



Report to West Area Planning Committee

Application Number:	22/07576/VCDN
Proposal:	Variation of condition 2 (plan numbers) attached to 18/05323/R9FUL (Erection of 12 business units with associated parking provision) to allow for substitution of site layout and elevation drawings to reflect the development as-built
Site Location:	West Site Former Compair Works Bellfield Road High Wycombe Buckinghamshire
Applicant:	Buckinghamshire Council
Case Officer:	Chris Steuart
Ward(s) affected:	Downley
Parish-Town Council:	High Wycombe Town Unparished
Date valid application received:	23.09.2022
Statutory determination date:	23.12.2022
Recommendation	Permit

1.0 Summary & Recommendation/ Reason for Planning Committee Consideration

- 1.1. This application is made under S73 of the Town and Country Planning Act 1990 (as amended) to vary the condition specifying the approved drawings. A number of changes to those drawing, as detailed in the report, have been made during the course of construction.
- 1.2. The application represents a series of small amendments to the original detailed planning permission. It is considered to be acceptable and is recommended for approval. The application is being reported to committee because the applicant is the Council.

2.0 Description of Proposed Development

- 2.1 This application is made under S73 to vary condition 2 specifying the approved plan numbers for the approved development. Permission was granted in 2019 (ref. 18/05323/R9FUL) for the Erection of 12 business units with associated parking provision.
- 2.2 Condition 2 states:

2 The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers:

- a) 18010-P-015B - Site Plan.
- b) 18010-P-011E - Proposed Ground Floor Plan
- c) 18010-P-013 - Proposed Elevations and Sections Auto Units.
- d) 18010-P-012 - Proposed Elevations and Sections Maker Units.

unless the Local Planning Authority otherwise first agrees in writing.

Reason - In the interest of proper planning and to ensure a satisfactory development of the site.

2.3 The applicant seeks to change this to:

2 The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers:

- 18010-C-002-U As built site plan
- 18010-C-130-C As built elevations
- 18010-C-131-A As built elevations

unless the Local Planning Authority otherwise first agrees in writing.

Reason:

In the interest of proper planning and to ensure a satisfactory development of the site.

2.4 There are a number of changes to the approved drawings to be considered. These include:

(a) Changes to the site and parking layouts.

The siting of the footprint of the units (numbered 1 – 10) has moved approximately 3m south.

Eight car parking spaces originally planned at the south have been moved to the north.

An electricity cabinet has been placed close to the site entrance and the approved bin store in that location has been relocated.

The amount of car parking is as approved but 2 van spaces have been omitted.

(b) Floor plan and building footprint

The buildings have been handed. The approved plan showed the container part of each unit being to the right (north) of the associated framed workspace part. They were constructed the other way around, i.e. with the containers to the south of the workspaces. The east elevation becomes the west elevation.

Internally the position of the toilets swaps from right to left.

(c) Revised unit entrance door arrangement.

All the units have been fitted with a vehicle door and the pedestrian door alongside it. The approved details identified two elevation options and the built scheme complies with one but the other option has not been taken up.

The two auto units, 11 and 12, have been built with the vehicle door opening size 300mm taller than approved.

(d) Front elevation planter boxes

The approved layout plan showed planter boxes across the face of each unit. The addition of a separate pedestrian door has meant the intended space for the planters has been lost. The planter boxes have therefore been rotated to be perpendicular to the face of the building rather than parallel to it.

(e) Services Corridor.

The services corridor between units 1-5 and 6-10 was approved to be 600mm wide but has been widened to 1200mm.

The air conditioning units have been able to be located lower down within the service corridor due to its extra width.

2.5 It was considered that the combined effect of these changes required a s73 procedure to be followed rather than the s96A non material amendment procedure.

