



PLANNING COMMITTEE: 1st September 2020
DEPARTMENT: Planning Service
DIRECTOR OF PLANNING: Peter Baguley

APPLICATION REF: N/2020/0368

LOCATION: Unit 420, Cob Drive

DESCRIPTION: Deed of variation of Section S106 obligations associated with agreements dated 7 October 1992 and 23 September 1997 relating to the building exclusion zone and landscape control zone - Land relating to Swan Valley

WARD: Upton Ward

APPLICANT: Addleshaw Goddard LLP
AGENT: N/A

REFERRED BY: Director of Planning and Sustainability
REASON: Major application requiring S106 agreement

DEPARTURE: No

APPLICATION FOR DETERMINATION:

1 RECOMMENDATION

- 1.1 That the Committee **AGREE** to vary the Section 106 Legal Agreements dated 7 December 1992 and 23 September 1997 to amend defined areas of the landscape buffer and building exclusion zones subject to landscaping being considered on a plot by plot basis, taking account of the impact on the ecology and noise attenuation measures to protect properties in the area.
- 1.2 That the Borough Secretary and Monitoring Officer in consultation with the Director of Planning and Sustainability be given delegated authority to agree the amended wording of the landscape buffer and building exclusion clause and relevant definitions and any consequential amendments as are considered necessary.

2 THE PROPOSAL

- 2.1 The application relates to a request to vary two S106 agreements completed in 1992 and 1997. The S106 agreements contain obligations on the landowner to provide landscaping buffer and building exclusion zones around the entire site. The variation would enable the regularisation of areas where encroachment into the buffer zones have taken place. The rest of the landscape buffer will remain in place.

- 2.2 The purpose of the building exclusion buffer zones appear to have been included to minimise the visual impact of the development, in particular from views of the M1 motorway.

3 SITE DESCRIPTION

- 3.1 Swan Valley commercial area is located in the southern part of the Borough and is bounded by the M1 Motorway, to the north and east of the site is Banbury Lane and Pineham residential developments. The majority of the commercial units have been developed as Class B8 warehouse uses, although more recently alternative proposals have been approved, including a car dealership.
- 3.2 The development is reaching its final stages, with only a few plots left to be developed.

4 PLANNING HISTORY

- 4.1 90/0732 this was subject to the obligations set out in a S106 agreement completed on 7 December 1992.
- 4.2 N/1997/340 approved 23 September 1997 a section 106 agreement was entered into in relation to the varying the 1992 Agreement (1997 Agreement).
- 4.3 Following a meeting between the Local Planning Authority and the applicant, a letter giving pre-application advice by planning officer was sent dated 5 May 2015. This states:

“The section 106 agreement from the original permission for Swan Valley includes provision for a landscape buffer surrounding the boundary of the entire site, restricting the form of development which can come forward within this 50m zone (first 20m prevents any building, next 30m restricts development to hard standing only). These zones were put in place back in the mid 1990s when it was not clear what the exact neighbouring uses of Swan Valley might be. In 2014, we recognise that these protection zones may no longer serve a purpose and result in the potential for development of the remaining plots being compromised.” It continues *“Alternatively, any new application for full or outline planning permission could be submitted, which ‘infringe’ these zones if required and the legal agreement could be varied on a site by site basis, to reflect this, so long as an allowance for suitable boundary treatments and scheme landscaping is still made.”*

Officers accepted informally that the requirement for the site wide landscape buff was no longer practicable and did not serve any specific planning purpose as far as the how the development site has been developed overtime as a whole.

- 4.4 An application was approved in respect of Plot 420 on N/2017/1310, at that time discussions took place regarding the variation of the agreements, but a formal request for the variation of the legal agreement was not submitted.
- 4.5 Planning Application N/2019/1020 was approved on 7 November 2019, also for Plot 420 and as the developer now wishes to implement that planning permission, a Deed of Variation to the aforementioned S106 agreements is now being sought.
- 4.6 More recently, N/2020/0470 is a reserved matters application relating to land at Tithe Barn Way, a commercial development that lies substantially within both the building exclusion zone and the area of landscape control. This application has not been determined at the time this report is prepared. However, there is little scope for this site to be developed without encroachment into these zones, to reduce impact on the setting of the barns at Lodge Farm, a Grade II Listed Building, and providing a viable development on this part of the site.

