



St Edmundsbury
BOROUGH COUNCIL

DEV/SE/18/014

Development Control Committee 5 April 2018

Planning Application DC/17/2429/VAR – Haverhill Research Park, Hanchett End, Haverhill

Date Registered:	15.11.2017	Expiry Date:	14.02.2018 (EOT until 05.03.2018)
Case Officer:	Gary Hancox	Recommendation:	Approve
Parish:	Withersfield	Ward:	Withersfield
Proposal:	Variation of condition 8 of DC/14/2087/OUT to remove use class restrictions limiting B1 (c) light industry to ancillary areas of individual buildings only, allowing for a general B1 (a) (b) (c) light industrial use across the whole site.		
Site:	Haverhill Research Park, Hanchett End, Haverhill		
Applicant:	Mr Nic Rumsey		

Synopsis:

Application under the Town and Country Planning Act 1990 and the (Listed Building and Conservation Areas) Act 1990 and Associated matters.

Recommendation:

It is recommended that the Committee determine the attached application and associated matters.

CONTACT CASE OFFICER:

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Background:

1. This application was deferred from consideration at the Development Control Committee meeting on 12 March 2018. Members resolved that they were ***minded to refuse planning permission*** due to the detrimental impact on the residential amenity of occupiers of 'The Arboretum' estate from potential increased traffic and HGV movements associated with light industrial uses. This resolution was contrary to the officer recommendation of approval. At this point, the Decision Making Protocol was invoked requiring the further reporting of this matter in the form of a risk assessment report before a decision is able to be made.
2. The Decision Making Protocol states that "*where Development Control Committee wishes to overturn a recommendation and the decision is considered to be significant in terms of overall impact; harm to the planning policy framework, having sought advice from the Assistant Director Planning and Regulatory Services and the Assistant Director for Legal and Democratic Services (or Officers attending Committee on their behalf)*
 - *A final decision on the application will be deferred to allow associated risks to be clarified and conditions/refusal reasons to be properly drafted.*
 - *An additional officer report will be prepared and presented to the next Development Control Committee detailing the likely policy, financial and reputational etc. risks resultant from overturning a recommendation, and also setting out the likely conditions (with reasons) or refusal reasons. This report should follow the Council's standard risk assessment practice and content.*
 - *In making a decision to overturn a recommendation, Members will clearly state the material planning reason(s) why an alternative decision is being made, and which will be minuted for clarity."*
3. The purpose of this report is to provide a risk assessment for Members in accordance with the Decision Making Protocol, should planning permission be refused for the development contrary to the officer recommendation having regard to its accordance with Vision 2031 Policy HV10 and the NPPF and the absence of objections from relevant consultees – Suffolk County Council Highways Authority and the Council's Public Health and Housing team.
4. The previous officer report for the 12 March 2018 meeting of the Development Control Committee is included as Working Paper 1 to this report. Members are directed to this paper for details of the site and development, summaries of consultation responses and neighbour representations, and for the officer assessment of the proposal.
5. The officer recommendation, which is set out at the end of this report, remains that planning permission should be approved.
6. For details of the **proposal, site, planning history, consultations, representations, policy, and Officer comment**, please refer to Working Paper 1 Paragraphs 1 – 18.

Risk Assessment:

7. The purpose of this report is to advise Members of the risks associated with the 'minded to' resolution to refuse planning permission for the development proposal, having regard to the accordance with Vision 2031 Policy HV10 and the officer recommendation to approve planning permission. For the reasons set out in this report it remains officers' recommendation that permission be approved. If Members remain minded to refuse the application, they must be satisfied that any risks associated with doing so have been properly considered.
8. Members will recall that the previous officer recommendation was to approve planning permission as the variation of the condition as proposed will still result in development that accords with development plan policies, and is one that would assist in bringing forward economic development on a site that has sat vacant for some time now.
9. Furthermore the proposed variation of the condition to allow for a general B1 use across the site will still result in a development that accords with Policy HV10 and other development plan policies. The proposal is supported by the Council's Economic Development & Growth team, and allowing this wider range of uses within the Haverhill Research Park increases the likelihood of the site being used for employment purposes in the future. Whilst this proposal is not suggesting alternative land uses, the NPPF is clear that the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose should be avoided. This application accords with this approach, which supports the wider use of B1 (c) to encourage development of the site). The NPPF is an important material consideration and should be given significant weight in the determination of applications, although acknowledging that this must be considered alongside other policy/material considerations Members should also note that the existing condition (set out in full at paragraph 8 of the attached Working Paper) allows for ancillary B1(c) use, and any business at the site could have a degree of light industry as part of their operation. No objections have been received from technical consultees in respect of residential amenity impact, and therefore there is no technical evidence to support a refusal of the application.
10. If Members remain of the opinion that this application should be refused, they must be aware of any potential risks that may arise. The most significant potential risks in this case are reputational and financial, as development is refused that is otherwise plainly in accordance with adopted policy with no technical objections in respect of impact on residential amenity.
11. Officers consider the development proposed in this case to accord with policy. Section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004 require decisions to be made in accordance with the development plan unless there are material considerations that indicate otherwise.
12. In the absence of evidence to substantiate a reason for refusal it is likely that an appeal would be allowed. The applicants would have the right to recover their appeal costs (in full or in part, depending upon the circumstances) from

the Council should the Inspector conclude the Local Planning Authority has acted unreasonably. Advice about what can constitute unreasonable behaviour by a Local Authority at appeal is set out in the National Planning Practice Guidance. Relevant examples of unreasonable behaviour include:

- *preventing or delaying development which should clearly be permitted, having regard to its accordance with the development plan, national policy and any other material considerations;*
- *failure to produce evidence to substantiate each reason for refusal on appeal, and;*
- *vague, generalised or inaccurate assertions about a proposal's impact, which are unsupported by any objective analysis.*

13. In the absence of evidence to substantiate its reasons for refusal Officers consider it would be extremely difficult to defend a potential claim for the partial or even full award of costs at appeal. An award of costs (including partial costs) against the Council would have financial and reputational implications for the Council.

14. In this case, and for the reasons set out in full in the Officer report attached as Working Paper 1, Officers consider that it would be difficult to defend a reason for refusal on grounds of residential amenity impact from allowing B1 (c) light industrial uses across the site, as by definition, B1 (c) uses should be appropriate in a residential area and be capable of operating with minimal amenity impact. Officer's opinion is that light industrial uses are unlikely to generate significant levels of HGV traffic, and indeed there is no evidence to suggest that this would be the case. The definition of B1 (c) uses (i.e. capable of being carried out in a residential area) is also indicative of an expectation that traffic impact on residential amenity would not be harmful.

15. Furthermore, Policy HV10 does not seek to restrict B1 uses and also allows and indeed anticipates light industrial uses on the site.

12 hectares of land at Hanchett End, Haverhill are allocated as a strategic employment site for class B1 use of the Town & Country Planning (Use Classes) Order 1987 (as amended).

Development at the Haverhill Research Park will comprise the following:

- *light industrial, research and office use;*
- *units for new and small firms involved in high technology and related activities; or*
- *low density development with extensive landscaping.*

The amount of land available for development, location of uses, access arrangements, design and landscaping will be informed by a masterplan for the site (a masterplan was adopted in 2011 for a limited period of 3 years)

16. Finally, whilst acceptance of a B1 (c) use does not increase the acceptability of other uses on the site, including residential, a refusal of B1(c) uses on the site would further harm the marketability, viability and deliverability of the site for development as a research and development park, perhaps forcing the landowner to consider alternative land uses for the site in the future. The

deliverability of the Policy HV10 vision would also be harmed. Whilst such alternative uses would still be contrary to Policy HV10, with the Council having effectively indicated that even a policy compliant use is not necessarily acceptable for the site, the Council would be in a weaker position to resist them.

Other Matters:

17. At the 1st March Development Control Committee meeting members discussed the potential of amending road layouts within the site. However, members are reminded that the existing road layout, or indeed future internal road layouts are not for discussion or determination under this application. This application only seeks to vary a condition. The general layout of the site has been approved through a masterplan and adjacent residential development was approved in January 2012 at the same time as the original outline permission for the research park.

Conclusion:

18. It remains the opinion of officers that the proposal accords with the development plan, and that there are no material considerations to indicate that a decision should be made contrary to the development plan. This is reflected in the recommendation made below.

19. Notwithstanding the above, if Members are minded to refuse the application on grounds of amenity impact, then without prejudice to the Officer recommendation of approval, the following refusal reason is suggested:

Allowing a general B1 business permission will likely result in an increase of light industrial uses across the site leading to an increased use of the shared access road by associated traffic, including HGV's, cars and vans. This could result in a reduced level of amenity for residents of the adjoining residential development through increased noise and pollution disturbance and traffic congestion on a road already serving residential properties as well as a nursery and public house. This would be contrary to Joint Development Management Policy DM2 (g) and paragraph 17 of the NPPF.

Recommendation:

20. It is recommended that planning permission be **APPROVED** subject to the all conditions as per outline permission DC/14/2087/OUT (see Working Paper 1) except:

Condition 2 to read

(a) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 22nd Dec 2024 (this being 10 years from the date of outline permission DC/14/2087/OUT). (Officer note – see Working Paper 2)

(b) The development hereby permitted shall be begun not later than the expiration of 2 years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: In accordance with Section 92 of the Town and Country Planning Act 1990.

Condition 8 to read

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended (or any Order revoking and re-enacting that Order), the site and all buildings erected thereon shall be used for Class B1 (Business) purposes only and a single hotel (Class C1) as defined in the Town and Country Planning (Use Classes) Order 1987 as amended, or in any legislation revoking or re-enacting that class.

Reason: To ensure the appropriate use of the site in accordance with Policy HV10 of the Haverhill Vision 2031 and the approved masterplan.

Documents:

All background documents including application forms, drawings and other supporting documentation relating to this application can be viewed online [DC/17/2429/VAR](#)

Working Paper 1 – Committee Report from 12 March 2018

Working Paper 2 – Decision notice for DC/14/2087/OUT

Working Paper 3 – Officer report for DC/14/2087/OUT