

PDC824  
FOR DECISION  
WARD(S): OWSLEBURY AND CURDRIDGE

**SPECIAL MEETING OF THE PLANNING DEVELOPMENT CONTROL COMMITTEE**

23 September 2009

Application 1 - 08/01284/FUL: The erection of office and laboratory facilities with associated car parking and landscaping; and

Application 2 - 08/02890/FUL: The erection of a security fence, at Wickham Laboratories, Torbay Farm, Sciviers Lane, Lower Upham.

Applicant: Wickham Laboratories.

**REPORT OF HEAD OF PLANNING MANAGEMENT**

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**References**

See Planning History section of report.

**Executive Summary**

These applications are reported to Committee because of the number of representations received and at the request of Upham Parish Council, whose request is appended in full to this report as Appendix A.

Wickham Laboratories have had a presence at Torbay Farm for many years. One of the main activities on site, being the production of specific pathogen-free (SPF) eggs for scientific purposes. It has been determined, by the Secretary of State, on appeal, that part of the site has a lawful use for B1(c)(light industrial) purposes which means that any B1 use can lawfully take place on that part of the site.

The applicants now wish to relocate their offices and laboratories from central Wickham to Torbay Farm. They intend to demolish all of the buildings on the whole of the site, amounting to 3,172 sq/m of floor area, and replace them with a purpose-built, mainly two-storey building of 2,880 sq/m. This would be located at the rear of the site, in order to reduce its impact upon the landscape. It should be noted however that if permission is given the building could be occupied by any B1 (b) business and, as with any other development, there is no certainty as to the identity

of the future occupier.

On advice from the Police, the applicants have also applied to erect a 3m high mesh fence to prevent intruders from entering the site.

This report explains how objections from consultees have been overcome and addresses the issues raised by objectors. The conclusion is that it would be appropriate to grant permission subject to conditions and a s106 agreement.

### **Recommendations**

#### **Application 1 - 08/01284/FUL**

That, provided the applicant enters into a Section 106 agreement to secure;

- a) the preparation and implementation of a Green Travel Plan,
- b) the demolition of all buildings on the site, and the removal of resultant materials from the site, prior to development, and
- c) a landscape management plan for the remainder of the site outside of the secure compound,

**the application be permitted**, subject to conditions as set out at Paragraph 9.

#### **Application 2 - 08/02890/FUL**

That the application be permitted, subject to the condition set out at Paragraph 10.

## SPECIAL MEETING OF THE PLANNING DEVELOPMENT CONTROL COMMITTEE

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Applicant: Wickham Laboratories.

### REPORT OF HEAD OF PLANNING MANAGEMENT

#### DETAIL:

#### **1 Site Description**

- 1.1 The application site is approximately 1.77hectares in area and is located to the south of the Winchester Road/Upham Street/Scivier's Lane cross roads in Lower Upham. Vehicular access is from Scivier's Lane via a drive shared with Torbay Farmhouse (See Appendix B). This house and the access are in the proposed South Downs National Park, whereas the buildings, as described below are outside of this boundary.
- 1.2 The site is irregular in shape and has a limited frontage to Scivier's Lane. The majority of the site opens out to the rear of May Cottage and stretches behind The Thatched Cottage and White Lodge, all in Scivier's Lane.
- 1.3 The site contains a variety of buildings of varying ages. The original buildings, built prior to 1974, were originally agricultural buildings and comprise a long, low chicken shed and workshop and other, smaller stores, stables and sheds. To the south of these is a pair of barns, constructed more recently using a variety of materials.
- 1.4 The site proposed for the erection of the proposed office/laboratory facilities contains a pair of metal-clad poultry houses, erected in the early 1980's, and an older storage building.

#### **2 Proposal (Application 1 – 08/01284/FUL)**

- 2.1 This application proposes the demolition of all buildings on the site and their replacement with a purpose-built, mainly two-storey office/laboratory building. It is proposed that the building would contain 2,880 square metres of research and development space.

- 2.2 The building would be clad in brick at ground floor level with dark grey, profiled metal wall cladding above, under a low-pitched roof of similar material.
- 2.3 In addition, the proposal includes an entrance and servicing drive, a car park for 37 vehicles, a sewage treatment works and a silage tank.

### **Proposal (Application 2 - 08/02890/FUL)**

- 2.4 The erection of a 3 metre high, black, closed-mesh security fence around the site of the proposed office/laboratory building and car park.

## **3 Relevant Planning History**

- W00387/01** - Erection of 3 animal houses – Permitted 1975 (Not built)  
**W00387/03** - Erection of 2 poultry houses (Outline) – Permitted 1978 (Not built)  
**W00387/04** - Erection of 2 buildings to be used as animal houses – Permitted 1978 (Not built)  
**W00387/07** - Erection of 2 animal houses – Permitted 1978 (Not built)  
**W00387/08** - Erection of 2 poultry houses – Permitted 1978  
 NB. These are the modern buildings to be replaced.  
**W00387/09** - Erection of 2 steel framed animal houses – Permitted 1980 (Not built)  
**W00387/10** - Erection of animal house – Refused 1984  
**W00387/11** - Erection of 72 kennel dog breeding unit with staff flat – Refused 1984  
**W00387/12** - Erection of dog breeding unit and staff flat – Refused 1984  
**W00387/13** - Erection of kennel block and staff flat – Refused 1984.  
**W00387/14** - Erection of kennel block and staff flat – Refused 1985.  
 Allowed on appeal 1986 (Not built – no longer extant)  
**W00387/16** - Storage barn – Permitted 1990  
**W00387/20** - Change of use from storage building to laboratory with ancillary offices and facilities. Provision of parking and alterations to existing vehicular access – Permitted 1997 - Implemented  
**W00387/21** - Replacement building with laboratory, offices, lavatory and parking – Refused 2002 - Appeal dismissed 2003  
**WLDC/352** - Certificate of Lawful Use or Development sought for Class B1(b) [Research and Development] Use on part of the site - Refused 2004 - Appeal allowed 2006, establishing a B1(c) [light industrial] Use  
**W00387/29** - Erection of 2.7m high fence around site boundary – Withdrawn 2007

