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					AUTHORITY WOULD HAVE GRANTED PERMISSION SUBJECT TO CONDITIONS AND A S106 AGREEMENT TO SECURE REPLACEMENT TREE PLANTING AND ONGOING MAINTENANCE OF THE SAME
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Planning Committee

Report of Interim Head of Planning and Building Control on 28-May-2020

Plans List Item Number: 1.

Reason for bringing to committee: Major application

Location: LAND OFF FRYERS ROAD, BLOXWICH, WALSALL

Proposal: RESOURCE RECOVERY AND RENEWABLE ENERGY PRODUCTION FACILITY WITH A MAXIMUM GENERATING CAPACITY OF LESS THE 50 MWE, TOGETHER WITH ASSOCIATED ACCESS, INFRASTRUCTURE AND LANDSCAPING. (APPLICATION ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT).

Application Number: 19/1172

Applicant: Alasdair MacConnell

Agent: Mr Nick Roberts

Application Type: County Matters: Waste Application

Case Officer: Devinder Matharu

Ward: Birchills Leamore

Expired Date: 29-Dec-2019

Time Extension Expiry: 30-Jun-2020

Recommendation Summary: Grant Planning Permission Subject to Conditions and the finalising of planning conditions



Proposal

The application is for a resource recovery and renewable energy production facility with a maximum generating capacity of less than 50 MWe, together with associated access, infrastructure and landscaping. (application accompanied by an Environmental Statement).

- The proposal is based around an 'L' shaped main building. The larger section of the building fronting Fryers Road and the smaller section returns along the canal boundary. This would contain the reception hall; bunker; boiler hall; turbine hall; flue gas treatment (FGT) facility; incinerator bottom ash (IBA) handling facility (IBA would be exported from the site to enable metals to be extracted for recycling, with residual material processed into secondary aggregates); and offices, workshop, Stores and Staff Welfare facilities.
- The building would vary in height, taller at Fryers Road and lower towards the rear of the site alongside the canal. The lower offices measure 23m high, upper offices 28m high, the bunker parapet 38.10m high and the upper boiler hall parapet 49.5m high. This part of the development would face towards both Fryers Road and the canal boundary to the south.
- The waste pit would be irregular in shape measuring 61m maximum length.
- Four electrical containers set on a 1.4m high platform with a raised walkway measuring 23.3m in length, 4.5m high and to the top of the cart ladder 5.7m would be located to the western part of the site.
- The Air-Cooled Condenser (ACCs) would form a separate standalone structure situated adjacent to the 'L' shaped main building.
- The twin stacks (chimneys) would protrude through the FGT facility roof and extend to a height of circa 102.3m (248.3m AOD). Each stack would be circa 2.3m in diameter and would be braced together near the top.
- Ammonia Hydroxide Cylindrical tank 4m diameter by 5.12m high with associated fuel tank measuring 13.1m in length and 4m wide, the whole structure measuring 24.9m in length and 6.5m wide would face towards the canal.
- Residual silos would measure 9.5m wide and 27.5m high.
- The firewater tank 14m high with a cart ladder and 13m wide sitting on plinth of 14.4m in width and 14.2m high, the pump house measuring 6m by 6m and 3.7m high, the WPC control room measuring 13m by 7.1m and 3.5m high and the switch yard measuring 15m by 6.45m to sit in its own enclosure would all be located adjacent the northern part of the site adjacent Fryers Road.

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- A gatehouse measuring 14.5m by 4m and 4m high, having glazed panels would be positioned adjacent the access road/entrance.
- Boundary wall along Fryers Road frontage to be 2.4m high, palisade fence to the western boundary measuring 2.4m high, the existing palisade fence to the southern part of the site to remain, sliding gate to the access and a pedestrian safety railings along part of Fryers Road adjacent the canal.
- Bicycle shelter measuring 5.2m by 3.5m and 2.2m high along with the proposed parking facilities would front Fryers Road.
- Landscaping plan showing native tree planting to the northern section of the site adjacent the access and the southern section of the site adjacent the Wryley and Essington Canal. Ornamental planting within the site and grassland planting along Fryers Road frontage.

The Proposed Development would also include the following ancillary / infrastructure:

- vehicle weighbridges and weighbridge office;
- Tanks / silos (containing fuel oil, ammonia hydroxide, FGT residues);
- Internal circulation roadways / ramps and manoeuvring areas;
- Service connections;
- Surface water drainage;
- Lighting and CCTV;

The following supporting documents have been submitted with the application:

Planning Statement, which states:

- BH Energy Gap have engaged an Engineer Procure Contractor and technology suppliers to develop the facility and progress the design scheme. This process has resulted in the facility's technology being fixed as a grate combustion technology, of a type utilised in over 95% of the circa energy from waste facilities operating across the UK and Europe. Resulting in further design changes to the 3R's facility.
- Amendments include
 1. Finished ground levels on the site would match existing ground levels, as opposed to having been raised by the scheme approved under the 2015 permission.
 2. In order to accommodate the proposed combustion technology, the highest part of the main building, northern section of the boiler hall

would need to be raised, with the highest parapet level standing at 195.5m above ordnance datum, compared to 188.6m. All other elements of the main building would be lower than the boiler hall.

3. The height of the stacks AOD would be same as the 2015 Permission (248.3m AOD). However, the two (22.5m high) odour control stacks, as proposed in 2015, are not now required.
 4. The Air-Cooled Condenser (ACC) is now located away from the canal frontage and shielded by a section of building, lowering the impact on the canal footpath.
 5. 3Rs facility would need to connect to the external electricity grid at 132kV due to the infrastructure requirements of Western Power Distribution. This necessitates a larger electrical switchyard from that in the 2015 Permission.
 6. A single vehicular access / egress is now proposed (as opposed to two in the 2015 Permission). This would be located in the same position as the main access in the 2015 Permission.
 7. The gross power generation would now be 49.9 Megawatts (MW), with exported net power (after that required to run the facility) being approximately 43.5 MW. This compares with 27 MW gross and 23 MW net in the 2015 design. As such, calculated on a like for like basis, the 3Rs facility could now meet the UK annual average household electricity requirements of an additional circa 44,000 homes.
 8. The 3Rs facility would now only accept pre-processed / source segregated residual waste and thus there is no requirement for the Pre-Treatment Hall as contained in the 2015 scheme.
 9. The 3Rs facility would now treat circa 436,000 tonnes per annum (tpa) of residual waste, compared to a total facility throughput of circa 300,000 tpa in the scheme granted under the 2015 Permission.
 10. The application resulting in the 2015 Permission forecast a daily average of 99 HGV arrivals and 99 HGV departures (i.e. 99 HGV trips). This daily average would not be exceeded in the scheme as now proposed.
- The 3Rs facility, as now proposed comprises a conventional, twin line, moving grate combustion plant for the recovery of energy from residual waste. The residual waste would be non-hazardous waste primarily from commercial and industrial sources and may include some municipal waste. Residual waste, defined more fully subsequently, is that waste which remains after re-use and recycling / composting operations have taken place.
 - The Proposed Development would generate electricity by way of a steam turbine, which would be driven through the controlled combustion of residual

