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5 July 2022

Dear Sir/Madam

SIEMENS PLC, NORTH FARM ROAD, HEBBURN, NE31 1LX – TOWN AND COUNTRY PLANNING (MODIFICATION AND DISCHARGE OF PLANNING OBLIGATIONS) REGULATIONS 1992: APPLICATION TO VARY S106 AGREEMENT PURSUANT TO PLANNING PERMISSION REF. ST/0017/12/FUL

On behalf of Siemens PLC ("*the Applicant*"), please find enclosed an application ("*the Application*") under Section 106A of the Town and Country Planning Act 1990 (as amended) ("*the TCPA*") for amendments to the Section 106 Agreement pursuant to planning permission ref: ST/0017/12/FUL, dated 23 April 2014.

THE SITE

The Siemens facility comprises circa 4ha of land at North Farm Road in Hebburn, South Tyneside. The facility comprises a number of buildings, with associated car parking and service yards, used for the service and repair of equipment, research and development, training and general office administration.

Planning permission was previously granted in February 2014 (ref: ST/0838/13/FUL), which permitted the development / expansion of site operations to accommodate works in connection with Thames Link. These works resulted in around 360-380 site based staff and vehicle movements, including heavy goods vehicles, associated with the development and manufacturing works carried out on behalf of Thames Link.

The facility is accessed via North Farm Road and a central service road splits the facility into two areas, known as Shop 7 (to the east of the spine road) and Shop 8 (to the west). This Application relates specifically to the service yard to the north of Shop 8, in the north-western part of the Siemens site ("*the Site*") (see **Figure 1** below). The service yard comprises just under 1,000 sqm of hardstanding for use in association with Shop 8. The use of the service yard is controlled by a number of planning obligations within a Section 106 Agreement, which was granted pursuant to planning permission ref: ST/0017/12/FUL in relation to the Persimmon Homes development to the north of the Siemens facility. These restrictions are explained in detail below. This residential area was previously part of a wider Siemens facility that was consolidated onto the current site.

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Figure 1: Aerial view of site with indicative red line boundary (Source: Google Maps)

The area surrounding the Siemens facility is characterised by a mix of uses. To the north is a housing estate, recently developed by Persimmon Homes. To the east is a railway line, beyond which lie further residential properties and The Green Energy Sports Ground. To the west, northwest and south is Hebburn Riverside Park, which separates the Siemens facility from the River Tyne. Also south of the Siemens facility are a number of allotments.

The nearest residential properties are those on St Aloysius View to the north, with associated gardens backing onto the Site. A 2.5m high engineered and retained rock wall lines the boundary between the Site and the residential properties, upon which sits a boundary fence. The Site sits at a level of approximately +35.3m AOD. The gardens of St Aloysius view slope from +38m AOD at the boundary with the Site down to approximately +36m nearest the dwellings (see **Figure 2**).