## **4 Consultations (Application 1 – 08/01284/FUL)**

- 4.1 Highways Engineer:
- 4.2 *“I have compared the typical trip rates for a Class B1 Use (using the TRICS database) with those outlined in the Transport Assessment submitted in support of the application. It is clear that the use of the building and the site*

*for Research and Development purposes will generate far less traffic than would otherwise occur for B1 (Office) or B1(Light Industrial) Uses.*

4.3 *Mindful of the above, it will be difficult to sustain a highway reason for refusal at appeal”*

4.4 Drainage Engineer:

4.5 *“Please refer this application to the EA for comment, as the use of non-mains drainage is proposed. Provided the EA issues a consent to discharge, there will be no objection on drainage grounds”.*

4.6 Environmental Health:

4.7 *“I have examined the proposals in detail and I have no adverse comments to make concerning the application. I would, however, be grateful if the following could be added as a note to the applicant...”* [There then followed two informatives concerning hours of construction and no burning on site]

4.8 Landscape Team:

4.9 Based on the initial findings, recommended that the proposal be refused, as it involved the unnecessary felling of trees, there was no landscaping scheme and the building would be clearly seen from buildings to the West.

4.10 These concerns have now been addressed and the submitted draft landscape plan retains all trees on the site and provides for the planting of indigenous trees on the western boundary. A planning condition will be required in order to ensure that the correct planting takes place (Condition 3)

4.11 Landscape(Trees):

4.12 No objection, subject to conditions regarding arboricultural supervision and tree root protection (Condition 6)

4.13 HCC Ecology:

4.14 Initial response - *“I would recommend that you seek an ecological survey and assessment from the applicant prior to determination of this application”*

4.15 This was produced but left some questions unanswered, in particular the presence of bats. To overcome this problem further survey work has been undertaken. HCC Ecology have concluded that despite intensive searching and visits at dusk there is no evidence of bats in the buildings intended for demolition and that although roosts must exist nearby they are likely to be in the older, larger trees in the area. The concerns of the ecologist have now been satisfied, subject to the imposition of planning conditions to secure a scheme of ecological enhancements, such as the provision of bat boxes and roosts, and details of lighting and further bat survey work (Conditions 4, 6 and 11).

4.16 The officers are satisfied that any other potential effects upon the biodiversity of the area have been considered by the Environment Agency and Natural England.

4.17 Environment Agency

4.18 Objection withdrawn, following the submission of a Flood Risk Assessment, Ecological Assessment and Hydrological Report.

4.19 However, further information is still required and this will be the subject of conditions (Conditions 5 and 6)

4.20 Natural England

4.21 No objections. *"It is our opinion that the proposals are unlikely to directly cause any significant adverse effects on the River Itchen SSSI/SAC"*

4.22 Hampshire Police

4.23 Objection withdrawn, following submission of the separate application for security fencing and discussion between the applicants and the police.

4.24 A Class Three, 3 metre high, welded mesh fence has been agreed, subject to additional security measures being provided.

4.25 **Consultations (Application 2 – 08/02890/FUL)**

4.26 Landscape

4.27 Unable to support the proposal until more information on tree protection and screening planting is submitted (The tree report that was subsequently submitted was found to be acceptable - see 4.12 above - and the landscape plan includes additional planting on the western boundary of the site).

4.28 Hampshire Police

4.29 The fence complies with Police requirements.

**5 Representations (Application 1 – 08/01284/FUL)**

5.1 Upham Parish Council has objected, for the following reasons;

- Outside the established B1(b) established use area;
- Highway safety;
- Environmental impact;
- Landscape impact;
- Security/policing;
- Effect on proposed South Downs National Park.

The Parish Council's letter of objection/request for determination by the Committee is appended, in full, as Appendix A.

5.2 In addition, letters of objection have been received from the following;

Durley Parish Council – traffic generation/groundwater pollution/wrong location

The local MP – traffic generation/loss of privacy/light pollution/noise pollution inappropriate design/wrong location

Winchester Animal Concern – more traffic/business site in rural location/movement of live and dead animals/disturbances/toxic emissions

5.3 38 letters received from households **objecting** to the application, for the following reasons:

- Does not comply with Local Plan, Upham Village Design Statement or aims of South Downs National Park;
- Size of building;
- More suited to an industrial estate;
- Outside of defined light industrial site;
- Increase in traffic;
- Lack of parking;
- Lack of public transport;
- Light and noise pollution;
- Flood risk;
- Loss of wildlife haven;
- Disturbance to neighbours during demonstrations;
- No mention of security fencing.

5.4 The distribution of the objection letters is as follows;

- 11 – Scivier's Lane
- 4 - Winchester Road
- 15 - elsewhere in Upham
- 3 - from further afield
- 5 - no address given

5.5 No letters of **support** received.

5.6 **Representations (Application 2 – 08/02890/FUL)**

5.7 Upham Parish Council has objected, for the following reasons;

- It would adversely affect the street scene;
- Out of keeping with this countryside area;
- A tree report will be required.

