

APPLICATION REFERENCE: PL/2016/03135/VAR

Site Address: Land South Of Solihull Parkway North Of Blackfirs Lane Blackfirs Lane Marston Green Solihull

Proposal:	Vary condition Nos. 1, 5, 13, 15 (plan numbers contained within conditions so as to amend the development zone) and remove condition 26 (public access to landscape buffer/open space) on planning approval PL/2016/02001/PPOL.
Web link to Plans:	Full details of the proposal and statutory consultee responses can be found by using the above planning application reference number at: http://publicaccess.solihull.gov.uk

Reason for Referral to Planning Committee:	In the opinion of the Head of Development Management would have a significant impact outside of its immediate vicinity/S106
---	--

Recommendation:	APPROVAL SUBJECT TO THE COMPLETION OF A UNILATERAL UNDERTAKING/S106 AGREEMENT
------------------------	--

EXECUTIVE SUMMARY

This application seeks to vary condition Nos. 1, 5, 13 & 15 (plan numbers contained within conditions so as to amend the development zone) and remove condition 26 (public access to landscape buffer/open space) on planning permission PL/2016/02001/PPOL which was approved at Committee on Wednesday 5th October 2016.

The variations sought in conditions 1, 5 and 15 are to amend the development zone so that it is in accordance with the allocated Employment Site no. 31 as identified by Solihull Local Plan. The building heights plan is also proposed to be amended to reflect this change in development zone boundaries.

Condition 26, which required to maintain public access in perpetuity to the landscape buffer/open space, is proposed to be removed as in the applicant's opinion the reduction in development zone would eliminate the need for this as a Very Special Circumstance (VSC).

The plan number on condition 13 is proposed to be amended to reflect a typing error on the original decision notice.

KEY PLANNING ISSUES

The following key planning issues are material to the determination of this application:

- Background
- Proposed variation to plan numbers
- Removal of condition 26
- Green Belt
- Landscape
- Other
- Very Special Circumstances
- The Balancing Exercise

CONSULTATION RESPONSES

Statutory Consultees. The following Statutory Consultee responses have been received:

Environment Agency – No response received

Bickenhill Parish Council – The Parish Council are pleased to see that in these latest two applications, the developers are no longer contemplating developing into the Green Belt but are now prepared to limit their development largely to the original area as defined in the Local Plan. The Parish Council therefore raise no objection on the principle.

The Parish Council accept in principle the provision of a secondary access and egress to and from the Park, however, there is no indication as to when this will be completed through to link with the existing internal access road network within the Business Park.

Concerns that route chosen in detail will result in the loss of a considerable number of trees.

Insufficient detail to show how the combined cycle way/footpath leading from Bickenhill Parkway to Blackfirs Lane would work. No indication whether the current cycleway will be retained or realigned and continued to be available for cycle users and pedestrians.

Parish Council remain concerned that there is considerable potential for noise and disturbance, so potentially adversely affecting residential properties on Coleshill Heath Road and Blackfirs Lane.

Unit A has now been realigned to face onto the open buffer area and the Parish Council are concerned that any use of large open loading areas to both units A & B will provide opportunities for noisy operations. Layout should be modified to close off the open areas on the north and west sides.

No conditions on hours of operation were imposed on the earlier application but the Parish Council ask that the need for such a condition is reconsidered in view of the revised layout, prohibiting any operations between the hours of 18.00 and 07.30 and none on Sundays or Bank Holidays.

More convincing proposals to strengthen hedgerow trees along the perimeter boundary with Blackfirs Lane and Coleshill Heath Road should be required. Further details should be submitted for the area directly east of Blackfirs Plantation.