waste. The gross power generating capacity of the 3Rs facility would be 49.9 MW. After subtracting the power used to run the facility itself, it would have the ability to export approximately 43.5MW of electricity to the local electricity grid, a significant proportion of which would be classed as renewable. This is sufficient to meet the average annual domestic electricity needs of over 93,000 homes. It would also be capable of exporting heat, in the form of steam or hot water, to local heat users. It would provide a potential source heat in location where further employment growth is planned and represents a significant capital investment in the local area.

- The 3Rs facility represents a circa £230 million capital infrastructure investment and when operational it would employ 50 people in permanent roles.
- It would operate 24 hours per day, 365 days per year.
- HGV delivery hours would similarly be restricted to 07.30 – 19.00 on weekdays and 07.30 – 13.00 on Saturdays, with no HGV movements on Sundays. The total number of average daily HGV movements would be no greater than for the proposal approved in the 2015 Permission.
- Site levels are circa 153m AOD on the northern boundary and circa 146m / 147m AOD in the south-eastern and south-western corners respectively.

An Environmental Statement has been prepared in accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations 2017).

Technical Note on Noise, which addresses noise along the canal towpath and concludes the canal footpath, would only be used by the public during daytime periods for short periods and the footpath is immediately adjacent to an industrial estate, which produces noise from various uses. The results show that this section of the canal is not a tranquil area and therefore we do not consider this to be a particularly sensitive area of recreation and concludes:

- I. The predicted noise level range along the relevant section of footpath reasonable design range for this type of environment and existing ambient levels.
- II. Predicted noise levels are shown to be within a reasonable design range for a residential setting, which is more sensitive than the canal footpath.
- III. Predicted noise levels would not generate an adverse impact on the users of the canal.

A technical note response to the CRT regarding odour concludes;

1. Odour generating operations would be conducted within enclosed buildings, and vehicles would deposit the waste into an enclosed tipping hall.

2. The tipping hall would be held under negative pressure, with the air being used in the combustion process. This minimises the release of odours from the building when the doors are opened for short periods for deliveries.
3. There would be storage of waste within the waste bunker, but this would be within the enclosed tipping / bunker hall and waste would not be stored for prolonged periods.
4. There would be no waste stored outside the buildings.
5. During normal operations, any odours would be drawn into the combustion process and eliminated by the combustion process itself.
6. There would be no release of odour from the stack.
7. During periods of shutdown deodorants would be used within the bunker when negative pressure is not available.
8. Mitigation measures are intended to prevent an unacceptable level of odour beyond the Site boundary.
9. Odour source potential is considered to be small.

Further supporting information regarding the proposed facility:

1. The real EfW capacity is measured the thermal capacity of the boiler and the relationship between tonnage throughput and thermal size is dictated by the Calorific Value (CV) of the residual waste (which is the energy content of the waste).
2. The higher the CV of the residual waste, the lower the tonnage throughput of any given thermal treatment plant and vice versa. The final variable is then the number of hours per year a plant operates.
3. The anticipated plant throughput is 436,000 tpa (tonnes per annum) based on 7,998 operating hours per year (circa 91.3% of the year); and a residual waste net CV of 10.5 MJ/kg.
4. A worst-case scenario has considered the waste net CV dropping to 10 MJ/kg. This is referred to as the sensitivity test; and under this scenario, based upon the same operating hours (i.e. 91.3% of the year), the total waste throughput would be 457,800 tpa. This latter, worse case figure is actually rounded to 458,000 tpa in several places, including on the application forms. If we were to received waste with a very high CV (say 12 MJ/kg), then the actual throughput capacity of the facility would drop to under 400,000 tpa.
5. The ES assessments sensitive to tonnage (such as the Transport Assessment) adopt the higher figure in order to show that the worst-case scenario has been robustly assessed.

6. Non-hazardous waste EfW projects are captured under the NSIP regime by way of section 15 of the Planning Act 2008 as Generating Stations.
7. The NSIP threshold is where the (installed) generating capacity is more than 50MW. The maximum installed (gross) generating capacity of the amended 3Rs facility is 49.9MW. The scheme is CHP ready and that the government explicitly recognise the difficulties in securing heat off-take in advance of a development being constructed. It is perfectly acceptable for the Council to condition the plant being CHP ready.
8. The site is appropriately allocated for the proposed use. It is acknowledged that the development identified in the Walsall SAD refers to a scheme of up to 300,000 tpa capacity and the current application is larger. However, ultimately it is a waste recovery facility on an allocated waste recovery site, akin to an industrial process in an established industrial area, zoned for industrial use.
9. The 2019 Transport Assessment (ES Appendix 12-1) concludes there would be no net increase in HGV numbers (over the extant consent) is correct. By way of explanation:
 - a. The derivation of the HGV flows for the extant permission is the 2013 TA, which forms Appendix 12-2 to our current application. Reference to paragraph 7.22 of that document shows that there was 82 HGV arrivals per day and 82 HGV departures per day associated with the import of waste and materials; and 17 HGV arrivals per day and 17 HGV departures per day associated with the export of materials and residue i.e. 198 HGV movements per day.
 - b. The 2019 TA at Table 6.2 shows the breakdown of all imports and exports (by product) and confirms that total HGV movements would remain at 198 per day.
 - c. There are two reasons why the HGV numbers would not increase:
 1. Firstly, the extant permission relates to a scheme with a 200,000 tpa EfW facility and a 100,000 tpa MRF (recycling facility). Thus, 300,000 tpa of waste and some limited consumables are imported, but ~58,000 tpa of ash and 100,000 tpa of processed recyclables and process waste rejects are exported. Thus, 458,000 tpa of material is transferred by HGV.
 2. The current 2019 scheme has (in the lower energy content worst case scenario) circa 457,800 tpa and some limited consumables imported, and ~132,820 tpa of ash exported. This gives ~ 591,000 tpa of material transferred by HGV, noting that there are no exports of processed recyclables associated with the current scheme.
 3. Secondly, the 2013 TA Table 7.4 shows that over 50% of the HGV are using 8 or 10 tonne payloads associated with direct deliveries. The 2019 TA at Table 6.2 shows that waste import payloads are