2.6 This application is made under Section 73 of the Planning Act. Although often referred to as an application to vary or remove a condition an application under this section of the Act actually has no effect on the original permission; it is not an amendment to the earlier permission. It is a separate freestanding permission that the applicant is entitled to implement or ignore. In this case the development has been constructed so it enables the constructed development to receive planning permission. This application must be capable of being implemented in its own right and therefore all appropriate conditions and obligations must be imposed.

2.7 The merits of the condition(s) must be assessed against an up to date development plan. As any permission granted would in effect be a free standing planning permission all conditions to which the planning permission should adhere must be reattached. Section 73 of the Town and Country Planning Act 1990 (as amended) states:

Determination of applications to develop land without compliance with conditions previously attached.

(1) This section applies, subject to subsection (4), to applications for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

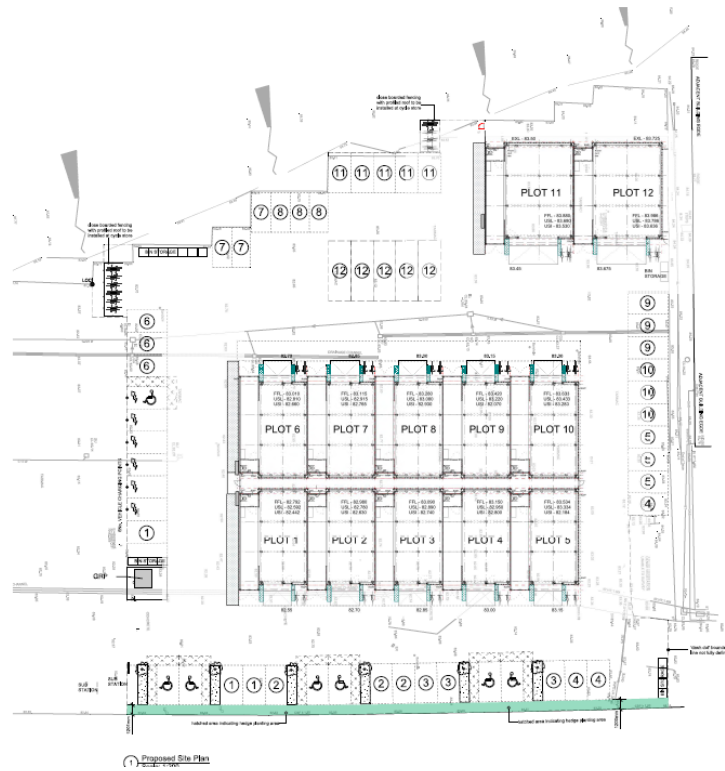
(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and—

(a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and

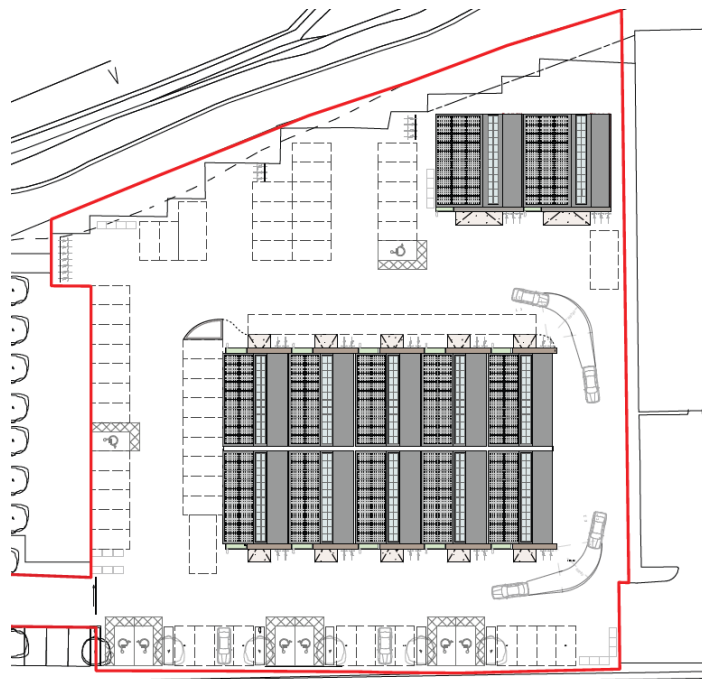
(b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

2.8 The application is accompanied by:

a) Design and Access Statement



Above: As built site plan



Above: Site layout as approved.

