

DELEGATED OFFICER REPORT



WOKINGHAM
BOROUGH COUNCIL

Application Number:	251461
Site Address:	Bound Oak Industrial Estate, Wokingham Lane, Arborfield, Wokingham, RG2 9PN
Expiry Date:	19 September 2025
Site Visit Date:	05/09/2025
Proposal: Application to vary condition 22 of planning consent 201573 (as amended by 243053) for the erection of 4No buildings for B1c, B2 and B8 industrial and commercial use with the addition of a sui generis Energy Centre comprising a Combined Heat and Power facility and a Lithium Ion Battery store in Unit 1 to include landscaping and access works, following demolition of the existing buildings. Condition 22 refers to contamination. Variation is to amend the wording of condition (part retrospective).	

PLANNING POLICY

National Policy	National Planning Policy Framework (NPPF)
Core Strategy (CS)	CP1 – Sustainable Development CP3 – General Principles for Development CP4 – Infrastructure Requirements CP6 – Managing Travel Demand CP9 – Scale and Location of Development Proposals CP11 – Proposals Outside Development Limits CP15 – Employment Development
MDD Local Plan (MDD)	CC01 – Presumption in Favour of Sustainable Development CC02 – Development Limits CC03 – Green Infrastructure, Trees and Landscaping CC04 – Sustainable Design and Construction CC05 – Renewable Energy and Decentralised Energy Networks CC06 – Noise CC07 – Parking CC09 – Development and Flood Risk TB11 – Core Employment Areas TB12 – Employment Skills Plan TB20 – Service Arrangements and Deliveries for Employment and Retail Use TB21 – Landscape Character TB22 – Sites of Urban Landscape Value TB23 – Biodiversity and Development
Joint Minerals and Waste	DM1 - Sustainable Development DM5 - Protection of the Countryside DM9 - Protecting Health, Safety and Amenity

Plan (JMWP)	
Wokingham Borough Local Plan Update (LPU)	SS1 – Sustainable development principles SS2 – Spatial strategy and settlement hierarchy SS3 – Development within or adjacent to major and modest settlements SS5 – Development in the countryside SS8 – Meeting our employment needs CE2 – Environmental standards for non-residential development ER2 – Employment uses outside of Core Employment Areas HC5 – Environmental protection HC6 – Air pollution and air quality HC7 – Light pollution HC8 – Noise pollution HC9 – Contaminated land and water HC10 – Odor, fumes and dust
Other	National Planning Policy Guidance (NPPG) Borough Design Guide Supplementary Planning Document CIL Guidance + 123 List Affordable Housing Supplementary Planning Document Sustainable Design and Construction Supplementary Planning Document Arborfield and Barkham Neighbourhood Plan

PLANNING HISTORY		
Application No.	Description	Decision & Date
44812	Use of agricultural buildings for B1(c) light industrial use, B2 general industrial use and B8 storage use for vintage vehicle restoration (retrospective)	Approved 15/03/1996
SO/2003/9974	Residential development with open space and access (Scoping Option)	Replied 03/09/2003
O/2004/1646 O/2004/1647	Redevelopment for residential development of a density of 30-40 dwellings per hectare on 4.4 hectares, with open space, access, parking, landscaping and retention of substation.	Refused 20/10/2004
190283	Prior approval submission for the proposed demolition of all buildings and structures on site.	Approved 27/02/2019
190017	Full planning application for the proposed erection of industrial and commercial building with associated works and access from Poperinghe Way.	Refused 07/03/2019
201573	Full application for the erection of 4No buildings for B1c, B2 and B8 industrial and commercial use with the addition of a sui generis Energy Centre comprising a Combined Heat and Power facility and a Lithium Ion Battery store in Unit 1 to include	Approved 28/05/2021