20.3 tonnes (overall average). This is because all waste will be contracted from third party waste suppliers who intend to bulk haul the waste to the site. Thus, for waste import alone, there will be fewer HGV movements associated with the current, larger 2019 scheme than the smaller 2015 extant permission.

Technical note on storage of Ammonia Hydroxide

- The use of ammonium hydroxide solution is common on EfW sites.
- The greater effectiveness of ammonium hydroxide at removing NO_x, along with the associated reduction in greenhouse gas emissions, outweighs the additional burden of more stringent requirements for handling and storage.
- The risks associated with the storage and handling of ammonium hydroxide solution can be overcome through suitable design of storage tanks and pipework and the use of suitable procedures for safe handling and delivery.
- The choice and use of chemicals on the site will be regulated and controlled by the Environment Agency through the environmental permit.
- The Canal and River Trust has also considered the risk of pollution pathways from the site into the canal.
- Ammonium hydroxide solution will be delivered to the facility at a diluted concentration of 24.5% in designated road tankers.
- On arrival to site tankers will park in a designated unloading area. This area will be graded to fall to a holding tank with a capacity equal to 110% of the largest delivery tanker.
- There will be an interlock in the control system to prevent unloading before an isolation/divertor valve is closed such that any spillage will be contained. In any case, surface water drains from the designated unloading area will not be routed to the clean surface water system.
- When the isolation/divertor valve is in the open/normal position i.e. when there are no delivery vehicles present, surface water will be routed to the recycled water system for use by onsite consumers such as the bottom ash quench bath, such that it is retained on site. This will prevent spillages into the drainage system.
- Road tankers will transfer the contents of the tanker into the storage tank via a pump at the lowest possible pressure. The storage tank filling connections will be clearly marked.
- During the unloading process there will be a return line connected between the vapour space of the tank and the road tanker to allow the displaced vapours caused by the increasing level in the onsite tank to be vented to the

road tanker. This prevents the release of any emissions to the atmosphere and removes the need for any open vents.

- Vessel filling connections will be provided with drip trays or bunds to collect any drips or spillages during unloading operations.
- Deliveries are expected to be relatively infrequent, therefore road tankers will not be expected to remain on site prior to or after offloading for any length of time.
- The storage tank will be located within a controlled area, with impermeable secondary containment having a volume of 110% of the stored capacity.
- Re-filling activities will be supervised by trained operational staff.
- Tanker unloading areas will include ammonia detection systems to identify the release of ammonium hydroxide during unloading activities. This detection system will be linked to the control system, which will raise an alarm in the event of any spillages to ensure a prompt response.
- The design of the ammonia hydroxide system will go through a full HAZOP assessment and will be reviewed under the DSEAR regulations during the design phase.

Site and Surroundings

The Site is triangular in shape, and slopes gently from north to south and comprises of 3.47 hectares of vacant land located on the southern fringe of Bloxwich, approximately 0.7km south west of Bloxwich district centre.

The Site boundary is currently defined by galvanised steel palisade fencing. There is existing scrub planting located along the southern boundary, adjacent to the Wyrley and Essington Canal, a Site of Local of Importance Nature Conservation, and further bands of scrub along part of the eastern boundary. There is a disused railhead located in the northern part of the Site. The main body of the Site is covered by rough grassland with sporadic patches of immature scrub.

The site is also within the 50m bat buffer zone.

Fryers Road provides access to surrounding industrial / commercial development and offers the principle point of access to the Site via an existing bellmouth junction. Other development along or served off Fryers Road include numerous industrial and manufacturing units, a scrap metal / breakers yard, a skip hire business and the Household Waste Recycling Centre.

The southern boundary of the Site is adjacent to the Wyrley and Essington Canal, beyond which lies further industrial and commercial development. To the west and south west of the Site are industrial buildings and Bloxwich Business Park beyond.

The closest residential properties are located on Irvine Road, approx 170m to the east. The Site is separated from these residential properties by commercial businesses and the Birmingham to Lichfield railway line.

The Site has a long industrial heritage, having been previously developed, and lies within an established industrial area. Previous industrial activity on the Site ranges from the mining of productive seams within the underlying coal measures, to metal processing associated with the former Trident Alloys Facility located to the west.

The railway is located to the east of the site beyond the industrial units that form a buffer between the site and the railway.

The nearest part of the site is 67m away and the furthest part of the site is 206m away from the railway.

Relevant Planning History

15/1157- Application to vary details of permission 13/0725/WA for the development of a resource recovery and renewable energy production facility together with an additional site entrance from Fryers Road, associated infrastructure, parking and landscaping. Application accompanied by an Environmental Statement. Amendments relate to: site layout and access, increased stack heights and changes to building shape and elevations. Grant subject to conditions 13-Nov-2015.

15/0787/SCOP - Environmental Impact Assessment Scoping Opinion for a proposed resource recovery and renewable energy production facility – Scoping Opinion Response given 02/07/15.

13/0725/WA – Development of a Resource Recovery and Renewable Energy Production Facility together with the construction of an additional site entrance from Fryers Road, associated infrastructure, parking and landscaping. Application is accompanied by an Environment Statement – GSC 06/09/13.

13/0320/ND - Environment Impact Assessment Scoping Opinion for resource recovery and renewable energy facility together with additional site entrance, car parking, landscaping and associated works - Scoping Opinion Response given 19/04/13.