Non Statutory Consultees The following Non-Statutory Consultee responses have been received:

Birmingham International Airport – no response received

British Pipeline Agency – No comment

Severn Trent Water – No response received

SMBC Drainage – No objections subject to previous drainage and flood risk conditions remaining

SMBC Ecology – Refer to previous SMBC Ecology comments (no objections subject to conditions)

SMBC Highways – Views awaited

SMBC Landscape – No objections subject to conditions

SMBC Policy & Spatial Planning – Major proposals are required to provide new open space and/or contribute to enhancement of the green infrastructure network in accordance with Policies P15 and P10. Even if the main part of the site is now the same as site 31 in the local plan, access appears to cross green belt land. In particular circumstances of the proposals, where the NPPF seeks to encourage business development and not to overburden it with the combined requirements of planning policy expectations and in the absence of any apparent pressing need for public access to the open space, it would be difficult to sustain an objection on this basis.

SMBC Public Protection – No objections

Warwickshire Museum – No representations received

PUBLICITY

The application was advertised in accordance with the provisions set down in the Town and Country Planning (General Development Procedure) Order 2015.

5 responses in objection to the application have been received. All correspondence has been reviewed and the main issues raised are summarised below (Planning Committee Members have access to all third party correspondence received):

Principles

- Promise of Green Area/Nature Reserve has been retracted
- Object to removal of public access to buffer zone

Design/Character

- Business Park will no longer be a Park but another Industrial estate, an eyesore
- Intensity and heights of units are excessive
- Variations look to be requesting higher and larger buildings

Residential Amenity

- Revision to boundary between 119m and 112.5m AOD zones – shows main route for articulated transport vehicles being closer to residential properties
- Unloading and loading lorries and lorries travelling along service road next to Blackfirs Lane will create noise and unwanted smells
- Concerns regarding noise pollution – noise from Rolls Royce factory is has already lead to complaints and this is further away from us than the new development
- Loss of privacy
- Pleasant green outlook will be destroyed
- Impact on quality of life and other residents

Landscape/Ecology

- Bund will not be enough to camouflage units
- Bund to hide the complex has virtually disappeared
- Devastating impact on environment and wildlife
- Security fence located on road side of hedge
- Buffer zone should be handed over to Bickenhill Parish Council like Millennium Wood and managed by Warwickshire Wildlife Trust
- More trees should be planted

PLANNING ASSESSMENT

This report considers the proposal against the relevant polices of the National Planning Policy Framework (“NPPF”) 2012, the National Planning Practice Guidance and the adopted planning policies of Solihull Council. The policies of the Solihull Local Plan “SLP” 2013 that have been used to assess this application are considered to be in accordance with the NPPF and as such are material planning considerations.

Background

Outline planning permission was granted on 2nd December 2016 for the erection of building(s) within use classes B1a office, B1b research and development, B1c light industrial, B2 general industrial, and B8 storage & distribution with associated access, earthworks, engineering, landscaping, car parking and amendments to existing highway to create new turning head. With all matters reserved apart from access.

Conditions 1, 5, 13, 15 & 26 are as follows:

1. The development hereby permitted (means of access) shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 5952-050; 5952-053; 5952-055; 162260/04 Rev A.

To ensure compliance with the approved plans and details to safeguard amenity the quality of environment in accordance with Policy P15 of the Solihull Local Plan 2013.

5. All built development and associated infrastructure, with the exception of means of access from Bickenhill parkway, drainage attenuation and landscaping, shall be restricted to the Revised Development Zone area (6.5ha) as identified on the plan drawing no. 5952 - 053.

To safeguard Green Belt land in accordance with Policy P17 of Solihull Local Plan 2013.

13. No building shall be occupied until a means of vehicular access has been provided in accordance with the approved details shown on drawing 161260/A/04 Rev A.

In the interests of Highway Safety in accordance with Policies P7 & P8 of Solihull Local Plan 2013.

15. No building or any structure thereon shall exceed the heights as set out on the approved parameters plan drawing no. 5952-055

To safeguard the visual amenities of the area in accordance with Policy P15 of Solihull Local Plan 2013.

26. Notwithstanding details on submitted plans, the applicant shall allow and maintain public access in perpetuity to the landscape buffer/ open space identified as land hatched red on plan Number 5952-052 Illustrative site plan provided that the area may be closed to public access one day in each year to prevent prescriptive rights arising.