3.0 Relevant Planning History

- 3.1 There is a significant history relating to the sites previous employment use that is not relevant to this application.
- 3.2 18/05323/R9FUL Erection of 12 business units with associated parking provision.

- 3.3 20/06203/ADRC Application for approval of details subject to conditions 6 (Acoustic insulation), 7 (Approved lighting scheme), 8 (Materials), 9 (Landscaping scheme), 14 (Construction traffic management), 15 (Refuse and cycle store), 17 (Piling), 20 (Energy efficiency) and 21 (Water efficiency) of planning approval ref: 18/05323/R9FUL. Permit.
- 3.4 22/06466/ADRC Application for approval of details subject to condition 19 (car charging points) of planning approval 18/05323/R9FUL. Permit.

4.0 Policy Considerations and Evaluation

- 4.1 The following planning policies are relevant to the consideration of this proposal:

Policies relating to the principle and location of the development:

CP2 (Overall Spatial Strategy), CP5 (Delivering Land for Business), CP7 (Delivering the Infrastructure to Support Growth), CP9 (Sense of place), CP12 (Climate change), DM1 (Presumption in favour of sustainable development), DM28 – (Employment Areas)

Policies relating to the details of the development:

DM2 (Transport Requirements of Development Sites) – the development contains adequate car parking and circulation space.

CP10 (Green infrastructure and the Natural environment), DM11 (Green Networks and Infrastructure), DM14 (Biodiversity in development), DM34 – (Delivering Green Infrastructure and Biodiversity in Development) – The development is located on a site that was previously hardstanding with a well vegetated steep slope to the west. The development has an approved landscape scheme which is appropriate for this employment site. Bat and bird boxes have also been approved.

DM20 – (Matters to be determined in accordance with the NPPF – contamination and pollution). The development has been considered to be acceptable in terms of contamination and pollution. A condition controls external lighting. Other conditions control hours of operation and require internal noise attenuation.

DM33 – Managing Carbon Emissions: Transport and Energy Generation – six electric vehicle charging points were required by planning condition. PV panels have been included within the design.

DM35 – (Placemaking and design quality) – the layout and elevation changes are considered to be acceptable.

DM39- Managing flood risk and sustainable drainage systems – a sustainable urban drainage scheme was approved and a condition relates to its management and maintenance.

DM19 (Infrastructure and delivery) – Highway works were the subject of a planning condition.

Principle and Location of Development

- 4.2 The principle of the development was assessed under the previous approved application 18/05323/R9FUL. Under s73 this principle cannot be challenged as the permission and the development already exists. It is only the changes and hence the conditions that need to be assessed.

- 4.3 The original application was granted in July 2019 a short time before the Wycombe Local Plan was adopted in August 2019. There is reference to the policies in the new local plan in the officer's report to Planning Committees of 26 June 2019 (when the case was deferred) and 24 July 2019. The case was therefore considered against the 2004 Local Plan and the new 2019 Local Plan that superseded it.
- 4.4 The changes between the approved plan and the "as built" development are considered to be material but minor in nature. The Highway Authority for instance has been consulted on this latest proposal due to the implications for access, manoeuvring and car parking.
- 4.5 With regard to the specific changes now sought the following have been assessed.
- (a) Changes to the site and parking layout. The Highway Authority have expressed no concerns regarding the changes to the layout of the parking area and circulation areas. The relocation of the electricity cabinet and bin store are considered to not detract from the development.
 - (b) Changes to the buildings. A number of changes were itemised earlier in this report relating to the elevations of the buildings and their arrangement. The changes are considered to be acceptable in terms of the appearance of the development and have no impact on the character of the area.
- 4.6 The original application report contained an analysis of the case in the light of the then policy framework (including emerging policy). The development has been completed in accordance with the conditions that appeared on the planning permission with the exception of the approved plan condition 2 (site layout, elevations and floorplans). If the layout and other changes that were made on site during the construction of the units are considered acceptable the decision maker has to consider the conditions that now apply. The development was considered in the light of the emerging policy framework and was considered acceptable. The conditions are proposed to be updated to reflect the up-to-date situation in respect of the approval of condition details (e.g. where a condition requires a scheme to be submitted to and approved by the planning authority) and other practical changes (e.g. the new use classes order).