12/0870/ND - Environment Impact Assessment Scoping Opinion for resource recovery and renewable energy facility together with additional site entrance, car parking, landscaping and associated works - Scoping Opinion Response given 13/08/12.

11/1336/TE - Extension of time to build combined heat and power (CHP) plant approved under 08/1459/FL – GSC 09/12/11.

10/1632/TE - Time Extension to 07/0449/OL/W7 and subsequent reserved matters under 08/1815/RM to allow additional time to implement the approved development – GSC 28/01/11.

08/1815/RM - Amendment to approved reserved matters (ref 07/1691/RM/W7) of planning permission reference 07/0449/OL/W7 re: condition 2(A) (Layout), 2(B) (Appearance), 2(C) (scale) and 2(D) (Landscaping) – Approved Reserved Matters 07/01/09.

07/1691/RM/W7 – Application for the approval of Reserved Matters in respect of development of industrial units, additional access, associated internal access road, parking and landscape relating to outline planning permission reference 07/0449/OL/W7 – Approved Reserved Matters 19/10/07.

07/0449/OL/W7 - Development of Industrial Units, Additional Access, Associated Internal Access Roads, Parking & Landscaping – GSC 06/06/07.

06/2115/ND/W7 - Screening Opinion: Proposed Development of Industrial Units and Associated Access Road, Parking and Landscaping – Environmental Assessment not required 22/01/07.

Willenhall Lane

18/1559 Redevelopment of site with the erection of 6 Industrial units (Use Class B1c, B2 and B8), ancillary service areas, car parking and cycle parking. Grant subject to conditions March 2020.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**

- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**
- **NPPF 17 – Facilitating the sustainable use of minerals**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- 3.13 to 3.15 Building Conservation & Archaeology
- GP2: Environmental Protection
- ENV9: Environmental Improvement Initiatives
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV26: Industrial Archaeology

- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T1 - Helping People to Get Around
- T2 - Bus Services
- T3- The rail and metro services
- T6-Traffic Calming
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP1: The Growth Network
- CSP3: Environmental Infrastructure
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- EMP5: Improving Access to the Labour Market
- TRAN1: Priorities for the Development of the Transport Network
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV4: Canals
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality
- WM1: Sustainable Waste and Resource Management
- WM2: Protecting and Enhancing Existing Waste Management Capacity
- WM3: Strategic Waste Management Proposals
- WM4: Locational Considerations for New Waste Management Facilities

Walsall Site Allocation Document 2019

- IND3: Retained Local Quality Industry
- EN4: Canals
- W2: Existing Waste management Sites
- W3: New Waste Management Development- Waste Treatment and Transfer
- W4: New Waste management Development- Waste Disposal
- T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- **Section 5 – Mitigation and Compensation:**
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 – Viability

Other relevant legislation

Department for Environment, Food, Rural Affairs: Resources and waste strategy at a glance 2019.

Consultation Replies

Network Rail – No objection subject to planning conditions requiring details of vibro compaction machinery and piling machinery, and subject to tower cranes not impacting upon bridges ensuring the developer contacts the highway authority.

Fire Officer – No objection subject to fire appliance access and suitable water supplies.

Severn Trent Water – No objection subject to drainage condition.

Archaeology – No objection

Highways – No objection subject to planning conditions relating to access, parking and construction management plan.

Public Health – No objection

Cadent – No objection subject to notes on gas installations.

Police – No objection subject to secure by design for commercial uses.

Lichfield Council – No objection

Coal Authority – No objection subject to planning conditions regarding land stability and ground gas due to previous history of mining in the area.

Pollution Control – No objection subject to planning conditions relating to contaminated land, noise and air quality.

Canal and River Trust – No objection subject to planning conditions relating to lighting, landscaping and construction management plan.

Strategic Policy – No objection but queries whether this is a nationally significant infrastructure project and advises the level of energy is conditioned at 49.9kw.

Representations

Seven letters from six residents have been received objecting to the proposal on the following grounds (officer comments in italics):

- Resident has left the Borough- *Noted*
- Application for resource recovery does not make sense to residents
- Impact upon office and factory workers
- Increased smell of waste

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- Food company operating from Leamore Enterprise Park
- Storage of hazardous waste including ammonia hydroxide, fuel oil, other fluids and processed liquid waste.
- What measures are in place for controlling and monitoring emissions from the stack
- Increased traffic
- vermin

Cllr Jeavons has made the following comments:

- no chemical storage on previous application.
- Concerns over storage facility of around 50m³ for ammonium hydroxide.
- Ammonium hydroxide is corrosive and can cause burns, is an irritant if inhaled at low concentration and has toxic effects to humans at high concentration.
- the storage facility is suitably bunded
- information on material for tank construction
- what training will be given to operation staff in terms of handling this material
- what the plans are for remedial work in the case of a spillage
- Will the Tankers be immediately offloaded and driven away or will tanks be parked up on site for any length of time?
- What plans are there for failure of connection at the tanker end, is the tanker parking area bunded?

Determining Issues

- Principle of the development
- Layout and design
- Archaeology and Land stability
- Air Quality, Noise & Contamination
- Visual Impact
- Impact upon the canal, landscaping and ecology
- Impact on the amenities of the surrounding area
- Highway safety, access and parking

Assessment of the Proposal

Principle of the development

The principle of the development for a resource recovery and renewable energy production facility has already been approved under application 13/0725/WA and 15/1157.

The 2015 permission was to treat 300,000 tonnes of commercial and industrial waste (as previously approved in 2013) but the energy produced would have increased from 19 megawatts to 27 megawatts. With the plant, using 4 megawatts and the

remainder exported to the National Grid to provide electricity for more than 51,000 homes, which is 9,000 more homes than the earlier scheme.

The amended scheme is larger and different in that electricity would be generated by a steam turbine and the gross power generation would be 49.9 Megawatts. The plant would use 6.4 megawatts and the remainder 43.5 megawatts being exported to the National Grid to provide electricity for an additional 44,000 homes, in total providing electricity for 93,000 homes.