5.8 7 letters received from households in Scivier's Lane, **objecting** to the application, for the following reasons;

- Adverse effect upon neighbours;
- Adverse effect upon natural environment;
- No details of boundary fence or security lighting given;
- Flood risk;
- Adverse effect upon value of nearby cottages.

## 6 Relevant Planning Policy

### 6.1 South East Plan:

- CC4(sustainable design/construction)
- RE3 (employment)  
States that *“Accessible and well-located industrial sites and commercial sites should be retained where there is a good prospect of employment use.”*
- C2 (South Downs National Park)
- C4 (landscape and countryside management)  
This policy encourages the protection and enhancement of landscape features and appropriate mitigation, where necessary.
- BE1 (improve built environment)
- BE5 (village management)
- NRM4(flood risk)  
Deals with flood risk issues and, is in effect, a substitute for WDLPR Policy DP8, which has not been saved.
- NRM5 (biodiversity)
- T4 (parking)
- T5 (travel plans)

### 6.2 Winchester District Local Plan Review

- CE18 (existing lawful employment sites);  
This allows for the replacement of existing buildings on existing lawful employment sites in the countryside where;
  - (i) the site is close to an existing settlement and main transport networks (including public transport), and not in a location where continued employment use would be harmful to the local environmental or neighbouring uses;
  - (ii) there will be no material increase in employment or traffic levels as a result of any increase in floorspace or built development;
  - (iii) the scale and design of the proposed buildings and the site achieves substantial environmental benefits that reflect local distinctiveness and the character of the surrounding countryside.

*“Proposals for redevelopment of business uses will be required to demonstrate that:*

  - (a) *the buildings have outworn their useful life; and*



*(b) the proposed buildings achieve a more efficient use of the site.”*

- CE5 (landscape character)  
Deals more generally with the character of the countryside and requires that development shall respect the character of the landscape.
- CE11 (habitats)
- DP3 (general design criteria);
- DP4 (landscape);
- T1 (location criteria);  
Requires that development will be served efficiently by public transport, cycling and walking.
- T4 (parking);  
Requires that adequate facilities are provided for the parking of cars, motor cycles and pedal cycles.

### 6.3 National Planning Policy Guidance/Statements:

- PPS 7 (Sustainable Development in Rural Areas)
- PPS 9 (Biodiversity)
- PPG 13 (Transport)
- PPS 25 (Flood Risk)

### 6.4 Supplementary Planning Guidance

- Upham Village Design Statement 2001

## 7 Planning Considerations

- Principle of development
- Highways issues/sustainability
- Local economy
- Impact on neighbours
- Landscape/South Downs National Park
- Flooding
- Biodiversity
- Security

### 7.1 Principle of development

- 7.2 The main principle to be determined is whether the replacement of buildings that have a lawful B1(c) use is acceptable in this location and, if so, whether any material harm would ensue in terms of impact upon neighbours, landscape intrusion, traffic issues, flood risk or harm to the biodiversity of the area.

- 7.3 In addition to the policies quoted above, there are further important material considerations in this case, i.e. the appeal decisions issued in 2003 and 2006 and the 'fall-back' position which the existing site use affords the applicant.
- 7.4 In 2003 the Secretary of State dismissed the applicant's appeal against the refusal of planning permission for laboratories/offices with car parking on part of this planning unit. The proposal had been to demolish the original, low-level chicken sheds and replace them with a single storey, 8.5m high building.
- 7.5 In dismissing this appeal, the Inspector said that it was not his place to determine the lawful use of the site but that he considered that the proposed building did not require a rural location, would be harmful to the character and appearance of the countryside and was in an unsustainable location.
- 7.6 If the BI use of the site had been clearly established at that point, the policy position could well have been considered in a different light and this might have affected the appeal decision.
- 7.7 The lawful use of part of the site was finally determined in 2006, when the Secretary of State concluded that part of the site had a lawful use for industrial purposes (Class B1(c)) with the effect that part of the site could lawfully be used for any B1 use, which includes Class B1(b) (research and development).
- 7.8 This conclusion was only reached after a series of applications, appeals and challenges to the High Court culminating in the Council's unsuccessful challenge to the Inspector's decision of 2006. Consequently the lawful use of part of the site is as set out by the Inspector in his decision letter of 16 November 2006.
- 7.9 The Inspector concluded "*on the evidence now available, that the Council's refusal to grant a certificate of lawful use was not well founded*" and he granted a Certificate that "*The lawful use of the land falls within Class B1(c) of the Town and Country Planning (Use Classes) Order 1987. The land can therefore be lawfully used for Class B1(b) purposes for research and development by virtue of the Town and Country Planning (General Permitted Development) Order 1995.*"
- 7.10 Although this Certificate relates only to part of the site, and not to the location of the proposed replacement building, it does establish beyond doubt that at least part of the site may be used for research and development purposes, as applied for, or for light industrial uses, without a grant of planning permission.
- 7.11 It should also be noted that, in 1997, the Council permitted the change of use of a storage building, adjacent to the LDC site, to be used as a laboratory with ancillary office use and this has been implemented.
- 7.12 The site for the proposed building is further back within the planning unit and contains two buildings that officers believe to have been used for the same purpose as those at the front of the site, i.e. the production of SPF eggs.