In the interest of Public Amenity and Policy P17 of the Solihull Local Plan.

This application seeks to amend conditions 1, 5, 13 & 15 so that the development zone is reduced to omit the approved incursion into the Green Belt. Condition 26 is proposed to be removed.

The previously approved scheme was considered to be inappropriate development in the Green Belt due to the incursion of the development zone but also due to the new access from the roundabout on Bickenhill Parkway. Very Special Circumstances were considered to exist for the encroachment of the development zone into the green belt due to the scheme committing a 25m wide strip of land to the east of the site to assist with the West Midlands Combined Authorities aspirations of bringing forward a light rapid transit (Metro) between Birmingham City Centre and the UK Central Hub. A knock on effect of this was that in order to accommodate the necessary floor space of the buildings in line with the site allocation of the SLP, the development zone made a modest extension into the landscape buffer which is Green Belt land. The applicants advanced a case for very special circumstances (VSCs) which focussed on the economic benefits of not only the development itself but also the benefits of providing the Metro. The VSCs were accepted and the application was subsequently approved following a referral to the National Planning Casework Unit who decided not to call in the application.

Proposed variation to plan numbers (conditions 1, 5, 13 and 15)

The revised plans propose to reduce the development zone so that it would reflect the allocated site which is identified by the SLP. The access off Bickenhill Parkway traffic island would remain unchanged.

The reason for the amendments is to omit the encroachment into the Green Belt which was required to offset the applicants' agreement to commit to the transport corridor that had been enshrined in a number of local and regional policies. The applicants now consider that it may be possible to bring forward a development without the need for the development zone to extend beyond the allocated site. The applicants continue to commit to providing the transport corridor to assist the Council with achieving its transport aspirations but in doing so is putting forward a proposal where the applicant bears the full burden of loss of development site.

A revised illustrative site plan has been submitted with the application which indicates how the applicants can achieve a development with a similar floor space to that previously approved whilst keeping within the SLP site allocation and maintaining the transport corridor. Whilst the submitted scheme is indicative, with the detail being subject to a reserved matters application, the plan does show the development being consolidated into two larger buildings together with a re-alignment of the internal estate road and car parking.

The illustrative plan also suggests that there would be a significant reduction in soft landscaping between the buildings and around the proposed areas of hardstanding. Therefore, whilst the plans suggest that a scheme could be physically achieved, its' quality may nevertheless be compromised somewhat if the same amount of floor space is provided within the smaller development zone. However, now that there would be no encroachment from the development zone into the Green Belt, any harm identified in this regard would be significantly less than previously approved. With the economic benefits remaining the same the revised plans would be difficult to resist.

Concerns have been raised from neighbouring residents about the impact of the amended illustrative layout, particularly with regard to the location of the service road and car parking and the potential noise and pollution impacts from lorries, vehicles, service yards and the buildings themselves. The illustrative layout does show the internal estate road being located closer to the southern boundary of the site than the previously submitted plan. At its closest point the estate road would be circa 30m from the curtilage of the closest residential property and 40m from the house itself. Furthermore it would be separated from the residential development by the existing road Blackfirs Lane, although it is acknowledged that as this road leads to a dead-end it is not busy. Car parking spaces are also located closer to the southern boundary opposite the Bickenhill Plantation.

As was previously the case given that the site is allocated for B1, B2 and B8 purposes in SLP Policy P3, the operation of such uses from the site are not expected to generate significant levels of noise and disturbance over and above that which already exists in this mixed commercial and residential setting.