The proposed facility will only accept pre-processed / source segregated residual waste and therefore no requirement for the Pre-Treatment Hall as contained within the 2015 scheme. The proposed facility comprises a conventional, twin line, moving grate combustion plant for the recovery of energy from residual waste treating 436,000 tonnes per annum of residual waste compared to 300,000 tonnes per annum of residual waste under the 2015 permission. The residual waste (remains from re-cycling/composting operations) would be non-hazardous waste primarily from commercial and industrial sources and may include some municipal waste. SAD Policy W3 (2019) limits the annual throughput capacity by tonnes per annum to 300,000. The supporting documents clarify that number of vehicle trips to and from the site would not change and the site has previous approval for a smaller scheme.

The facility would also be capable of exporting heat, in the form of steam or hot water, to local heat users. It would provide a potential source heat in location where further employment growth is planned and represents a significant capital investment in the local area.

Strategic Policy have raised queried as to whether the proposed development is a NSIP (nationally significant infrastructure project). NSIP's are large scale projects falling into five general categories (Energy; Transport; Water; Waste Water and Waste). The planning agent makes it very clear in that the NSIP threshold is a generating capacity of over 50WM at any one time and does not relate to waste throughput. The predicted 49.9MW electricity capacity will be the operating limit of the turbine, as the turbine has a capacity limit for the amount of waste processed. The facility would not allow more waste to be processed to produce more energy.

Furthermore, the planning agent states 'the application and the facility design has been specifically set at that threshold to be consented under the 1990 Planning Act, in line with a wide range of EfW precedents (such as AXIS North Beck Energy Centre scheme in North East Lincolnshire).

The proposed development would be a £230 million capital infrastructure investment and when operational employ 50 people in permanent roles.

The proposed scheme may be larger than that previously approved; however, the principle of development has been accepted and the impacts are discussed below.

Layout and design

The bulk of the development would comprise of an 'L' shaped building that would front Fryers Road to the east of the site and the canal boundary to the south of the site.

To accommodate the combustion technology, the highest part of the main building, the northern section of the boiler hall would need to be raised, with the highest part of the parapet level standing at 195.5m compared to 188.6m on the previously approved scheme in 2015. The finished floor levels would match those as existing as opposed to being raised as proposed under the previously approved scheme. The height of the stacks would be the same as the 2015 permission at 248.3m high.

Two of the previously approved high odour control stacks under the 2015 permission are no longer required under the current proposal.

The proposed facility would need to connect to the external electricity grid at 132kV due to the infrastructure requirements of Western Power Distribution, a larger electrical switchyard from that previously approved in 2015 is required. The switchyard would be located adjacent Fryers Road frontage.

The proposal is considered to be in keeping with the scale and massing of adjacent commercial buildings and are not untypical of the types of structures found within industrial areas or on commercial land of this size. The visual impact of the proposed stacks were considered under the previous application and as such, it is considered the increase in the height of the building, the overall scale and mass of the buildings, and the stacks are acceptable and would not be visually detrimental in an industrial setting within an established industrial area.

The proposal seeks to erect lighting within the site, no details have been provided, however these can be secured by way of a planning condition.

The submitted plans highlight the proposed materials for the construction of the development, as such; it is considered these are acceptable given the industrial nature of the site.

Archaeology and Land Stability

The site is in the area of the former mid-late 19th century Hatherton Brick Works, with extensive quarrying and extraction illustrated on historic mapping within the site boundaries. There is also a former canal basin off the Wyrley and Essington Canal shown on these maps in the south-west corner of the development site, however it is just outside the area of the proposed new building, so potentially any archaeological remains that are present would not be affected by the new development. The Archaeological Officer has no objection to the proposal.

The Coal Authority have advised that the site lies within a high risk coal mining area with potential ground gas issues and as such a coal mining risk assessment would be required. This can be secured by planning condition to ensure the stability of the land in accordance with Policy ENV14 of the UDP.

The railway is located to the east of the site beyond the industrial units that form a buffer between the site and the railway. The nearest part of the site is 67m away and the furthest part of the site is 206m away from the railway. Network Rail have no objections subject to planning conditions regarding piling works, vibration and details of the tower crane which can be sought by planning condition.

Air Quality, Noise & Contamination

Neighbouring commercial occupiers have raised concerns over what measures are in place for controlling and monitoring emissions from the stack. The waste management and power generation activities will operate under an Environmental Permit issued by the Environment Agency controlling noise, odour, atmospheric emissions, discharges to water courses and air and controls on storage of pollutant materials. The EA will place conditions requiring on-going inspection, record keeping and maintenance. The supporting documentation shows that the proposed changes will not result in an unacceptable environmental impact and anticipated emissions into the atmosphere will meet the criteria required to comply with the conditions specified in the Environmental Permit. The applicant intends to implement an Environmental Management System to be regulated by the Environment Agency.

The supporting information indicates that odours are to be minimised by drawing air from the Bunker and Reception (Tipping) Hall and into the furnaces to feed the combustion process creating a slight negative pressure. This negative pressure assists in the prevention of odours, dust and litter from escaping from the building.

The proposal has sought to minimise noise impacts from the air cool condenser units by relocating them on site and screening them away from nearby residential premises. Whilst there is the potential for noise impact to nearby residential premises, several mitigation measures have been recommended in supporting documents to help minimise any impact. Noise mitigation measures would be secured by way of a planning condition.

Contaminated land and gas investigations have identified that the site is contaminated and has elevated ground gas levels. A remediation methodology/statement will need to be agreed with the Environment Agency for groundwater pollution and whilst Pollution Control agree with the submitted remedial statement land contamination details on the site will be secured by planning conditions.

Cllr Jeavons has queries regarding why an ammonia hydroxide tank is required on site including the storage, delivery etc. Further supporting information has been received stating that the delivery of ammonia hydroxide would be infrequent and required on site as it is more effective in removing nitrogen oxides in the process. This further supporting information also outlines how the chemical would be dealt with upon arrival at the facility and in the event of any leaks and spillages and would be regulated by the Environment Agency.

A detailed air quality dispersion modelling in support of the application has been undertaken showing the development will not result in an exceedance of any air quality objective, which is in accordance with modelling conducted in-house by Pollution Control. A planning condition is recommended to ensure the applicant installs electric-vehicle charging points and implement a Travel Plan, in accordance with the Air Quality Supplementary Planning Document. Any potential impacts on site regarding noise, dust, vibration etc would be controlled through the submission of a Construction Environmental Management Plan.