- 7.13 Although there is no Lawful Development Certificate, or express grant of planning permission authorising B1 uses for this part of the site, the officers consider that it is likely that that these buildings too have a lawful use for B1(c) purposes, based upon their previous use.
- 7.14 It is considered, therefore, that the applicant's likely fall-back position is that the existing buildings on the site, including those located where the replacement building is proposed, could be used for research and development, although, in some cases, significant repairs and alterations would have to take place first. In other words, it is unlikely that planning permission would be needed to use the existing buildings for B1 purposes and if the existing buildings on the application site were used for those purposes no enforcement action could succeed.
- 7.15 However, even if the buildings at the rear of the site did not have a B1 use, it is preferable on visual grounds to position the new building in this area, rather than to locate it near the front of the site, where the buildings covered by the LDC are currently situated. It is acknowledged that the proposed floor space exceeds that of the LDC buildings on their own but clearly the other buildings within the site had/have the potential to be used for employment opportunities.
- 7.16 If planning permission is to be granted, a condition restricting the use of the site to B1(b) (research and development) purposes only would be imposed. This would prevent the use of the site for B1(a) (office) and B1(c) (light industrial) uses and would protect the amenities of the neighbours as such uses would lead to more intensive use of the site and could generate an unacceptable amount of traffic.
- 7.17 Turning to Development Plan policy, WDLPR Policy CE18 allows for the replacement of existing buildings on existing lawful employment sites.
- 7.18 In this particular case:
- the buildings have outworn their useful life;
  - the site is close to Lower Upham and the shop, public houses and bus services that serve the village;
  - there will be no material increase in employment or traffic levels compared with the potential use of the site for office or light industrial uses;
  - the demolition of all buildings on the site achieves environmental benefits, whilst the scale and design of the proposed building does not detract from the character of the surrounding area (see 7.41-7.45 below).
- 7.19 As it is likely that all of the site may lawfully be used for light industrial purposes, there should be no material increase in potential employment or traffic levels. However, it is acknowledged that the site has been little used for a number of years so the proposed replacement building would result in an increase in on-site activity. Nevertheless, the site has potential to be used for

purposes, such as offices, that would generate far more traffic than the proposed use.

- 7.20 Policies in the South East Plan (SEP) are more general in character but indicate the ways in which Local Planning Authorities should be formulating policies and determining planning applications.
- 7.21 In particular, SEP Policy RE3 supports the retention of employment use on sites such as this.
- 7.22 The Upham Village Design Statement is silent about this particular site and does not identify any important views or glimpses across the site.
- 7.23 It does, however, address the bulk of buildings and states *“In this context, bulk is perceived in terms of the viewed elevation”*. As will be noted later, there are only limited views of the site from neighbouring houses and the street scene will not be adversely affected.
- 7.24 Highways issues/sustainability
- 7.25 The Highways Engineer has taken the above into account in reaching his conclusion that the proposal will generate far less traffic than other legitimate uses of the site. Also, the type of traffic is likely to be far less intrusive than a light industrial use might generate.
- 7.26 Objectors point to a previous appeal decision (1986) where the width of Scivier’s Lane and its junction with the Winchester Road were found to be substandard. However, there have been a number of material changes since that decision, i.e. the lawful use of part of the site has been established, the speed limit on the main road has been reduced from 60mph to 40mph and traffic calming measures have been introduced.
- 7.27 In addition, ‘Manual for Streets’ was published in 2007, which recognises the case for reduced visibility, and other standards, in certain circumstances.
- 7.28 In terms of sustainability, there is an hourly bus service on the main road, which connects the site (via a short length of Scivier’s Lane) to Winchester, Colden Common, Fair Oak, Bishops Waltham, Wickham and Fareham. This service, Number 69, runs from before 7am to after 6pm Monday to Saturday.
- 7.29 In addition to this public transport service, the applicant is prepared to operate a company minibus and provide facilities for cyclists on site. It is suggested that these arrangements be formalised by means of a Green Travel Plan secured through a Section 106 Agreement.
- 7.30 The local economy
- 7.31 The applicants wish to relocate to this site from cramped accommodation in Wickham. They say that, not only will this free up a site for additional housing

in Wickham, but it would also retain an important employment use in the Winchester district.

- 7.32 The 2003 Appeal Inspector addressed the issue of a redevelopment opportunity in Wickham and concluded that this benefit was not directly dependant upon the outcome of that appeal.
- 7.33 He also stated that *“Even if permission were to be granted for the laboratory to relocate to Torbay Farm (or any alternative site), no mechanism has been put forward to ensure that the Wickham site is redeveloped.”*
- 7.34 Such a mechanism is still not proposed and it would be inappropriate to pre-judge the possible future of the Wickham site. It should also be borne in mind that the application site is already a B1 site in its own right and its future is not dependant upon what happens in Wickham.
- 7.35 Impact on neighbours
- 7.36 There are two residential properties that could, potentially, be directly affected in visual impact terms as a result of these applications. These are The Thatched Cottage and White Lodge, which are both set back from Scivier's Lane and adjacent to the western boundary of the application site.
- 7.37 The removal of two of the existing buildings on the application site will improve the outlook from these properties and the addition of landscaping will further enhance their amenities in this regard. The proposed building will be at least 38m from the mutual boundary and the use of dark materials will enable the building to sit unobtrusively against a backdrop of trees.
- 7.38 It is considered that these neighbours will not be materially adversely affected in terms of privacy and noise, due to the position of the proposed building on the site and the provision of additional planting.
- 7.39 Concerns that these neighbours had concerning drainage and flooding issues have been investigated by the appropriate authorities following the submission of a flood risk assessment and drainage details.
- 7.40 Landscape
- 7.41 The existing buildings on the site are not particularly prominent in the general landscape, although they are unsightly when viewed from private premises. This application involves the demolition of all buildings on the whole of the site and their replacement with a purpose-built office/laboratory on the least conspicuous part of the site. The use of dark materials against a backdrop of existing trees will assist with the assimilation of the building into its setting.
- 7.42 The application, as originally submitted, lacked any details of landscaping or tree protection. In fact, the plans showed the felling of a perfectly good oak tree to make way for visitors' car parking.