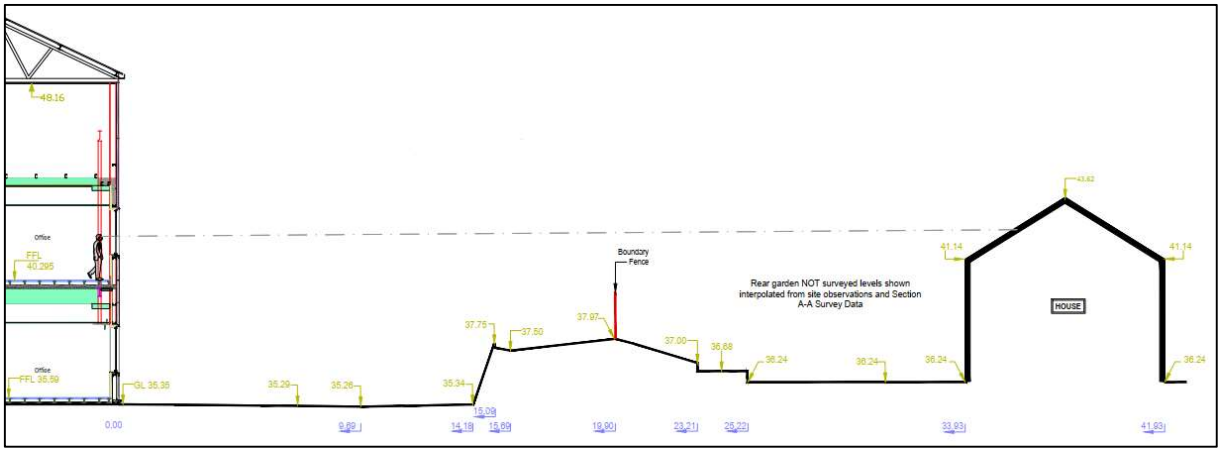


Figure 2: Section through the Site showing relationship with adjacent dwellings

In accordance with the adopted Local Development Framework, the Site falls within a designated "*Predominantly Industrial Area*", adjacent to an allocated "*Housing Site*" (SA9) and a "*Strategic Recreational Open Space*". The Site is located within Flood Zone 1. There are no listed building at the Site, or in the immediate vicinity, and the Site is not located in a Conservation Area.

BACKGROUND

Planning permission was granted in December 2020 (ref: ST/0382/20/FUL) for the refurbishment of Shop 8 (an existing light industrial building), including the insertion of a mezzanine floor, additional windows, upgraded entrances and ramped access. The permitted development also included the re-cladding of the building in grey metal composite panels.

The refurbishment makes best use of previously underutilised space within the building, providing approximately 1,645sqm of office floorspace to accommodate Siemens employees from their premises at Monkton Business Park upon the expiry of the lease there, as well as a number of staff from the adjacent Shop 7, which is due to be demolished in the near future (NB prior approval was granted for the demolition of Shop 7 in November 2011 (ref: ST/1008/21/DEM)).

Planning permission ref: ST/0382/20/FUL was implemented in 2021 and the refurbishment works have now been completed.

As a result of the refurbishment works, the main entrance and reception area to the office element have been relocated to the northeast elevation of the building. While some car parking already exists at the rear of Shop 8 for use by staff, this is not well suited for visitors to the premises. No existing provision is in place for the charging of electric vehicles. Furthermore, given its distance from the main office entrance, it is not well located for blue badge holders. There is, therefore, a need for separate visitor, blue badge and electric vehicle parking to be provided in close proximity to the main entrance of the building on the northeast elevation.

In addition, the consented refurbishment has resulted in amendments to the servicing doors, which are identified in the Section 106 Agreement (see below).

PROPOSED DEVELOPMENT

The Proposed Development comprises the laying out / use of part of the yard to the north of Shop 8 for visitor, blue badge and electric vehicle parking. A total of 20 no. car parking spaces are proposed within the yard, which include 2 no. blue badge bays and 8 no. electric vehicle charging bays. These spaces would be solely for the use of visitors, blue badge holders and electric car users, between the hours of 07:00 and 20:00. Staff parking will continue to be provided to the rear of the unit.

A "*deliveries only*" bay is also proposed within the yard, directly opposite the service doors.

The Proposed Development is shown in full detail on the "*External Car Parking & EV Charging Proposals Plan*" (Ref: CBN3088-42), which is submitted as part of this Application.

It is understood that the above works either do not comprise development requiring planning permission or that they comprise development that falls under permitted development rights. The exception to this is the installation of charging posts for the electric vehicle car charging bays. However, this is only the case because there is a Section 106 Agreement in place that prohibits the use of Zone B for car parking (see below). Subject to amendments to the Section 106 Agreement to permit the use of Zone B for car parking, it is understood that planning permission will not be required for the above works.

S106 AMENDMENTS

The Siemens facility site is subject to a Section 106 Agreement relating to the planning permission for the Persimmon Homes development directly to the north (ref: ST/0017/12/FUL). This was granted in 2014 and includes a number of obligations that were sought in order to protect the amenity of the new dwellings.

Schedule 4 of the Section 106 Agreement relates to "*Southern Boundary Mitigation Works*", specifically Building A (i.e. Shop 8) and Zone B (i.e. the service yard / the Site) (see **Figure 3** below).