A planning condition is recommended to ensure waste and material deliveries would only take place between the hours of 07:30 and 19:00 weekdays and 07:30 to 13:00 on Saturdays, minimising local environmental impacts from noise and vehicle fumes.

Visual Impact

The main impact of the proposal is that the building would be 195.5m above ordnance datum, compared to 188.6m from the scheme approved in 2015. All other elements of the main building would be lower than the boiler hall. It is considered this 9.5m increase in height would not, in the greater scheme of the proposed development result in the proposed building being visually detrimental.

The proposed stack is over 246m away from the nearest housing on Moorland Road and over 300m away from nearest housing in Irvine Road and Water Reed Grove. There are industrial buildings surrounding the site which interrupt views of the site and the canal to the south and railway to the east provide a further buffer. The height of the stack is considered not be obtrusive to such an extent as to cause harm to the visual amenities of the area. The stack will also be masked to some extent by the building and will be viewed in comparison to the existing stack at the adjacent site. The properties on the southern part of Moorland Road are over 450m away but this does allow a distant view of the stack. Again, this is not sufficient to cause significant harm to the outlook from these properties. The stack is clad in a grey colour so will not be a stark contrast to the sky.

The proposed development will seek the repositioning of the proposed access further along Fryers Road with a switchyard and visitor parking area along Fryers Road frontage. The internal road into the site to be relocated further to the rear of

the site and the building to extend in a continuous line along the canal boundary and along Fryers Road. The central part of the site would include a waste pit. The site in terms of its layout from the previously approved scheme in 2015 has come on and developed into the site making use of the entire site. The proposed mass and bulk of the building will remain along Fryer Road elevation, with the building extending along the canal boundary. The building would be stepped to provide visual breaks along the Fryers Road frontage and along the canal, so as to ensure the proposed building is not visually intrusive when seen from both Fryers Road and the canal. The proposed switchyard to the front of the site, whilst would be visible, it is considered it would not be visually intrusive to warrant refusal of the application.

The proposals will be comparable to other developed industrial sites along Fryers Road so the visual impact within the street is not significant.

On balance taking account of the above comments it is considered the visual impact of the revised proposals are not significantly greater than the approved scheme.

Impact upon the canal, landscaping and ecology

To the south of the application site is the Wryley and Essington Canal. The proposed development is situated further away from the canal boundary than the 2015 permission in some parts. The proposal has sought to reposition features on site which would appear visually intrusive from the canal towpath.

The proposed building would be seen from along the canal towpath, the proposal seeks to enhance landscaping along the canal corridor to provide screening. The CRT have requested landscaping details to be submitted and approved, which can be secured by planning condition. This is particularly important as the canal is a SLINC and it is vital to ensure any landscaping seeks to enhance this SLINC planting. To safeguard habitats and any foraging bats across the site, details of any proposed lighting adjacent the canal and within the site would be sought by planning condition.

Under the current scheme, the air-cooled condenser units are now located away from the canal frontage and shielded by a section of building, lowering the impact on the canal footpath.

The Canal and River Trust originally had concerns relating to the potential impact of noise and odour for users of the canal towpath in close proximity to the facility. Further supporting information has been submitted stating the noise backgrounds were lower along the canal towpath than on weekdays due to adjacent commercial activity, traffic noise etc with existing noise levels ranging between 49dB to 65dB LAeq15mins during daytime periods between 07:00 to 23:00 hours over a weekend period. The information further states the canal footpath would only be used by the public during daytime periods for short periods and the footpath is immediately adjacent to an industrial estate, which produces noise from various uses. As such, the results show that this section of the canal is not a tranquil area and therefore

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considered not to be a particularly sensitive area of recreation. The predicted noise levels are shown to be within a reasonable design range for a residential setting, which is more sensitive than the canal footpath and would not generate an adverse impact on the users of the canal.

With regards to odour, the odour generating operations would be conducted within the enclosed building and vehicles would deposit the waste into an enclosed tipping hall. The negative pressure odours would be drawn into the combustion process and any waste stored in the bunker would not be stored for prolonged periods. As such, any potential odour source along the canal would be minimal.

The Canal and River Trust recommended planning conditions in relation to lighting, landscaping, surface water drainage and construction management plan.

Impact on the amenities of the surrounding area

The site is surrounded by other industrial premises with the exception of the canal. The relationship to the canal and the nearest housing is discussed above when considering the visual impact of the proposals.

Neighbouring industrial occupiers have raised concerns that the application does not make sense and would impact upon office and factory workers. One objector has referred to the fact they are food company operating at Leamore Enterprise Park. The site is within a core employment area and is surrounded primarily by industrial premises so the proposals are considered appropriate and do not harm the character of the area to such an extent as to disturb commercial occupiers. Safeguarding conditions are recommended to mitigate potential adverse effects and the Environmental Permit will add further safeguarding measures.

The processes involved and the operation of the premises or amount of traffic visiting the site, has already been considered to be acceptable under the previous approval under 2015. In the circumstances, there will be no greater impact in terms of peace and quiet of residents or health hazards. The recommended conditions will protect against pollution and the premises will be licensed by the Environment Agency who also monitors the site.

The processes take place within the building and there is adequate parking and access arrangements so the proposals should not have any significant impact on surrounding industrial occupiers.

Neighbouring commercial occupiers have also objected on the grounds that the proposal will attract vermin, there is no evidence to support this. Furthermore, any issues regarding vermin can be dealt with under environmental health legislation.

Pollution Control have sought a planning condition restricting the proposed hours of use for construction work, it is considered should any noise issues arise they can be dealt with under environmental health legislation.

On this basis, the amendments to the proposals do not have any significant impact on the amenities of the surrounding area.

Highway safety, access and parking

The proposed scheme now introduces a single access point off Fryers Road removing the staff only access and retaining the previously approved HCV access on Fryers Road.

The supporting information states that the facility would operate 24 hours a day, 365 days a year with delivery times restricted on weekdays and Sundays but overall the total number of average daily HGV movements would be no greater than for the proposal approved in the 2015 Permission.