As per the previous application impacts from delivery vehicles turning, cars parking, noises from within the buildings would largely be dependent upon the layout of the site which is reserved for future consideration. The revised indicative layout suggests that the service yards would be located away from the residential properties and whilst the internal estate road and car parking spaces would be closer to residential properties than previously shown they are not so close that would likely cause unacceptable harm. The application does not propose to vary or remove condition 8 which reads as follows:

8. Prior to the occupation of any units on the site for B2 uses (as defined under the Town and Country Planning (Use Classes) (Amendment) (England) Order 2010), a scheme shall be submitted and approved in writing by the Local Planning Authority showing any relevant measures necessary to protect residential amenity. Depending upon the nature of the operations to be carried out, such a scheme may include appropriate insulation/noise mitigation measures and control over any outdoor working. Thereafter, any B2 occupation of the unit(s) shall be in accordance with the agreed scheme.

The Council's Public Protection team have been consulted and have made no objections to the application.

This carries neutral weigh in the planning balance.

Removal of condition 26

The applicants contend that now the development zone has been amended so that it no longer encroaches into the green belt there is no longer a need to provide public access to the buffer zone and thus condition 26 can be removed. The reason for this condition was in the interests of public amenity and in accordance with SLPs Green Belt Policy P17. Whilst the provision of public access to the buffer zone was never put forward by the applicants as a VSC in the approved application it was acknowledged by the Council in the Committee Report that this provided an

enhancement by increasing access to green and open spaces in the Green Belt which was considered as part of the balancing exercise.

The removal of this condition has generated objections from local residents.

Green Belt

The substantive site where the majority of the built development is proposed, which now wholly includes the revised development zone, has been taken out of the Green Belt by virtue of its Local Plan allocation as a strategic development site. However, there are still elements of the scheme outside of this allocation where Green Belt policies need to be applied; notably:

- Drainage attenuation ponds and landscape bund within the landscape buffer zone; and
- New access off Bickenhill Parkway

These were considered during the assessment of the outline application.

Paragraph 90 of the NPPF states that certain forms of development including engineering operations are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt.

It was previously considered that the drainage attenuation would have very little impact on openness or the purposes of including land within it.

With regards to the landscape bund, however, at the time of the previous application consideration was given to Policy P1 of SLP which states that the buffer between the site and Coleshill Heath Road and Blackfirs Lane together with that existing to the north shall be “positively managed and enhanced” and accordingly there is policy justification attributed to the landscape bund. The bund was also considered to be an integral part of the development to help mitigate against the visual impact of the buildings and provide some benefit for noise mitigation also. Whilst the applicants offer to make this part of the green belt accessible to the public would have provided a direct betterment and was considered to contribute towards the case for VSCs when considering the whole scheme, the landscape bund itself is considered to comply with paragraph 90 of the NPPF in that it is an engineering operation which does not conflict with the purposes of including land within the Green Belt inline with the existing bunds to the north of the site which are now characteristic of this area. Of course, the lack of securing public access to this land in perpetuity would no longer be able to form part of any case for VSCs.

With regard to the new access road leading from the Bickenhill Parkway roundabout this was also considered against paragraph 90 of the NPPF and whilst the applicants maintained that this part of the scheme would not affect openness and would thus comply with paragraph 90 of the NPPF, Council Officers took a different view and concluded that the proposed access road would impact on openness and would also fail to safeguard the countryside from encroachment and was thus considered inappropriate development. This aspect of the scheme has remained unchanged.

The starting point with this application is, therefore, that the proposal would amount to inappropriate development in Green Belt terms and may only be appropriate if very special circumstances (VSCs) are demonstrated.

Paragraph 88 of the NPPF states that substantial weight should be given to any harm to the Green Belt. VSCs need to be demonstrated to justify such inappropriate development and to outweigh the harm caused to the openness of the Green Belt (and any other harm) by such inappropriateness.

Landscape

The justification to Policy P1 of the SLP states that the landscape buffer, together with that existing to the north west of the business park, is to be positively managed and enhanced.

At the time of the previous application the ground-modelling was acknowledged as being an integral part of the development proposals, included for the purpose of mitigating the effects of the proposed buildings on landscape character and the visual amenity of the nearby residents and on views from the wider countryside. The mounding offers the opportunity for woodland screen planting to be elevated so that the buildings can be screened quickly and effectively.