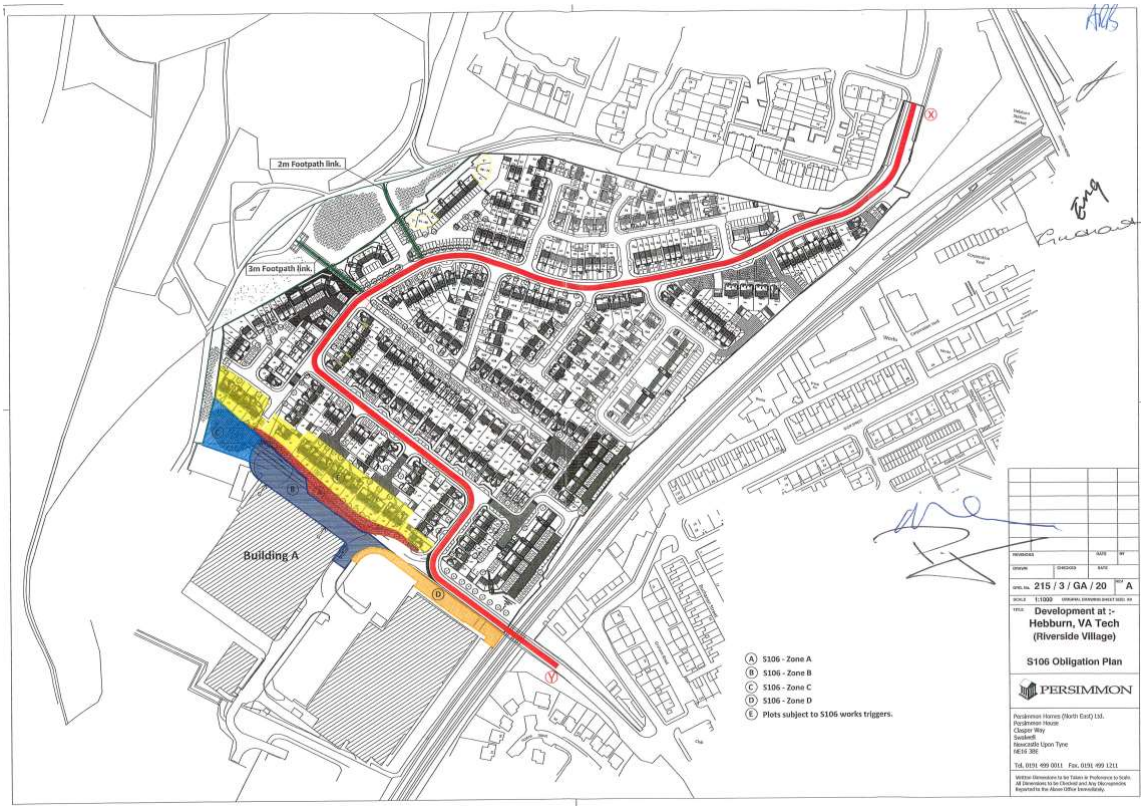


Figure 3: Extracted Plan from S106 Agreement pursuant to permission ref: ST/0017/12/FUL (23 April 2014)

Schedule 4, Clause 5 states:

> *"5. The Owner agrees with the Council that from the earlier of the date of first occupation of any of the Specified Dwellings or the date that the Estate Through Road is made available for public use, thereafter:*
>
> *5.1. it shall not use Building A other than for uses falling within Class B1 of the Town and Country Planning Use Classes Order 1987 which do not generate any more noise, vibration, smells, smoke, soot, ash, dust or grit than are produced by the use carried on at the date of this Agreement as evidenced by the Noise and Vibration Associates Report;*
>
> ***5.2. it shall not use Zone B other than for the purpose of providing pedestrian and vehicular access associated with the Owner's business on the Retained Land (our emphasis);***
>
> *5.3. it shall not store any goods, materials, equipment, skips, refuse or any other items within Zone B; and*
>
> ***5.4. all vehicles using Zone B to load or unload any goods, equipment, materials or any other items shall be backed up to the loading doors marked "G" on the Obligation Plan before any loading or unloading commences (our emphasis)."***

In accordance with Section 106A of the TCPA, this Application seeks to amend clause 5.2 to enable visitor, blue badge and electric vehicle parking to take place from within Zone B.

In addition, as a result of the refurbishment works undertaken pursuant to the December 2020 planning permission (ref: ST/0382/20/FUL), the arrangements set out under clause 5.4 have been superseded and no longer work from an operational perspective in terms of facilitating loading or unloading to the areas of the building that require direct deliveries (i.e. the catering department).

The former roller shutter door nearest to the new reception and main entrance has been replaced by a double steel door in broadly the same location. This new door provides direct access to the catering department. However, due to its proximity to the reception entrance, and the associated pedestrian activity in this area, it would not be safe to require delivery vehicles to back up to the door, as currently required under clause 5.4. Instead, a dedicated bay has been proposed for deliveries, which would be clearly marked out close to the service doors. Delivery vehicles would park in this bay and then unload and walk or trolley the goods in through these dedicated doors. A secondary delivery entrance is also shown on the proposed plan (i.e. the southernmost door), however it is envisaged that this would be used infrequently.