The scheme will not exceed the predicted 99-two way HCV trips approved under the extant permission 15/1157.

The predicted traffic generation and impact on the highway network has been considered under several approvals; 07/0449/OL for B2/B8 Industrial Units, 08/1459/FL for a Combined Heat and Power Plant, 13/0725/WA and 15/1157 for a Resource Recovery and Renewal Energy Plant. The 2007 and 2008 applications predicted higher levels of traffic generation than the 2015 permission and it was found that they would have no significant impact on the local highway network. The current application which predicts the same traffic as the 2015 application will therefore also have no significant impact.

Given the above it is considered that the neighbouring commercial occupiers objections to the proposal on the grounds that the proposal would increase traffic have been satisfactorily addressed.

On balance, the Highway Authority considers that the impacts of the development will not present unacceptable road safety issues and will not have severe transportation impacts and is therefore acceptable in accordance with NPPF 2018 para 109.

Conclusions and Reasons for Decision

The principle of development, the layout and design are acceptable. The proposed facility would be set amongst other commercial/industrial units along Fryers Road. The proposed development would not be visually intrusive given its industrial setting. Noise, odour and contamination, lighting and landscaping can be controlled through planning conditions. The proposal would to generate any additional traffic to the scheme previously approved.

The proposal complies with the policies as set out in the policy section of this report.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

Recommendation:

1. Grant Planning Permission Subject to Conditions and subject to the finalisation of planning conditions.

Conditions and Reasons

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- Location plan drawing number 1380_PL100 submitted 09/09/2019
- Site Layout drawing number 1380_PL111 submitted 09/09/2019
- Ammonia hydroxide plan and elevations drawing number 1380PL406 submitted 09/09/2019
- Bicycle shelter plan and elevations drawing number 1380PL407 submitted 09/09/2019
- Electrical container plan and elevations drawing number 1380PL408 submitted 09/09/2019
- Electrical container roof plan drawing number 1380PL410 submitted 05/09/2019
- Fencing details drawing number 1380PL409 submitted 09/09/2019
- Fire Water Tank Plan & Elevations drawing number 1380PL401 submitted 09/09/2019
- Fuel Oil Tank Plan and Elevations drawing number 1380PL405 submitted 09/09/2019

- Weighbridge Gatehouse Plans & Elevations drawing number 1380PL400 submitted 09/09/2019
- HGV Swept Paths Plan drawing number 1380_PL150 submitted 09/09/2019
- Main Building - East Elevation drawing number 1380 PL311 submitted 09/09/2019
- Main building ground floor plan drawing number 1380 PL120 submitted 09/09/2019
- Main building north elevation drawing number 1380 PL310 submitted 09/09/2019
- Main building roof plan drawing number 1380 PL130 submitted 09/09/2019
- Main building south elevation drawing number 1380 PL312 submitted 09/09/2019
- Main Building - West Elevation drawing number 1380 PL313 submitted 09/09/2019
- Admin Floor Plans drawing number 1380 PL140 submitted 09/09/2019
- Planning statement submitted 09/09/2019
- Proposed Fencing Plan drawing number 1380_PL160 submitted 09/09/2019
- Proposed Finished Levels drawing number 1380_PL202 submitted 09/09/2019
- Proposed Site Sections drawing number 1380 PL201 submitted 09/09/2019
- Pump House Plans & Elevations drawing number 1380 PL402 submitted 09/09/2019
- Switchyard & WPD Control Room Elevations drawing number 1380 PL403 submitted 09/09/2019
- Switchyard & WPD Control Room Plan drawing number 1380 PL404 submitted 09/09/2019
- Technical note: Noise submitted 02/12/2019
- Fichtner consulting engineers Ltd response to CRT Odour submitted 02/12/2019
- Bhenergy gap consolidated CRT response February 2020 submitted 20/02/2020
- Covering letter submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 1 submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 2: Illustrative figures submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 3 Part 1: technical appendices submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 3 Part 2: technical appendices submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 3 Part 3: technical appendices submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 3 Part 4: technical appendices submitted 09/09/2019
- Bhenergy gap Environmental Statement Volume 3 Part 5:technical appendices submitted 09/09/2019

- Bhenergy gap Environmental Statement Volume 4 non technical summary submitted 09/09/2019

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019, and prior to commencement of the development hereby permitted:

1. Details of intrusive site investigations for past coal mining activity including location and assessment of mine entries shall be submitted in writing to and approved in writing by the Local Planning Authority
2. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring shall be submitted in writing to the Local Planning Authority
3. details of remedial works including a remediation strategy for the mine entries, including any foundation designs which may be required for building over the mine entries and gas protection measures shall be submitted to and approved in writing by the Local Planning Authority.
4. A programme/timetable for the implementation of the remedial works and implementation of mitigation works.

3b. Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out

3c. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the safety and stability of the development given the coal-mining legacy of the site, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

4a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and the preliminary surface water drainage design drawing number 2461-01-02 submitted 09/09/2019 and prior to the commencement of development hereby permitted, drainage plans for the disposal of foul and surface water flows shall be submitted to and approved by the Local Planning Authority. The scheme to be submitted shall demonstrate:

1. Provision at the boundary of the site to ensure there is no discharge of surface water to the Public Highway.
2. Evidence to show the management of overland flow routes in the event of exceedance or blockage to the drainage system.
3. Provision of pollution control measures for run-off arising from car parking and loading/unloading areas.

4b. The scheme approved under part a of this condition shall be implemented in accordance with the approved details before the development is first brought into use and completed.

Reason: This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues, to minimise the risk of pollution and ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy ENV40 of the UDP and Policy T4 of the SAD.

5a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and prior to the commencement of the development hereby permitted, a revised detailed landscaping scheme illustrating planting within the site and along the canal side boundary including:

1. detailing planting densities
2. planting numbers
3. Size of plants to be planted
4. Ground surface treatment
5. Tree support and tree pit details
6. Root barriers and mulching
7. soil depth and specification (shrub/hedgerow planting areas should be at least 450mm : grass seeded / turfed areas should be at least 150mm.)
8. Hard surfaces
9. Existing trees and hedges to be retained
10. Details of the measures to be taken to protect existing features during the construction of the development
11. Showing appropriate demarcation along the highway (red line) boundary on the Fryers Road frontage

5b. The demarcation along the highway (red line) boundary on the Fryers Road frontage shall be retained in perpetuity.