Consideration of Previously Imposed Conditions

- 4.7 A section 73 permission is a permission in its own right. The planning conditions therefore require updating from the original application. This is summarised below.
- 1 Time limit – delete
 - 2 Plan numbers – to be updated.
 - 3 Use Class – update to latest use class order.
 - 4 Hours of use by use class - – update to latest use class order.
 - 5 Hours of use by use class - – update to latest use class order.
 - 6 Scheme of acoustic insulation to be approved for any B2 use – The details were approved under 20/06203/ADRC. Amend condition.
 - 7 The lighting design details were approved under 20/06203/ADRC. Amend condition.
 - 8 Materials. The materials were approved under 20/06203/ADRC. Delete condition.
 - 9 Landscaping. The details were approved under reference 20/06203/ADRC. Amend condition.
 - 10 Landscape implementation. Retain condition.

- 11 Surface water drainage scheme. The details were submitted and approved under reference 20/05096/ADRC. Amend condition.
- 12 Whole life maintenance plan. The condition needs to be updated to refer to the details approved under application 20/05097/ADRC.
- 13 On and off-site highway works to be implemented in accordance with drawing 18-002-0001 Rev A.
- 14 Construction Traffic Management Plan approved. Delete condition.
- 15 Facilities for the storage of refuse bins and cycles. Condition to be updated to ensure the facilities that have been provided are retained for their use.
- 16 Contamination. Development now built: delete condition.
- 17 Methods of piling. Development now built: delete condition.
- 18 No drainage systems for the infiltration of surface water to the ground are permitted. Development now built delete.
- 19 Six car charging points were approved under reference 22/06466/ADRC. Update condition to refer to these should be retained on site.
- 20 Update condition to reflect the approved energy details under reference 20/06203/ADRC
- 21 Condition relating to higher water efficiency standard to be deleted.
- 22 A pedestrian access to be created on the northern boundary of the site providing pedestrian access to the land to the north. Amend condition.
- 23 No display or storage of goods, materials, plant or equipment shall take place other than within the buildings hereby permitted. Retain condition.

Weighing and balancing of issues – overall assessment

- 4.8 This section brings together the assessment that has so far been set out in order to weigh and balance relevant planning considerations in order to reach a conclusion on the application.
- 4.9 In determining the planning application, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In addition, Section 143 of the Localism Act amends Section 70 of the Town and Country Planning Act relating to the determination of planning applications and states that in dealing with planning applications, the authority shall have regard to:
 - a) Provision of the development plan insofar as they are material
 - b) Any local finance considerations, so far as they are material to the application (in this case, CIL)
 - c) Any other material considerations
- 1.3. In this case a development has been approved that complied with development plan policies. It has not been built in accordance with the approved drawings – some changes have been made to the site layout, floorplans and elevations of the buildings. These are considered to be of a minor nature and do not raise any new planning policy concerns.
- 1.4. Local Planning Authorities, when making decisions of a strategic nature, must have due regard, through the Equalities Act, to reducing the inequalities which may result from socio-economic disadvantage. In this instance, it is not considered that this proposal would disadvantage any sector of society to a harmful extent].