5 PLANNING POLICY

5.1 **Statutory Duty**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires a planning application to be determined in accordance with the Development Plan unless material planning considerations indicate otherwise. The Development Plan for the purposes of this application comprises the adopted West Northamptonshire Joint Core Strategy (2014), Northampton Local Plan (1997) saved policies,

6 **National Policies**

6.1 **National Planning Policy Framework (NPPF)** sets out the current aims and objectives for the planning system and how these should be applied. In delivering sustainable development, decisions should have regard to the mutually dependent social, economic and environmental roles of the planning system. The NPPF should be read as one complete document. However, the following sections are of particular relevance to this application:

Paragraph 7 – There are three dimensions to sustainable development giving rise to the need for the planning system to perform an economic, social and environmental role.

Paragraph 14 – Central to the National Planning Policy Framework is a presumption in favour of sustainable development.

Paragraphs 19 and 20 - relate to the need to support economic growth and meet the development needs for business.

6.2 **West Northamptonshire Joint Core Strategy (2014)**

The West Northamptonshire Joint Core Strategy (JCS) provides an up to date evidence base and considers the current Government requirements for plan making as it has been prepared in full conformity with the NPPF. Policies of particular relevance are:

Policy SA – Presumption in favour of sustainable development

Policy BN9 – Planning for pollution control

S10 – Sustainable Development Principles

BN2 – Biodiversity

BN3 – Woodland/ Trees

BN7 – Development and Flood risk

E1 – Existing Employment Areas

INF1 – approach to infrastructure delivery

INF2 – contributions to infrastructure requirements

6.3 **Northampton Local Plan 1997 (Saved Policies)**

Due to the age of the plan, the amount of weight that can be attributed to the aims and objectives of this document are diminished, however, the following policy is material to this application:

E20 Design of new development

7 **CONSULTATIONS/ REPRESENTATIONS**

7.1 None.

8 **APPRAISAL**

8.1 On 7 October 1992, a S106 Legal agreement was entered into in relation to the Property and was subsequently varied by the two supplemental agreements. Clause 6.3.1 of the 1992 Agreement imposed obligations on the Developer to maintain a special landscaping scheme which extended

for 50m from (i) the top edge of the west bank of Wootton Brook and the Canal, (ii) the top edge of the south east bank of Wootton Brook tributary, (iii) the centreline of the hedgerows bounding Banbury Lane; and (iv) the north boundary of the M1 widening corridor.

- 8.2 Clauses 3.1 and 3.4 of a separate 1997 Agreement imposed obligations on the Developer to restrict construction in the area subject to a landscaping scheme and the construction of any building that in the opinion of the Council was not adequately screened from the motorway.
- 8.3 The remaining obligations in the 1992 and 1997 Agreements will still remain in full force.
- 8.4 The applicant originally sought the Council to agree that the obligations relating to the landscape buffer, as the applicant considers they no longer serve a planning purpose. However, during the course of discussions with the applicant, it became clear that in particular for Plots 100, 200 300, 500 there has been an encroachment of the Special Landscape Control Zone and rather than removed the buffer entirely, given the works that have taken place, it seems reasonable to amend the plan attached to the S106, to regularise these areas.
- 8.5 Recent changes in government guidance requires local authorities to seek a biodiversity gain on such developments. It is considered that this request still allows for negotiation for such gain, considering the ecology of the area as it is now, rather than from the limited information that was submitted with the original proposal in 1992.
- 8.6 The proposal does not remove any of the existing landscaping that has been either approved as part of any planning permissions yet to be developed, or landscaping incorporated as part of any of the phases that have been completed, it just affects further phases that have yet to be granted detailed approval.
- 8.7 In respect of the building exclusion zone, since the original s106 was completed, the site is better screened from the M1, due to the trees on the southern boundary being more established. It is therefore considered that the variation to the boundary of this designation and the landscape control zone in this area, would not result in significant harm.

9 CONCLUSION

- 9.1 The obligation set out in the 1992 and 1997 Section 106 Agreements relating to the landscape buffer is considered to be an onerous obligation on the developer and future occupiers. The Council are keen to see the development completed in a timely manner and facilities completed and occupied to serve the local community around the local centre.
- 9.2 It is considered that in this instance, the proposed amendment to the areas around the developed plots 100, 200 300, 500 as indicated on the submitted drawing is acceptable, subject to landscaping being considered on a plot by plot basis, taking account of the impact on the ecology and noise attenuation measures to protect any residential properties in the area.