- 7.43 Amended plans have now been received and these retain both important oak trees on the site and the existing boundary trees. In addition, indigenous tree planting is proposed along the western boundary, i.e. the common boundary with The Thatched Cottage and White Lodge. This planting will be the subject of a planning condition (Condition 3)
- 7.44 It is concluded that, as required by WDLPR Policy CE18, this proposal results in environmental benefits as well as a more efficient use of the site.
- 7.45 The proposed security fence, although 3m high, is set well within the site behind proposed close-boarded boundary fencing. The latter is to be erected as Permitted Development. The security fencing will be plain in appearance, with no razor wire topping, coloured black and will not be unduly intrusive in the landscape.
- 7.46 South Downs National Park
- 7.47 The site of the proposed building is not within the East Hampshire Area of Outstanding Natural Beauty nor the proposed South Downs National Park. However, the proposed boundary of the latter does include the access to the site and an area of wetland within the red-lined application site.
- 7.48 The purposes of the designation of the Park are a material consideration, but the officers consider that the proposals will not adversely affect its setting because of its design and the removal of the existing buildings (see 7.41- 7.45 above).
- 7.49 Flooding
- 7.50 The Environment Agency initially raised a number of objections to this application but these have now been addressed and the objections withdrawn.
- 7.51 A Flood Risk Assessment has been submitted and accepted by the Agency. In doing so, it recommends conditions requiring details of surface water drainage for the site and the construction of a proposed wetland (Conditions 5 and 6)
- 7.52 The Environment Agency is also responsible for assessing the effects of development and changed water levels on the biodiversity of the area. This is dealt with in the following paragraphs.
- 7.53 Biodiversity
- 7.54 The site is not designated as being of importance for nature conservation but Natural England and HCC Ecology have been consulted. Neither authority has raised objection to the proposal but they do ask that conditions be added to any permission. In particular, to secure a complete scheme of ecological enhancements, including bat boxes, artificial bat roosts, planting proposals

and the future management of the site for the benefit of wildlife. (Conditions 3, 4, 5, 6 and 11)

- 7.55 The Environment Agency also has responsibilities with regard to biodiversity. They have accepted the loss of part of a wetland area provided that it is replaced elsewhere on the site. (Conditions 5 and 6)
- 7.56 Due regard has been has to PPS9, Circular 06/05 and the relevant EC Habitats Directive. There is however no evidence of any protected species (in particular bats) in the buildings proposed to be demolished and no disturbance to protected species is anticipated.

#### 7.57 Security

- 7.58 This aspect of the proposal was previously considered in the context of the 2003 appeal. The Inspector stated *“The existence of the proposed laboratory might give rise from time to time to demonstrations and activity from persons and organisations opposed to the use of animals in scientific research, as happens at the appellant’s existing premises in Wickham. Disturbance from that source would be likely to be sporadic and would be subject to control by the police. Requirements for security fencing and lighting to prevent intruders gaining access to the site could be harmful to residential amenity, but would be controllable by planning condition if the appeal were to be allowed. Trespass on adjoining land is also a possibility but, as the Inspector observed in the 1986 appeal decision, planning permission could not be reasonably withheld on the grounds that the development might result in unlawful action by a third party”*
- 7.59 Consequently, refusing permission on the grounds of security would be difficult to sustain. It should be noted that Application 2, for a security fence, has been submitted upon the instigation of the police and has been found to be adequate for their purpose. It should be noted that 2m high perimeter fencing is proposed, in addition to the 3m security fence, but this does not require planning permission. It is permitted by Class A, Part 2, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995.

## 8 Conclusion

- 8.1 Bearing in mind the applicant’s likely fall-back position, it would be difficult to sustain a reason for the refusal of this application based on the principle of redeveloping the buildings and the unsuitability of the site for this purpose, or because of its location in sustainability terms.
- 8.2 The proposed building, although two-storey, has been sited to the rear of the site, and the existing landscaping, together with the demolition of all existing buildings and the careful use of materials, will mean that it will not be harmful to the character or appearance of the countryside and proposed national park.

- 8.3 The use of the building is unlikely to have a significantly harmful impact upon the amenities' of the neighbouring residential properties and potential flood risk and damage to the biodiversity of the area can be satisfactorily mitigated.

**Recommendation**

**9 Application 1 – 08/01284/FUL: The erection of office and laboratory facilities with associated car parking and landscaping.**

That, provided the applicant enters into a Section 106 Agreement to secure;

- a) the preparation and implementation of a Green Travel Plan,
- b) the demolition of all buildings on the site prior to development, and
- c) a landscape management plan for the remainder of the site outside of the secure compound,

**planning permission be granted**, subject to the following conditions;

**Conditions**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

2. No development shall take place until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to, and approved in writing by, the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure that the development presents a satisfactory appearance in the interests of the amenities of the area.