It should be noted that currently there is no obligation within the S106 or a condition on the planning permission for the refurbishment which restricts the hours when use of the external yard or servicing can take place. Condition 4 of planning permission ref: ST/0382/20/FUL only relates to the period of construction of the refurbishment works. As part of these proposals, Siemens are prepared to accept the following operational restrictions:

- The car parking hereby proposed shall not be used outside the hours of 07:00 to 20:00 Monday to Friday and not at all on Saturdays and Sundays.

- All loading and unloading of any goods, equipment, materials or other items in Zone B shall not take place outside the hours of 07:00 to 20:00 Monday to Friday and not at all on Saturdays and Sundays. All deliveries to Building A shall be made through loading doors marked on plan ref: CBN3088-42.

In order to facilitate the revised use of Zone B, the following revised wording is proposed:

> ***"5.2. it shall not use Zone B other than for the purpose of providing pedestrian and vehicular access and visitor, blue badge and electric vehicle car parking as shown on Plan ref: CBN3088-42 between the hours of 07:00 and 20:00 Monday to Friday associated with the Owner's business on the Retained Land;"***
>
> ***5.4. all vehicles using Zone B to load or unload any goods, equipment, materials or any other items shall ~~be backed up to the loading doors marked "G" on the Obligation Plan~~ be parked within the bay marked 'Deliveries Only' on plan ref: CBN3088-42 before any loading or unloading commences and shall walk or trolley goods directly to the doors marked on plan ref: CBN3088-42. All loading and unloading of goods, equipment, materials or other items shall only take place between the hours of 07:00 and 20:00 Monday to Friday."***

PLANNING POLICY CONTEXT

Town and Country Planning Act 1990

Section 70 of the Town and Country Planning Act 1990 states that when determining applications for planning permission, the Local Planning Authority (LPA) should *"have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations"*.

The Development Plan

The Development Plan for South Tyneside Council comprises the Local Development Framework ("*LDF*"), which is made up of:

- Core Strategy (2007);

- Development Management Policies (2011); and
- Site-Specific Allocations (2012).

A number of Area Action Plans ("*AAPs*") also form part of the Development Plan, however the Site does not fall within any of the AAP areas. The AAPs are, therefore, not relevant to the determination of this Application.

Emerging Planning Policy

The Council is in the process of preparing a new Local Plan, which will consolidate and replace the existing LDF documents. The Council undertook initial consultation on a pre-publication draft of the Local Plan (Regulation 18) between August and October 2019. Due to the early stage in the preparation of the Local Plan, no weight can be afforded to it.

Other Material Considerations

The revised National Planning Policy Framework ("*the NPPF*") was published in July 2021 and sets out the Government's planning policies for England and how these are to be applied. The revised NPPF replaces the previous Framework, published in March 2012, and forms a material consideration in the determination of planning applications.

The Planning Practice Guidance ("*the PPG*"), published on 6 March 2014 (and subsequently amended), provides further guidance on the implementation of the planning policies set out in the NPPF. The PPG is a material consideration and should be read in conjunction with the NPPF.

South Tyneside Council has also adopted a series of Supplementary Planning Documents and Supplementary Planning Guidance, which provide additional guidance and detail to support the effective implementation of adopted Development Plan policies.

PLANNING ASSESSMENT

Principle of Development

Policy DM1 (Management of Development) of the Development Management Policies recognises the importance of ensuring that the needs of all users for access around sites and into buildings are considered as an integral part of the development. This could be considered to include blue badge users, for whom mobility may be impaired, electric vehicle uses, for whom charging facilities do not currently exist, and visitors who are not familiar with the layout and configuration of the Siemens facility.

Core Strategy **Policy A1** (Improving Accessibility) identifies that parking standards will apply to new development, which are set out in the Parking Standards SPD (2010). The SPD states that the provision of disabled parking will be required for all new development at a rate of 6% of the total provision. It goes on to identify the need for disabled parking to be located as close as possible to the entrance, connected to the entrance without steps and sufficiently large to allow unobstructed wheelchair access. The SPD further states that facilities to support the use of electric cars will be encouraged.