10 BACKGROUND PAPERS

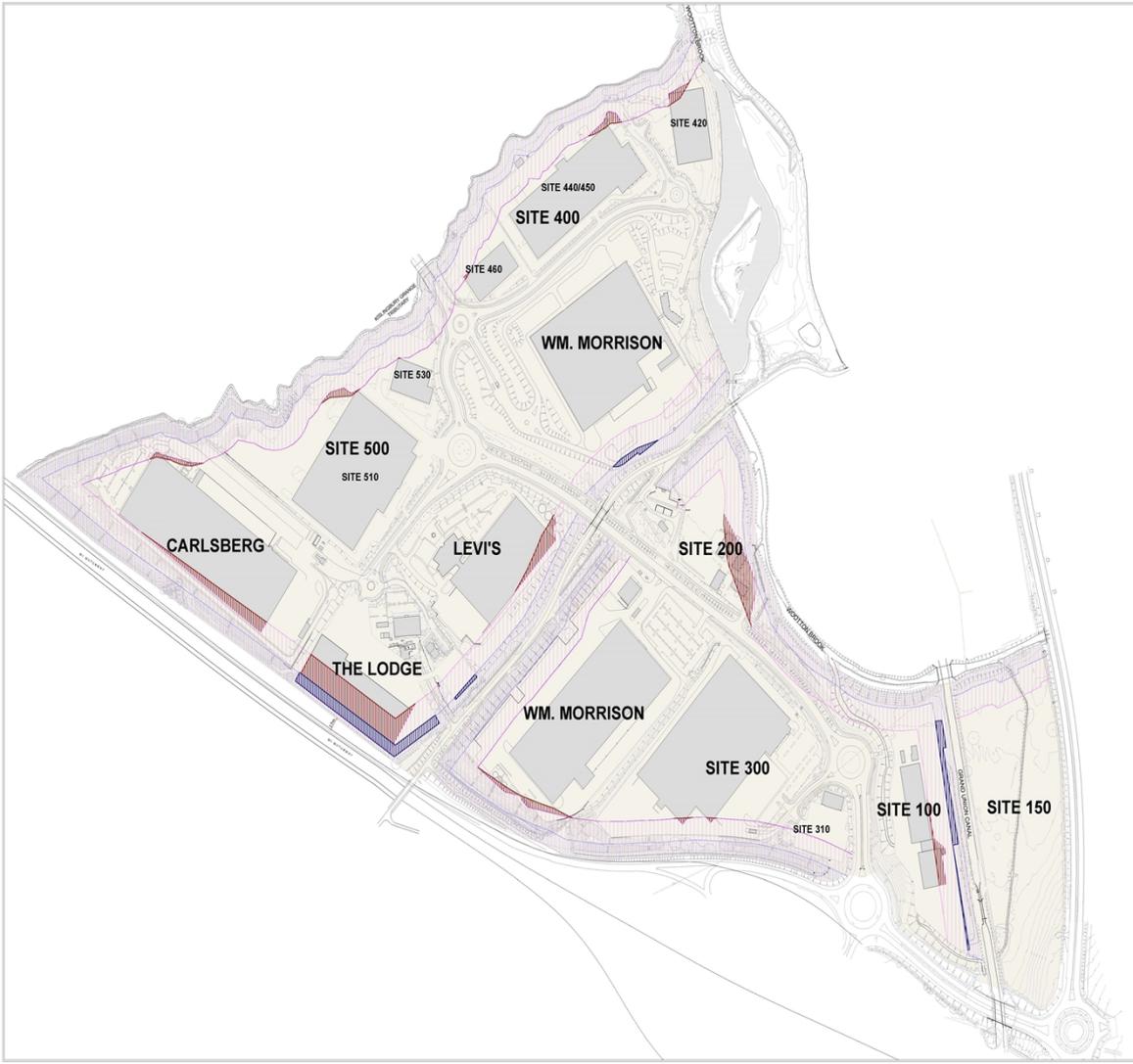
- 10.1 N/2020/0368.

11 LEGAL IMPLICATIONS

- 11.1 The development is not CIL liable.

12 SUMMARY AND LINKS TO CORPORATE PLAN

- 12.1 In reaching the attached recommendations regard has been given to securing the objectives, visions and priorities outlined in the Corporate Plan together with those of associated Frameworks and Strategies.



Drawn: [Name]
 Date: [Date]

KEY
 Building Exclusion Zone (20m)
 Special Landscape Control Zone (50m)

Areas to be released from existing covenant:
 Area to be released from the Building Exclusion Zone
 Area to be released from the Special Landscape Control Zone

B	Site 100 layout revised	12.08.2020	LA	NA
A	Colour code amended	21.07.2020	LA	NA
	Final issue	16.07.2020	LA	NA
Rev	Name	Date	Drawn	By

N

Client:

hale
 ARCHITECTURE | DESIGN MANAGEMENT
 25 Leathemere Road, London, SE2 9AP
 Project:
 Swan Valley, Northampton

Drawing Title:
 Restrictive Covenant
 Existing and Proposed

Project No:	17070	Scale:	1:2500 / 1:1000
Revision:	SK039	Sheet:	B