3. A detailed scheme for landscaping, tree and/or shrub planting shall be submitted to, and approved in writing, by the Local Planning Authority before development commences. The scheme shall specify species, density, planting, size and layout. The scheme approved shall be carried out in the first planting season following the occupation of the building or the completion of the development whichever is the sooner. If, within a period of 5 years from the date of planting, any trees, shrubs or plants die, are removed or, in the opinion of the Local Planning Authority, become seriously damaged or defective, others of the same species and size as that originally planted shall be planted at the same place, in the next planting season, unless the Local Planning Authority gives its written consent to any variation.

Reason: To improve the appearance of the site in the interests of visual amenity.



4. Details of external lighting to be provided on the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. The lighting shall be installed, operated and maintained in accordance with the approved scheme.

Reason: In the interests of the amenities of the locality.

5. Development shall not begin until a surface water drainage scheme for the site, based upon the submitted "Torbay Farm, Lower Upham, Flood Risk Assessment, 11/12/2008 ", sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, has been submitted to and approved in writing by, the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is first occupied.

Reason: To prevent the increased risk of flooding.

6. The proposed wetland shall be constructed in accordance with a scheme to be submitted to, and approved in writing by, the Local Planning Authority, prior to the occupation of the building.

Reason: To ensure that the proposed wetlands are developed in a way that contributes to the nature conservation value of the site in accordance with national planning policy.

7. No development or site preparation shall take place until a person suitably qualified in arboriculture, and approved as suitable by the Local Planning Authority, has been appointed to supervise the implementation of tree protection measures, special surfacing and all works deemed necessary by the approved arboricultural method statement, dated February 2009.

Reason: To ensure the protection and long term viability of retained trees and to minimise the impact of construction activity.

8. Development shall cease on site if, during any stage of the works, potential contamination is encountered which has not been previously identified, unless otherwise agreed in writing with the Local Planning Authority. Works shall not recommence before an assessment of the potential contamination has been undertaken and details of the findings, along with details of any remedial action required (including timing provision for implementation), have been submitted to, and approved in writing by, the Local Planning Authority. The development shall not be completed other than in accordance with the approved details.

Reason: In order to secure satisfactory development and in the interests of the safety and amenity of future occupants.

9. The development hereby permitted shall be used for B1(b) (research and

development) purposes and for no other purpose (including any other purpose in Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order, with or without modification).

Reason: To restrict the use of the premises in the interests of highway safety and local amenity.

10. No machinery shall be operated, no process shall be carried out and no deliveries taken at, or despatched from, the site, other than between the hours of 0700 and 2200 Monday to Friday and 0800 and 1300 Saturdays and at no time on Sundays and Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupiers of nearby properties.

11. Development shall not begin until a complete scheme of ecological enhancements has been submitted to, and approved in writing by, the Local Planning Authority including a timetable for implementation. This shall include a bat update survey, accompanied by a scheme of any resulting necessary mitigation measures including, as appropriate, bat boxes, artificial bat roosts, planting proposals and details of the future management of the site for the benefit of wildlife. The scheme shall subsequently be implemented in and maintained in accordance with the approved details or as otherwise agreed in writing by the Local Planning Authority

Reason: In the interests of the biodiversity of the area and the protection of species.

### **Informatives**

1. This permission is granted for the following reason:

The development is in accordance with the policies and proposals of the Development Plan set out below, and other material considerations do not have sufficient weight to justify a refusal of the application. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, planning permission should therefore be granted.

2. The Local Planning Authority has taken account of the following Development Plan policies and proposals:-  
 South East Plan: CC4,RE3,C2,C4,BE1,BE5,NRM4,NRM5,T4,T5  
 Winchester District Local Plan Review: CE18,CE5,CE11,DP3,DP4,T1,T4

3. All work relating to the development hereby approved, including works of demolition or preparation prior to operations, should only take place between the hours of 0800 and 1800 Monday to Friday and 0800 and 1300 Saturdays and at no time on Sundays and Bank Holidays.

4. No burning of demolition materials should take place on the site.

**10. Application 2 – 08/02890/FUL: The erection of a security fence.**

That **planning permission be granted**, subject to the following condition:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the provisions of Section 91 (1) of the Town and Country Planning Act 1990 (as amended).

**Informative**

The Local Planning Authority has taken account of the following development plan policies and proposals:-

South East Plan: C2, C4

Winchester District Local Plan Review: CE5, CE11, DP3, DP4,

**OTHER CONSIDERATIONS:**

**11 Relevance to Sustainable Community Strategy and Corporate Business Plan.**

11.1 The report relates to the High Quality Environment outcome for the Sustainable Community Strategy.

**12 Resource Implications**

12.2 None

**BACKGROUND DOCUMENTS:**

Files held within the Planning Department.

**APPENDICES:**

- A. Request from Upham Parish Council for application to be determined by the Committee.
- B. Site location plan.