For Class B1 uses, the SPD sets out a standard of 1 space per 30sqm (GFA) of development. When considering the existing total floorspace of Shop 8 (7,476sqm), this suggests a maximum provision of circa 250 car parking spaces. The existing provision for Shop 8 falls significantly below this standard. The existing spaces are located to the rear of the property and are used predominantly by employees of the facility. This Application seeks the addition of 20 no. spaces adjacent to the main office entrance, including 2 no. blue badge bays and 8 no. electric vehicle charging. The blue badge bays and electric vehicle charging bays would be for use by both staff and visitors, while the standard parking bays would be solely for the use of visitors. The total number of car parking spaces after the addition of 20 no. spaces would still fall well within the maximum standards defined by the SPD and would ensure that the needs of all users are satisfactorily met.

Furthermore, the provision of 8 no. electric vehicle charging bays will contribute towards meeting the national objective to encourage the increased use of electric vehicles.

In the light of the above, the principle of the Proposed Development is considered to be acceptable.

Amenity

Development Management **Policy DM1** identifies the need for development to be appropriate to its context and to be *"designed to convey sensitive consideration of its surroundings"*. It goes on to state that development should be acceptable in relation to its impact on residential amenity.

Policy EA5 (Environmental Protection) of the Core Strategy seeks to control development in the Borough so that, inter alia, it reduces levels of pollution, environmental risk and nuisance.

The relationship between the Site and the adjacent residential properties is recognised. It is acknowledged that there are currently restrictions on the type of activities that can take place within the Site in order to protect the amenity of the surrounding residential properties. There are, however, currently no restrictions on the hours when use of the external yard or servicing can take place.

While the Proposed Development seeks to alter the use of the service yard, thereby introducing a small amount of visitor, blue badge and electric vehicle parking, the hours of such use are proposed to be restricted to between 07:00-20:00 Monday-Friday, and not at all on Saturdays and Sundays. Furthermore, while revised delivery arrangements are proposed, the hours for which deliveries are to be permitted are proposed to be restricted to between 07:00-20:00 Monday-Friday, and not at all on Saturdays and Sundays. It is considered that the nature of activity proposed, together the proposed hours of use restrictions would offer the continued protection of residential amenity to surrounding properties.

A Noise Impact Assessment has been undertaken to consider the potential impact of the Proposed Development on the amenity of nearby residents. The Noise Impact Assessment considers the worst case predicted noise levels at the nearest dwellings on St Aloysius View and concludes that existing residents will not be subject to significant or other adverse impacts on the health and / or quality of life due to noise from the proposed use of Zone B.

In the light of the above, it is considered that the Proposed Development would not result in adverse impacts on residential amenity and would, therefore, comply with the relevant policies of the Development Plan.

In anticipation of the submission of this Application, and mindful of their relationship with local neighbours, Siemens have consulted with adjacent local residents. A letter (**Appendix 1**) was hand delivered on 10 March 2022 to all residential properties along the shared site boundary. Within this letter, Siemens invited residents to attend an open evening to discuss the proposals affecting the Zone B yard. Two open evenings were held, on 23 March and 24 March. No residents attended the open evenings, however a couple of responses were received, which are summarised below.

- No. 266 St Aloysius View – Phone call from residents to confirm that they will not be objecting.
- No. 238 St Aloysius View – Email from residents confirming Siemens have been good neighbours and that they have no objections to the application.

ADMINISTRATIVE MATTERS

This Application is submitted via email, and comprises:

- Application Form;
- Site Location Plan;
- External Car Parking & EV Charging Proposals Plan (Ref: CBN3088-42 Rev D);
- Proposed Car Parking & Vehicle Access Arrangements Plan (Ref: CBN3088-52 Rev A);
- Official copy of Land Registry; and
- Noise Impact Assessment.

A Deed of Variation to the Section 106 Agreement pursuant to planning permission ref: ST/0017/12/FUL will be progressed concurrently alongside the determination of the Application.

We look forward to receiving acknowledgement of registration of the Application shortly. In the interim, should you have any queried or require any further information, please do not hesitate to contact either Harriet Humphrey (harriet.humphrey@montagu-evans.co.uk) or Craig Blatchford (craig.blatchford@montagu-evans.co.uk) at this office.

Yours sincerely,

[redacted]

MONTAGU EVANS LLP

Enc.