development is considered acceptable.

### **8.3 Amenity Impact**

- 8.3.1 Policy DEV5 of the Local Development Plan requires new development to “*Protect the amenity of existing residents and business occupiers and provide an acceptable amenity for future occupiers*”.
- 8.3.2 Paragraph 127 of the NPPF states that planning decisions should ensure “*a high standard of amenity for existing and future users*”.
- 8.3.3 A mixture of commercial, agricultural and residential uses comprise Hartley Fold, therefore it is important to consider any potential amenity impact on the residential dwellings. The closest dwelling to the proposed development is The Both approximately 12 metres to the East.
- 8.3.4 All cooking oil will be stored in sealed drums with no processing to take place on site. Environmental Health were consulted on the proposal and raised no objections. The proposed HGV movements will be eight per week with eight van movements per day. The operational hours of the proposed development are 9am to 5pm Monday to Friday.
- 8.3.5 The proposal would replace a cattle shed. Given the nature of the proposed development purely being storage and distribution with no processing on the site, it is considered to produce substantially less noise than if the shed was used for the storage of cattle. Therefore with respect to noise impact, the proposal is considered to be an improvement to the existing and lawful agricultural use of the building.
- 8.3.6 The proposal is considered to result in minimal vehicle movements, lack of any processing at the site and 9-5 operational hours Monday to Friday. The use of the shed is currently for the housing of cattle which are likely to produce a higher level of noise compared to the proposed development. The proposal is therefore considered to have a negligible impact on local amenity.

### **8.4 Highways Impact**

- 8.4.1 Policy DEV3 of the Local Development Plan states that:  
“*Development will be refused if it will result in a severe impact in terms of road safety and increased traffic congestion*”.
- 8.4.2 Paragraph 109 of the NPPF states that:  
“*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*”.
- 8.4.3 Both the Parish Council and residents raised concerns over the proposal’s impact on highway safety, particularly in relation to the proposed crossover.
- 8.4.4 The proposed development involves the construction of a new access adjoining the Northern extent of Hartley Fold. Current access to Hartley fold is to the West via the C3079 102 road which is unsuitable for HGVs. The access to the East where the

C3079 102 road meets the C3079 103 is flanked by two storey traditional barns which impair visibility and access. The new access has drastically improved visibility compared to the Eastern access.

- 8.4.5 Traffic and speed surveys were conducted at the proposed crossover and where the proposed new access joins the C3079 103 road. These surveys were conducted to the satisfaction of the Highways Authority. The average number of cars passing the proposed crossover is 311 per day giving an average of 13 per hour. The average speed of these cars was 22.2 mph.
- 8.4.6 The proposal will result in ten HGV movements per week and eight van movements per day (a recommended condition would ensure these levels are not exceeded). These vehicle movements are considered to be relatively minor and similar to that of an agricultural use. Therefore the proposal is not considered to represent an intensification of the lawful and unrestricted current use of the building.
- 8.4.7 In conclusion a full traffic survey and road safety audit were submitted in support of the application. The proposed entrance onto the C3079 103 road is considered to be a vast improvement to the existing access via the C3079 102 road. The proposed vehicle movements are considered minimal and similar to that of an agricultural use. The speed and traffic surveys show a low number of vehicles passing the proposed crossover (average 13 per hour) at relatively low speeds (average 22.2 mph). The Highways Authority have reviewed the application and have no objections.
- 8.4.8 The NPPF is clear in that proposals can only be refused on Highways grounds if there would be an unacceptable impact on highway safety. The above information categorically proves that the proposal's impacts on the highway would be negligible and would therefore comply with Policy DEV3 of the Local Development Plan and Paragraph 109 of the NPPF.

## **9. Implications**

### **9.1 Legal Implications**

- 9.1.1 The following matters have been considered but no issues are judged to arise. Each planning application is considered on the merits.

### **9.2 Equality and Diversity**

- 9.2.1 The Council must have regard to the elimination of unlawful discrimination and harassment, and the promotion of equality under the Equality Act 2010.

### **9.3 Environment**

- 9.3.1 The Council must have due regard to conserving bio-diversity under the Natural Environment and Rural Communities Act 2006.

### **9.4 Crime and Disorder**

- 9.4.1 Under the Crime and Disorder Act 1998, the Council must have regard to the need to reduce crime and disorder in exercising any of its functions.

### **9.5 Human Rights**

- 9.5.1 In determining applications, the Council must ensure that all parties get a fair hearing in compliance with the provisions of Article 6 under the European Convention on Human Rights and Fundamental Freedoms 1950, as now embodied in UK law in the Human Rights Act 1998.

## 10. Conclusion

- 10.1 The proposed development would facilitate the growth and expansion of an existing rural business which is given significant weight by Paragraph 80 of the NPPF. The proposal is considered to comply with Policy EC3 of the Local Development Plan governing employment developments within existing settlements.
- 10.2 Part of the proposed site is already designated for light industry and storage and distribution (approval 99/0644) with other storage and distribution (approval 00/0930) and commercial uses present throughout Hartley Fold, which the proposed development would be in-keeping with and complement.
- 10.3 The proposal will result in minimal physical changes to the proposed site. The minor landscape and character impact of a new access adjacent to the Northern extent of Hartley Fold is considered to be mitigated through its positioning adjacent to the existing farm complex, use of stone wall adjacent to the road and an ecogrid track. Further landscape impact mitigation will be achieved through a landscaping scheme secured through condition. The proposal would renovate the existing cattle shed which is considered to improve its current appearance.
- 10.4 The proposed vehicle movements are minimal and similar to an agricultural use with eight HGV movements per week and eight van movements per day (three 40 foot HGVs and two 30 foot HGVs per week visiting the site and four vans per day visiting the site). The vehicle movements are therefore considered in-keeping with the existing character of the area. The proposed operational hours are 9am – 5pm. The Highways Authority raised no objections to the application.
- 10.5 The economic benefits of the proposal given significant weight by Paragraph 80 of the NPPF and its compliance with Policy EC3 of the Local Development Plan, are considered to outweigh the fairly minimal increase in traffic movement and negligible amenity impact on neighbouring residents.
- 10.6 For the above reasons, the application is considered acceptable in planning terms and is recommended to be approved.

Oliver Shimell  
Assistant Director Planning and Economic Development

Checked by or on behalf of the Monitoring Officer	✓
---	---

**Background Papers:** Planning Files 19/0433