	landscaping and access works, following demolition of the existing buildings.	
240225	Application for submission of details to comply with the following conditions of planning consent 201573 dated 28/05/2021. Condition 3 relates to external materials; 12 to cycle parking; 20 to boundary treatment; 25 to tree protection, and 27 to a Construction Environmental Management Plan.	Approved 12/04/2024
240254	Application for submission of details to comply with the following condition of planning consent 201573 dated 28/05/2021. Condition 13. Construction Method Statement. 18. Electric Vehicle Charging. 23. Landscaping. 33. Travel Plan.	Approved 22/03/2024
240274	Application for submission of details to comply with the following conditions of planning consent 201573 dated 28/05/2021. Condition 19 relates to ground and building levels; 22 to contamination (part discharge), and 28 to a drainage strategy.	Split decision (bar parts C and D of C22 contamination which cannot be approved until implementation) 17/04/2024
240283	Application to vary Conditions 2 and 31 of planning consent 201573 for the Full application for the erection of 4No buildings for B1c,B2 and B8 industrial and commercial use with the addition of a sui generis Energy Centre comprising a Combined Heat and Power facility and a Lithium Ion Battery store in Unit 1 with associated landscaping and access works, following demolition of the existing buildings. Condition 2 (approved plans) is to be varied by amendments to floor space, layout, parking provision and materials. Condition 31 (Energy Statement) is to be varied to account for the changes in floor space.	Withdrawn 01/05/2024
240462	Application for submission of details to comply with the following conditions of planning consent 201573 dated 28/05/2021. Condition 14 relates to highway construction details and condition 16 to walking and cycling routes.	Approved 30/05/2024
241658	Application for removal or variation of a condition following grant of planning permission (201573). Condition 2, Approved drawings 3, Materials 12, Cycle parking 13, Construction method	Approved 25/10/2024

	statement 14, Highway construction details 16, Walking and Cycling 18, Electric vehicle charging 19, Ground and Building Levels 20, Details of boundary wall 22, Contamination 23, Landscaping 25, Protected Trees 27, Control of environmental effects including biodiversity during construction 28, Drainage Strategy 32, BREEAM Levels and 33 Travel Plans (part retrospective).	
243053	Application to vary conditions 15, 22 and 31 of planning consent 201573 (as amended by 241658) for the erection of 4 No buildings for B1c, B2 and B8 industrial and commercial use with the addition of a sui generis Energy Centre comprising a Combined Heat and Power facility and a Lithium Ion Battery store in Unit 1 to include landscaping and access works, following demolition of the existing buildings. Condition 15 refers to mix of uses, condition 22 refers to contamination and condition 31 to an energy statement, and the variation is to amend the wording of these conditions.	Approved 18/03/2025

CONSULTATION RESPONSES

Internal

WBC Environmental Health – No objection

External

N/A

REPRESENTATIONS

Parish/Town Council	No objection raised from Arborfield Newland Council.
Ward Member(s)	No comments received
Neighbours	No comments received

APPRAISAL

Site Description:

The application relates to a variation of the redevelopment of the existing, derelict and vacant employment site to provide additional modern facilities, particularly varying the trigger of condition 22 to permit a longer submission period.

The 0.99 hectare site is located on the western side of the A327/Eversley Road. It consists of two main areas of land. They are of modest scale with associated hardstanding. To the south east of the site, the land is undeveloped grassland, aside from access from Poperinghe Way. The developer notified the LPA that the

development has commenced had commenced and this S73 application is part retrospective as the buildings have been demolished.

The site is located within the designated countryside, with an electricity substation and caravan site to the north and approximately 100 dwellings within a housing development to the south. The Arborfield Garrison Strategic Development Location lies 100m to the east.

The southern and western boundaries of the site abut woodland, with the majority of this being designated as a Local Wildlife Site ("LWS") (Long Copse (South) and Robin Hood Copse). The northern part of the LWS is designated as ancient woodland. This woodland and the trees on the northern boundary of the site adjacent to the electricity sub-station are protected by TPO 1683/2019. The adjacent A327, Eversley Road, is designated as a Green Route. Byway ARBO 15 runs parallel to the southern boundary of the site, from which there are glimpsed views into the site. The ground level within the site is higher than the surrounding woodland by about 1.5-3 metres on the southern and western boundaries of the site.