Please return this form to the Case Officer: Neil Mackintosh

From: Upham Parish Council  
08/01284/FUL

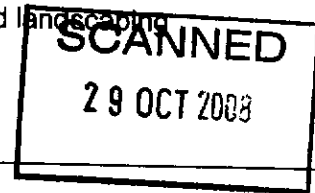
Case No: \_\_\_\_\_

Location: \_\_\_\_\_

Proposal: \_\_\_\_\_

Torbay Farm, Sciviers Lane, Lower Upham  
Erection of office and laboratory facilities with associated car parking and landscaping

LISTED BUILDING GRADE: \_\_\_\_\_



**Comments: Upham Parish Council strongly objects to this application and believes these proposals are in conflict with the Upham Village Design Statement.**

**There are many reasons for this objection and they are listed below.**

1) The Parish Council does not believe that the area of land on which this development would be built has the benefit of permission for the intended use. In November 2006, under Appeal reference APP/L1765/C/06/2007808, the Inspector issued a Certificate of Lawful Use for Class B1(b) use. This only related to a specific and limited area within the Torbay Farm site. The location of this proposed development does not coincide with the clearly marked area on the plan attached to the Inspector's decision, and therefore it would not be lawful for the proposed development and activities to be carried out as described in this planning application. This would be a new build development of a greenfield site.

2) Highway safety is a prime concern. Sciviers Lane is a narrow rural lane, and meets the very busy B2177 at a crossroads with Upham Street. In places it is difficult for vehicles to pass one another. There are accidents and near misses on a regular basis. There are no pavements and no street lighting. Due to high levels of traffic in the area generally, Sciviers Lane is used as a "rat run" for people getting to work and the school run. Agricultural vehicles also use the lane. There are significant problems with damage to drainage ditches which causes surface water and therefore damage to the road surface. This impacts greatly on highway safety. This application estimates that 40 cars a day will be generated by employees getting to work at Torbay Farm. However, it also states that 80 full time and 20 part time staff will work here, apart from visitors. It is difficult to see how the estimated number of vehicles can be correct in the light of this. Public transport on the B2177 is limited and therefore this will not be a reliable form of transport to get to work. The reference to provision of a company bus states that this will be dependent on demand. No travel plan has been submitted and it seems unrealistic and unsubstantiated to expect that this will be the chosen mode of transport for most employees. It is noted that the facilities would be open for business on Saturday morning as well as Monday to Friday.

In addition to private vehicles, there will be a substantial number of lorries and vans making deliveries and collections from the site. Sciviers Lane is totally unsuited to this volume of additional large vehicle movement. The quoted figure is 40 per week, but it is easy to envisage that this could be an under estimate.

SCANNED

29 OCT 2008

Sight lines from Sciviers Lane onto the B2177 are poor, particularly in the Bishops Waltham direction. Speeding traffic is a continual problem both on Sciviers Lane and on the B2177, where the 40mph limit is consistently ignored.

- 3) The likely environmental impact of this development cannot be overstated. This is an extremely low lying and wet area already. The water table is high at most points in the year, especially in winter. Upham does not have the benefit of mains drainage. There are several issues relating to drainage and possible pollution and contamination. Dealing with human foul waste, where the effluent after the removal of solids will have to outflow into the local watercourses, and issues of treatment plant noise and smell, would need to be properly addressed. A tributary of the River Hamble flows nearby, and there is believed to be a site of environmental importance (designated SNCI) in the vicinity. The pond, opposite Lower Upham Post Office, has scored in excess of 20 on the conservation community index and water voles have been found in the surrounding area. The impact of increased water run-off due to increased development is of concern, particularly the probability of localised flooding due to the topography and soil make-up. The large car park area is to be surfaced with tarmac which will make it very prone to flooding. There is also much concern about the disposal of probable toxic/hazardous waste. There appears to be no reference as to how hazardous products will be contained, or whether any incinerator provision is to be made. The application appears to indicate that the use and storage of hazardous substances would be limited. However, it is believed that such substances have been used in research and development at Wickham. The Parish Council feels that Upham is a most unsuitable location for this type of work. The safety of our residents is of the utmost importance and the smallest risk of contamination is not acceptable.
- 4) Height and bulk of buildings and their impact on the neighbourhood. The proposed buildings are extremely large, being two storey and approximately 10 metres high, and according to the plans 54m x 30m at ground level. They are said to contain 26 offices and 19 laboratories plus other facilities. This is a significant development in a rural village. The Upham Village Design Statement states that historically, non-residential development has taken the form of farm buildings and that commercial development in this area is less successful. The VDS states that the type of any development proposed should be similar in form and scale to older buildings, but this application appears to represent a departure from this agreed aim, which was adopted by WCC as supplementary planning guidance in 1999. The imposing nature of this development would have a very detrimental and harmful effect on neighbouring residential properties, due to over-looking and light pollution. There are offices and a refectory area located on the second floor, which would overlook residential dwellings. The proposals also stand in a flight path of the final approach of aircraft coming in to land at Lower Upham Airfield. It is not thought that a high building is suitable in such a location.
- 5) Security and Policing. There does not appear to be provision for security lighting or fencing in this application. It is well known that the Wickham premises attract protestors and demonstrations, and unwelcome events of this type also occur in Upham at this site. There appears to be a recognised need for security fencing, as in 2007 an application for a 2.7m high boundary fence was submitted and then withdrawn. Security issues must be addressed as part of the determination of such an application, and these matters have not been included in this submission. It is unacceptable to consider placing such an establishment in a rural, village location without giving a great deal of consideration to the full impact on the amenity of the area, how the safety of residents will be assured and how policing of such a site will be undertaken. In the community consultation process of this submission, the Parish Council was advised that an open public meeting would not be attended by the applicant for security reasons. The Police advised WCC that should a public meeting be convened, they wished to be involved so that any potential disruption could be properly risk assessed, to allow them to offer a proportionate policing response to ensure the safety of all concerned. The Parish Council feels that this in itself indicates the level of concern about security issues at this site.
- 6) Most of the parish of Upham falls within the boundary of the proposed South Downs National Park and it is understood that part of the boundary of the Torbay Farm site represents a section of the proposed National Park boundary. It is therefore important that any permitted development should reflect the character of the surrounding area, and not be detrimental or harmful to it.