1.5. There are considered to be no material Human Rights issues relating to this application.

5.0 Working with the applicant / agent

5.1 In accordance with paragraph 38 of the NPPF (2019) the Council approach decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and work proactively with applicants to secure developments.

5.2 The Council work with the applicants/agents in a positive and proactive manner by offering a pre-application advice service, and as appropriate updating applications/agents of any issues that may arise in the processing of their application.

5.3 In this instance [add as appropriate e.g.]

- was provided with pre-application advice,
- the application was acceptable as submitted and no further assistance was required.
- The application was considered by the Planning Committee.

Recommendation: Permit

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

- 1 Delete condition 1
- 2 The development hereby permitted shall be built in accordance with the details contained in the planning application hereby approved and plan numbers:
18010-C-002-U As built site plan
18010-C-130-C As built elevations
18010-C-131-A As built elevations
unless the Local Planning Authority otherwise first agrees in writing.
Reason: In the interest of proper planning and to ensure a satisfactory development of the site.
- 3 The use of the site shall be limited to employment uses or mixed uses falling within Class B2, B8 and E(g) uses as defined by the Town and Country Planning Act (Use Classes) Order 2022.
Reason: To ensure the land is put to an employment use in accordance with its land-use designation. Alternative sui-generis uses, which are akin to employment uses and or serve the employment area may be considered to be acceptable, but would need to be assessed on a case by case basis via a separate planning application.
- 4 Any unit hereby permitted that is used for any purpose falling within use class B2 (Industrial), as defined in the Town and Country Planning Act (Use Classes) Order 2022, shall only be actively used between 07:00 to 19:00 Monday to Friday, with no active use at all on weekends and statutory holidays. Active use is defined as: the sending or receiving deliveries; operation of machinery; or, the undertaking of noise emitting industrial processes.
Reason: To preserve an acceptable level of residential amenity in the local area.
- 5 Any unit hereby permitted that is used for any purpose falling within use class E (g) (iii) (Light Industrial Use), as defined in the Town and Country Planning Act (Use Classes) Order 2022 (as amended), shall only be actively used between 07:00 to 19:00 Monday to Saturday, with no use (or deliveries) at all on Sundays and statutory holidays. Active use is defined as: the

sending or receiving deliveries; or, the undertaking of light industrial processes. Office based activities are excluded.

Reason: To preserve an acceptable level of residential amenity in the local area.

- 6 The units that are used for B2 (Industrial) uses at this site shall include acoustic insulation as approved under reference 20/06203/ADRC namely:- the details contained in the acoustic design note reference 19304/001/pc v2, dated 21 April 2020. No B2 use shall commence within a unit until the approved scheme has been fully implemented for that unit.

Reason: To protect the occupants of nearby residential properties from noise disturbance.

- 7 No floodlighting or other form of external lighting shall be installed unless it is in accordance with details approved under condition approval 20/06203/ADRC namely:- the lighting design identified on drawing 1725-PRP-003B. Thereafter, no lighting shall be installed other than in accordance with the approved lighting scheme.

Reason: To preserve the residential amenity of the local area.

- 8 Delete materials condition.

- 9 The development shall be landscaped in accordance with the details approved under condition approval 20/06203/ADRC namely:

- Landscape Strategy Plan 002/01 Rev D
- Tree and Planting Schedules 002_030
- Bird and Bat box details
- 20/06203/ADRC Landscaping note dated 23/06/2021 including applicant's response (blue text)

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.

- 10 All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees, plants or areas of turfing or seeding which, within a period of 3 years from the completion of the development, die are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority first gives written consent to any variation.

Reason: In the interests of amenity and to ensure a satisfactory standard of landscaping.

- 11 Delete surface water condition.

- 12 The drainage system shall be managed and maintained in accordance with the "whole-life" maintenance plan for the site permitted under reference 20/05097/ADRC.

Reason: To ensure that maintenance arrangements have been arranged and agreed in the interests of flood prevention.