There are limited views of the buildings within the site from Eversley Road due to the long access road into the site where the current buildings are located and due to the surrounding woodland. This said, the entrance gates and hardstanding are ready visible from the surrounding area given the elevated topography.

Proposal:

This is an application made pursuant to Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 22 pursuant to contamination. The development has commenced, and thus the submission is considered to be part-retrospective.

The proposed amendments can be summarised as follows:

Condition 22 – The trigger of submission of a verification report is proposed to be amended from 12 months from the date of commencement, to 20 months from the date of commencement to account for delayed progress on site.

This would amend the varied condition forming part of 243053 from *"Following completion of measures identified in the remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted within 12 months of commencement and is subject to the approval in writing of the Local Planning Authority."* to *"Following completion of measures identified in the remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and submitted within 20 months of commencement and is subject to the approval in writing of the Local Planning Authority."*

Other than the amendment to the submission trigger of the latter part of condition 22, there are no further amendments proposed to its content.

Procedure:

S73 of the Town and Country Planning Act 1990 provides the ability to vary a condition on a planning permission. The Town and Country Planning (Development Management Procedure) (England) Order 2010 streamlined the procedure to enable local planning authorities to use its discretion on which statutory consultees should be consulted when such an application is submitted in order to speed up the system by being more flexible. This can apply to development which has already commenced so long as the development is still ongoing, and the development is being carried out in accordance with the existing planning permission which remains the case at Boundoak.

This Statutory Instrument was accompanied by 'Greater flexibility for planning permissions' which contained relevant guidance. This states that a minor material amendment is 'one whose scale and nature results in a development which is not substantially different from the one which has been approved'. This is not a statutory definition and the decision on what constitutes a minor material amendment is at the discretion of the local planning authority but is considered to include, *"any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved"*.

Section 73 of the Act instructs the Local Planning Authority to consider the variation to, or relief of conditions that are applied for which can be applied to retrospective development, stating that *"if they [the LPA] decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted....they shall grant permission accordingly"* (s.73(1)(a)). As such, the Local Planning Authority can grant permission unconditionally or subject to different conditions, or alternatively refuse the application if it is deemed that the original condition(s) should remain in place.

Section 73 of the Act cannot be utilised to amend the description development as per the high court judgement of *Finney v Welsh Minsters* [2019] EWCA Civ 1868, which ruled *"the planning authority cannot use section 73 to change the description of development"*. The original description of application 201573 was *"Full application for the erection of 4No buildings for B1c,B2 and B8 industrial and commercial use with the addition of a sui generis Energy Centre comprising a Combined Heat and Power facility and a Lithium Ion Battery store in Unit 1 to include landscaping and access works, following demolition of the existing buildings."* The proposed changes to the contamination condition trigger does not alter the original description of development nor significantly change the substance of the application. Accordingly, the Section 73 mechanism is procedurally appropriate to consider the proposed amendments having regard for *Finney v Welsh Minsters* [2019] EWCA Civ 1868.

Principle of Development:

The National Planning Policy Framework has an underlying presumption in favour of sustainable development which is carried through to the local Development Plan. The Managing Development Delivery Local Plan Policy CC01 states that planning applications that accord with the policies in the Development Plan for Wokingham Borough will be approved without delay, unless material considerations indicate otherwise.

The site is located within settlement limits and as such the development should be acceptable providing that it complies with the principles stated in the Core Strategy. Policy CP3 of the Core Strategy states that development must be appropriate in terms of its scale of activity, mass, layout, built form, height, materials and character to the area in which it is located and must be of high-quality design without detriment to the amenities of adjoining land uses and occupiers.

The existing lawful use of the site is for industrial use, which was originally approved under planning application 44812 on 15 March 1996 for the use of the separate buildings across the site for Class B1(c), B2 and B8 use. Later application 201573 was approved for demolition of the existing buildings and redevelopment of the industrial site. As this latter permission has been implemented, the uses on site are lawful, though not yet operational.

The overarching principle of redevelopment and renovating an industrial estate, was established within application 201573. Nothing herein varies this.