The revisions to plan numbers would amend the development zone so that it no longer encroaches into the buffer zone which is of course a betterment as a more substantial landscape buffer can be put forward. Whilst the illustrative layout suggests that the landscape within the development zone may be compromised as a result of the changes the Council's Landscape Architect notes that the changes within the site will have less impact from a public amenity perspective. Furthermore, whilst indicative, the revised site layout suggests a scheme that would bring the built form away from the development zone boundary.

However, the application also proposes to remove condition 26 which would have allowed public access to the buffer zone in perpetuity which would mean that this land would not be designated as open space as was previously the case. Whilst this is unfortunate it would not affect the impact on the landscape character, visual amenity or biodiversity of the development rather accessibility.

This carries neutral weight in the planning balance.

Other

All other aspects of the scheme remain as previously approved .

The proposed revisions would have a negligible impact on current planning permission (PL/2016/00999/PPFL) which is being sought for "the erection of four industrial buildings for Class B1c, B2 and B8 use with ancillary service yards, 181 car parking spaces, bicycle provision and motor bike parking" at the northern section of the SLP allocated site to the west of the existing business park.

Very Special Circumstances

As the application proposes to vary/remove conditions on a previously approved application a new case for VSCs has not been submitted.

The VSCs as previously considered, which were accepted by the Council included:

- the development facilitates the delivery of a new transport corridor between Bickenhill Parkway and Solihull Parkway (within BPP);
- Economic benefits of the development

As previously mentioned the Council also acknowledged the enhancement by allowing public access to what is currently private land, increasing access to green and open spaces in the Green Belt, however, this can no longer form part of the case for VSCs. However, given that the development zone no longer extends into the Green Belt, the amount of inappropriate development proposed by virtue of this application is now less (only the new access), there is now lesser harm to the Green Belt and accordingly a lesser quantum of VSCs is required to outweigh this harm.

The Balancing Exercise

When undertaking the balancing exercise it should be remembered that the harm to the Green Belt identified has been reduced from the previously approved scheme as a result of the development zone no longer encroaching from the allocated site. Whilst this change should be considered positively in the balancing exercise the retraction of the applicant to offer public access to the landscape buffer zone weighs negatively.

The VSCs would thus solely rely on the economic benefits of the development and the facilitation of the scheme to deliver a new transport corridor. Given the limited harm to the Green Belt, which would be reduced as a result of the conditions being varied, the above mentioned VSCs would outweigh the presumption against inappropriate development and the very limited harm to openness as a result of the development.

CONCLUSION

The proposal seeks to vary the plan numbers within the previously approved scheme so that the development zone is restricted to the area as identified in the SLP site allocation. The application also seeks to remove condition 26 which would remove the applicants obligation to allow public access to the landscape buffer zone.

Whilst the reduction in development zone to that allocated in the SLP would mean that the development zone would no longer encroach into the Green Belt as was previously the case, it would mean that there may be compromises when considering the detail although this would be subject to the reserved matters submission. Overall the impacts of this change would be positive.

The removal of condition 26, on the other hand, weighs negatively in the planning balance and can no longer be considered as a VSC. However, given that the harm

caused to the openness would be reduced as a result in the changes made to the development zone, the significant economic benefits previously identified and safeguarding the future transport corridor are considered sufficient in their own right to outweigh the very limited harm identified.

On this basis the application is considered acceptable and is recommended for approval.

RECOMMENDATION

Approval is recommended subject to a new unilateral undertaking to ensure a 16m transport corridor, incorporating the proposed access road, is dedicated as public highway, as was previously the case, and the following précis of conditions a full list of standard conditions is available using the following link:

<http://www.solihull.gov.uk/Resident/Planning/searchplanningapplications>:

The application will also need to be referred to the National Planning Casework Unit.