- 13 Prior to first active use of the development, the on-site and off-site highway works indicated on drawing 18-002-0001 Rev A shall be laid out and constructed in general accordance with the approved plans. The highway works shall be secured through a S278 Agreement of the Highways Act 1980. For the avoidance of doubt the S278 works shall comprise of footway and junction works on the public section of Bellfield Road.

Reason: In order to minimise danger, obstruction and inconvenience to users of the highway and of the development.

- 14 Delete the Construction Traffic Management Plan condition.

- 15 The bin and cycle stores shall be retained on site. The bin store shall only be used for the storage of waste and refuse and the cycle store shall only be used for bicycle storage associated with the staff of and the visitors to the employment units.
Reason: In order to ensure adequate provision is made for refuse storage and to ensure opportunities for sustainable travel modes.
- 16 Contamination - delete condition.
- 17 Piling - delete condition.
- 18 No drainage systems for the infiltration of surface water to the ground, are permitted other than with the written consent of the Local Planning Authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.
Reason: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.
- 19 Six car charging points shall be provided and retained in good working order at the site for the use of staff.
Reason: To reduce the negative impact on the health of residents living within the Air Quality Management Area. Reduce air pollution. Promote more sustainable forms of fuel. Ensure that the site is prepared for the phasing out of petrol and diesel vehicles.
- 20 The development shall be operated in accordance with the Energy Efficiency Report by Hilson Holmes Limited dated 11 May 2020 approved under condition approval application 20/06203/ADRC.
Reason: In the interests of sustainability, carbon reduction and the promotion of renewable technologies pursuant to Policy DM18 of the adopted Delivery and Site Allocations DPD and Policy DM33 of the Wycombe District Local Plan.
- 21 Delete condition 21 water efficiency.
- 22 The pedestrian access gate that has been provided on the northern site boundary shall be retained as a means of access to the site to the north.
Reason: To ensure there is no physical impediment to pedestrian access between the two sites. For the sake of clarity, it will be necessary for agreement to be reached to ensure legal use of the access and the access may be locked until agreement is reached.
- 23 With the exception of parking and bin storage, no display or storage of goods, materials, plant or equipment shall take place other than within the buildings hereby permitted.
Reason: In the interests of amenity and to ensure that external areas are retained for the purposes indicated on the approved plans.

INFORMATIVE(S)

- 1 In accordance with paragraph 38 of the NPPF2 Wycombe District Council (WDC) approaches decision-taking in a positive and creative way taking a proactive approach to development proposals focused on solutions and works proactively with applicants to secure developments.

APPENDIX A: Consultation Responses and Representations

Consultations and Notification Responses

Ward Councillor Preliminary Comments

None received.

Parish/Town Council Comments/Internal and External Consultees

High Wycombe Town Unparished

Highways Authority

The application seeks a variation of conditions 2 (plan numbers) attached to planning permission 18/05323/R9FUL to allow for substitution of the site layout to reflect the development as built.

After assessing the proposed submissions, I note that the updated site layout will not lead to a greater quantum of development on the site and will not lead to an increase in vehicular movements over what is already expected under planning permission 18/05323/R9FUL. Furthermore, I note the site layout demonstrates an altered parking layout when compared to what was previously proposed. Having compared both site plans, I note that the site provides the same level of parking as previously approved which was considered satisfactory by the Highway Authority in previous comments. Whilst other alterations have been made, including slightly shifting the position of units 1-10 slightly south, I am satisfied the variation will not materially alter the impact of the development on the public highway.

Mindful of the above, the Highway Authority raises no objection to the variation of conditions 2 attached to planning permission 18/05323/R9FUL.