Character of the Area:

Impacts to the character of the area were considered and approved within applications 201573, 241658 and 243053. Nothing within this variation submission seeks to vary any matters pertaining to these issues.

Neighbouring Amenity:

Impacts to neighbouring amenities were considered and approved within applications 201573, 241658 and 243053. Nothing within this variation submission seeks to vary any matters pertaining to these issues.

Highway Access and Parking Provision:

Impacts to Highways access and parking provision were considered and approved within applications 201573, 241658 and 243053. Nothing within this variation submission seeks to vary any matters pertaining to these issues.

Flooding and Drainage:

Impacts to flooding and drainage were considered and approved within applications 201573, 241658 and 243053. Nothing within this variation submission seeks to vary any matters pertaining to these issues.

Landscape and Trees:

Impacts to trees, landscape and landscape character were considered and approved within applications 201573, 241658 and 243053. Nothing within this variation submission seeks to vary any matters pertaining to these issues.

Ecology:

Impacts to protected species and ecological mitigation were considered and approved within applications 201573, 241658 and 243053. Nothing within this variation submission seeks to vary any matters pertaining to these issues.

Environmental Health:

Condition 22 of consent 241658 required a verification report to be submitted within 10 months of commencement, this was varied by application 243053 which extended this period to 12 months following delayed release of funds related to the construction elements halting progress to date.

The applicant now seeks to extend this period by a further 8 months, to create additional flexibility to reflect actual works and progress on site. This extension of submission is justified by the applicant within the submitted application form as being a result of the difficulty funding various elements of the scheme and subsequent delays. The applicant now confirms that they have established funding and will be in a position to re-commence carrying out the remediation stages of development which must follow in advance of the verification plan.

Whilst the submission period for verification report has significantly increased since initial conditioning within the original planning consent, considering the stage the development has reached it does not undermine the purpose of the original condition (in creating a safely mitigated scheme where required), nor substantially change its substance. Furthermore, WBC Environmental Health raise no objection to this amended trigger within paragraph 2 of condition 22. With the above in mind, the proposal to amend the condition trigger within condition 22 is acceptable.

Conclusion:

There are no changes in material circumstances that would warrant a different conclusion to the original approval. The proposed minor material amendments to condition 22 is acceptable which are to be read in conjunction with the varied S106 legal agreement dated 11/03/2025 (of which explicitly includes subsequent S73 applications such as the proposal) and appended conditions.

Community Infrastructure Levy (CIL): When planning permission is granted for a development that is CIL liable, the Council will issue a liability notice as soon as practicable after the day on which the planning permission first permits development. Completing the assumption of liability notice is a statutory requirement to be completed for all CIL liable applications.

The Public Sector Equality Duty (Equality Act 2010): In determining this application the Council is required to have due regard to its obligations under the Equality Act 2010. The key equalities protected characteristics include age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief. There is no indication or evidence (including from consultation on the application) that persons with protected characteristics as identified by the Act have or will have different needs, experiences, issues and priorities in relation to this particular

planning application and there would be no significant adverse impacts as a result of the development.

RECOMMENDATION	
Conditions agreed:	Yes
Recommendation:	Approval subject to conditions and compliance with DoV dated 11/03/2025 which binds the hereby approved S73.
Date:	16 September 2025
Earliest date for decision:	24 July 2025

Recommendation agreed by: (Authorised Officer)	<i>MC</i>
Date:	16.09.2025

PLANNING CONSTRAINTS/STATUS

Ancient Woodlands
Contaminated Land Consultation Zone
Affordable Housing Thresholds
Bat Roost Habitat Suitability
Scale and Location of Development Proposals
Great Crested Newt Consultation Zone
Local Wildlife Site
Nuclear Consultation Zone
Tree Preservation Orders
Landfill Gas Consultation Zone
Landscape Character Assessment Area
SSSI Impact Risk Zones
Thames Basin Heaths SPA Mitigation Zones
PRoW Within WB Consultation Zone
Historic Flooding Points Consultation Zone
Ancient Woodland Consultation Zone
Local Wildlife Sites Consultation Zone
P.D. Sites
Local Plan Update Submitted Sites