1. The development hereby permitted (means of access) shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers 5952-050; 5952-103; 5952-105; 162260/04 Rev A.
2. Detailed site implementation plan and phasing scheme for the delivery of development
3. CS01 Submission of reserved matters – details of (b) appearance; (c) landscaping; (d) layout; and (e) scale
4. CS03 Details within 3 years
5. All built development and associated infrastructure, with the exception of means of access from Bickenhill Parkway, drainage attenuation and landscaping, shall be restricted to the development zone as identified on the plan drawing 5952-103
6. CS06 Materials to be submitted
7. The development shall not be commenced until such a time as a scheme to manage the surface water runoff from the development has been submitted to and approved in writing by the Local Planning Authority, with no occupation until the scheme is operational. The submitted details shall:
 - i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) specify the responsibilities of each party for the implementation of the SuDS scheme, together with a timetable for that implementation; and,
 - iii) provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The scheme shall be implemented, maintained and managed in accordance with the approved details.

To secure the satisfactory drainage of the site in accordance with the NPPF, as well as Policy P11 and P15 of the Solihull Local Plan 2013.

8. Prior to the occupation of any units on the site for B2 uses a scheme shall be submitted showing any relevant measures necessary to protect residential amenity. Depending upon the nature of the operations to be carried out, such a scheme may include appropriate insulation/noise mitigation measures and control over any outdoor working.
9. The development hereby permitted shall not commence until details of all external light fittings/columns have been submitted to and approved by the LPA.
10. The felling of tree T1 should be carried out under the supervision of a suitably qualified tree worker. Felling of T1 should take place outside of the tree hibernation season (Nov-Mar). No cross cutting to take place in close proximity to cavities or hollows. Any sections containing cavities or hollows shall be carefully lowered to the ground and left with openings exposed for a minimum of 24 hours after felling to allow any bats that could be present to leave of their own accord.
11. The development hereby permitted shall not commence until a Construction and Environmental Management Plan (CEMP) has been submitted. The LPA expect to see details concerning pre-commencement checks for badger, bats and breeding birds and appropriate working practices and safeguards for wildlife and designated wildlife sites.
12. Prior to the submission of any Reserved Matters application a Written Scheme of Investigation, programmed of archaeological evaluative work and an archaeological mitigation strategy to be submitted to and approved in writing by the LPA.
13. No building shall be occupied until a means of vehicular access has been provided in accordance with the approved details shown on drawing 162260/A/04 Rev A
14. The maximum internal gross floor area of the development hereby approved shall not exceed 28,850 sqm and no B1a and b element of the development shall exceed 18,850 sqm.
15. No building or any structure thereon shall exceed the heights as set out on the approved parameters plan drawing no. 5952-105.
16. CW10 Proposed levels (finish floor levels)
17. Before development hereby approved commences, a detailed plan shall be produced identifying all trees and hedgerows existing on site and scheduling them as to whether they are to be retained, removed or modified. The plan and schedule shall be submitted to the Local Planning Authority for approval. No tree, hedge or shrub on the site indicated in the approved schedule for retention shall be topped, felled, lopped or root pruned except with the prior written consent of the Local Planning Authority.
18. CL03 Barriers around trees to be retained.
19. No development shall take place until a scheme of supervision/site monitoring for the arboricultural (ecological) protection measures has been approved in writing by the LPA. This scheme will be appropriate to the scale and duration of the works and may include details of:
 - a) Induction and personnel awareness of arboricultural (ecological) matters

- b) Identification of individual responsibilities and key personnel
 - c) Statement of delegated powers
 - d) Timing and methods of site visiting and record keeping, including updates
 - e) Procedures for dealing with variations and incidents
- 20. CL04 and landscape and ecology management
 - 21. CL06 Implementation of landscaping scheme
 - 22. CL07 Replacement of trees or hedging that is lost
 - 23. CL09 Details of earthworks to be provided
 - 24. CL10 Details of boundary treatment to be provided
 - 25. CL12 Schedule of landscape maintenance to be provided.