The Local Plan is against development which would "have an unacceptable adverse impact on adjoining land, uses or property" (DP3vii).

The Parish Council's view is that the above observations clearly demonstrate that there are many examples of how this development would have a detrimental and harmful impact on this village.

We request that this application be refused.

**Request for application to be considered by Committee:**

(NB: Case Officer to forward form to Head of Planning Control if this section completed)

**Upham Parish Council requests that this application is determined by the Planning Committee, for the above planning reasons.**

**Please advise us when the date and time for the Planning Committee to consider this application has been decided.**

Signed: S Knasel, Clerk \_\_\_\_\_

Date: 17<sup>th</sup> October 2008 \_\_\_\_\_

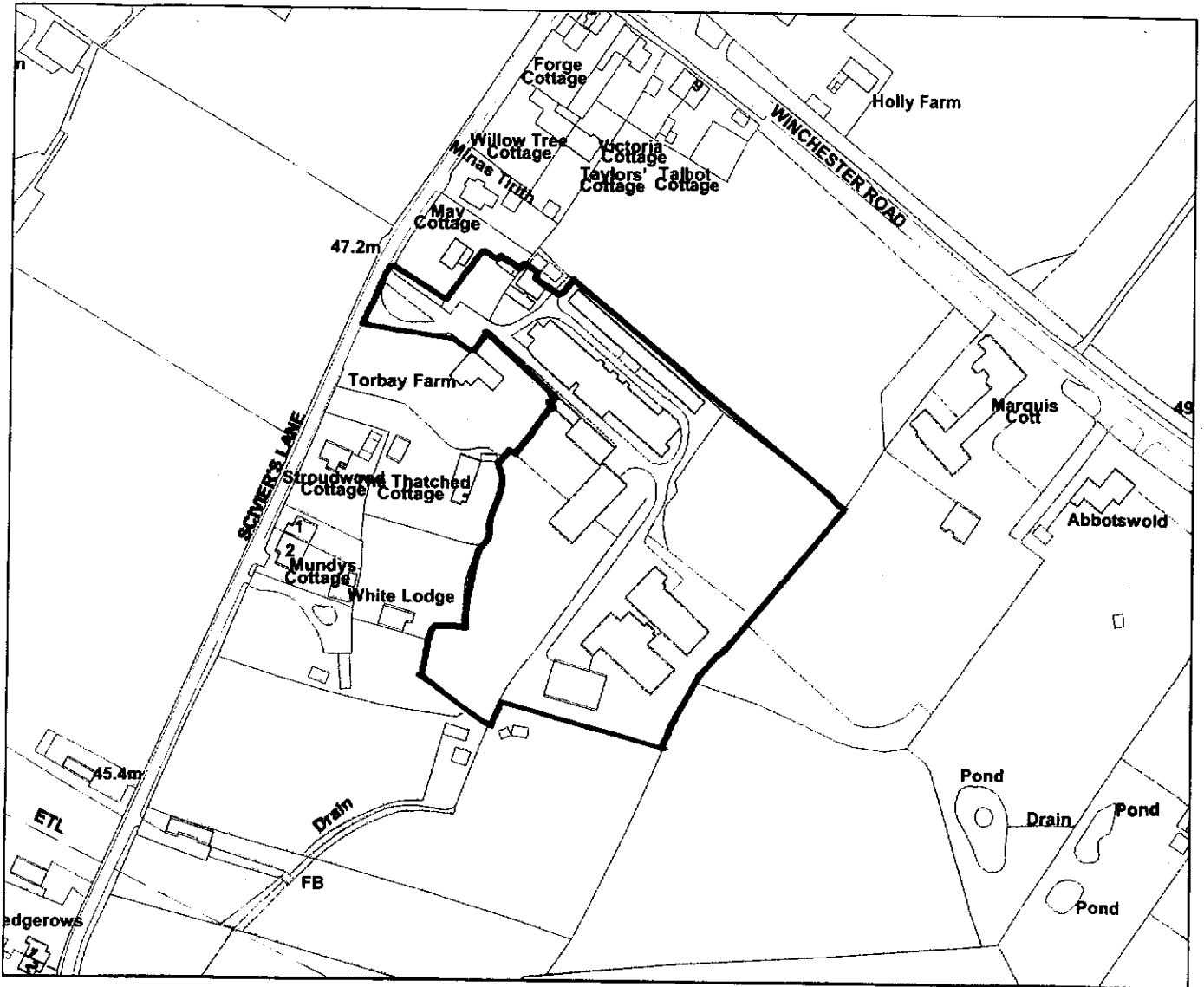


08/01284/FUL

Torbay Farm, Sciviers Lane, Lower Upham

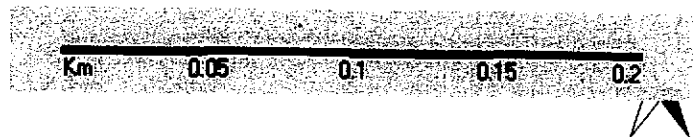


**Winchester**  
City Council



**Legend**

Scale:



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<b>Organisation</b>	Winchester City Council
<b>Department</b>	Development Services
<b>Comments</b>	
<b>Date</b>	09 September 2009
<b>SLA Number</b>	00018301