Urban Design

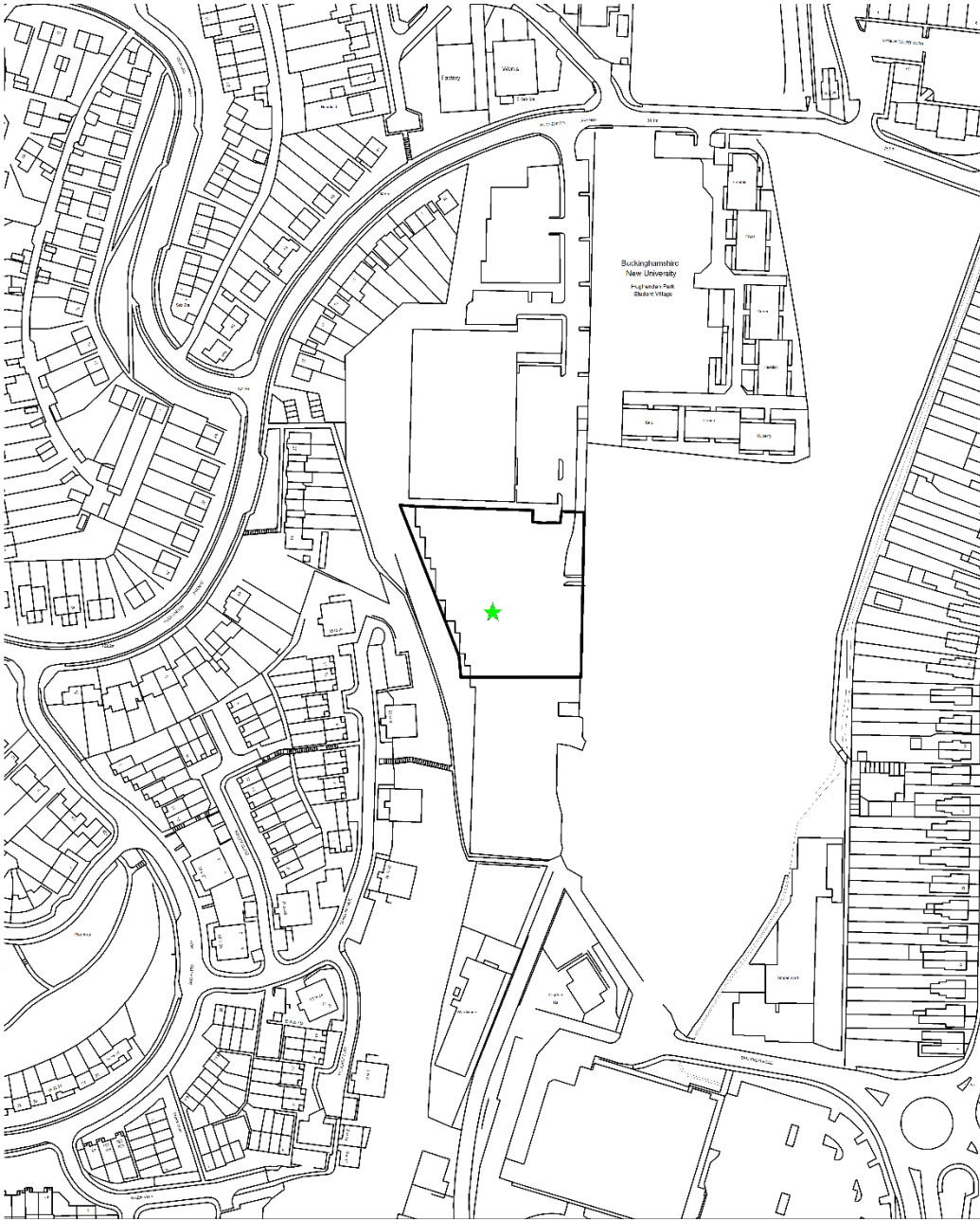
Comments: I have reviewed the changes and find them acceptable.

Representations

None received.

APPENDIX B: Site Location Plan

22/07576/VCDN
Scale 1/2500



Planning Committee
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Ordnance Survey 100062456