5c. The approved landscaping scheme shall be implemented within 12 months of any part of the development being brought into use.

5d. Any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed within the first 5 years shall be replaced with a tree, shrub or plant of the same or greater size and the same species as that originally required to be planted.

Reason: In the visual amenities of the area and to ensure the site is secured with appropriate landscaping, and to ensure adequate vehicle visibility along Fryers Road in accordance with Saved Policies GP2, ENV17, and ENV33 of the UDP, policy ENV4 of the BCCS and Policy EN4 and T4 of the SAD.

6a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and prior to built development commencing an updated 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

6b. The remedial measures as set out in the 'Remediation Statement' required by part i) of this condition shall be implemented in accordance with the agreed timetable.

6c. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation is encountered, development shall cease until the 'Remediation Statement' required by part i) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

6d. A 'Validation Report' confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3).

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with Policy ENV10 of the UDP.

7a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and prior to the commencement of development of the development hereby permitted, a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Details of where construction deliveries will be located
5. Storage of plant and materials used in constructing the development
6. A scheme for recycling/disposing of waste resulting from construction works

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7. Temporary portacabins and welfare facilities for site operatives
8. Site security arrangements including hoardings
9. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
10. Measures to prevent flying debris
11. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
12. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
13. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
14. Details of the means of protecting adjacent waterway from pollution during the construction phase
15. Details of works to the old canal basin on site
16. Details of vibro-compaction machinery / piling machinery or piling including details of the use of such machinery
17. Details of ground treatment works to be undertaken as part of the development
18. Demonstrate that the vibration caused by piling does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.
19. Provide details of possible construction work routes/HGV routes identifying routes that are likely under railway bridges.

7b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

Reason: To ensure that no works commence on the site until a scheme is in place to control the environmental impacts of the development, to protect the adjacent waterway and associated infrastructure from pollution or damage, to safeguard the amenity of local residents during construction, engineering and remediation works and to minimise on street parking by site operatives and the potential disruption to the free flow of traffic along the public highway, in the interests of highway safety. in accordance with saved policies GP2 and ENV10 of Walsall's Unitary Development Plan, policy ENV4 of the BCCS and Policies T4 and EN4 of the SAD.

8a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and prior to commencement of the development hereby permitted, an air quality low emission scheme shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b. Prior to any activities including demolition, site clearance, engineering works commencing on site, a low emission scheme validation statement shall be submitted to and approved in writing by the Local Planning Authority, demonstrating the approved scheme has been implemented.

8c. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed air quality emission scheme and the low emission scheme validation statement shall thereafter be retained for the lifetime of the development.

Reason: To reduce potential negative health impact upon future occupants and in the interests of promoting sustainable options to employees, customers and deliveries, to encourage the use of low emission vehicles, and reduce vehicle usage by implementing a Travel Plan in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

9a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and prior to commencement of the development hereby permitted, details following engineering details outlining highway infrastructure works shall be submitted to and approved in writing by the Local Planning Authority.

1. the new industrial bellmouth access point off Fryers Road including the provision of an uncontrolled pedestrian crossing facility and associated section of footway and any associated carriageway markings.
2. the removal and reinstatement of the existing bellmouth access point on Fryers Road back to highway verge.

9b. The development hereby permitted shall not be carried out otherwise than in accordance with the highway works approved under part a of this condition and shall be fully implemented prior to the first use of the development and thereafter be retained for the lifetime of the development.

Reason: To improve accessible to the site in the interests of the free flow of traffic on the local highway network, highway safety and the satisfactory operation of the development in accordance with Policies GP2, T1, T6 T8 and T11 of the UDP.

10a. Prior to the commencement of development hereby permitted, details of all external lighting shall be submitted to and approved in writing by the Local Planning Authority including:

1. the type of lighting to be installed including the type of lamps,
2. the exact location of the lighting to be installed on the proposed development,
3. details of any lighting columns including height and external finishes of any lighting columns,
4. the level of illumination and a light spillage plan showing the light spillage from any external lighting to be installed around or within the development
5. Light spillage plan

10b. The development hereby permitted shall not be carried out otherwise than in accordance with the lighting details approved under part a of this condition and shall be fully implemented prior to the first use of the development and thereafter be retained and maintained for the lifetime of the development.

Reason: Necessary to prevent light pollution and glare, to protect the amenity of surrounding residential occupiers and to show consideration for bats, and to ensure the level of illuminance is appropriate for its location and is sustainable and efficient to protect the integrity of the waterway infrastructure in accordance with Saved Policies GP2, ENV11, ENV23 and ENV32 of the UDP, Policy ENV4 of the BCCS and Policy EN4 of the SAD.

11a. Prior to the commencement of development hereby permitted, details of tower crane/s shall be submitted to and approved in writing by the Local Planning Authority including:

1. Tower crane usage adjacent to railway infrastructure is subject to stipulations on size and capacity etc.
2. Tower crane working diagrams
3. Tower crane specifications
4. Tower crane method of working

11b. The development hereby permitted shall not be carried out otherwise than in accordance with the tower crane details approved under part a of this condition and shall thereafter be retained throughout the construction period.

Reason: To safeguard the railway in accordance with policies GP2 and T3 of the UDP.

12a. Prior to the development hereby permitted being brought into use, details and acoustic specification of any louvers shall be submitted to and approved in writing by the Local Planning Authority.

12b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed details and acoustic specification of any louvers and shall thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of local residents in accordance with Policies GP2 and ENV10 of the UDP.

13a. Prior to the development hereby permitted, being brought into use details of acoustic mitigation measures around the Air Conditioning Condensers shall be submitted to and approved in writing by the Local Planning Authority.

13b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed acoustic mitigation measures around the air cooled condenser/s shall be fully implemented prior to the first use of the development and thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of local residents in accordance with Policies GP2 and ENV10 of the UDP.

14a. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019 and prior to the development hereby permitted is brought into use and operational, details demonstrating noise emissions shall not give rise to a significant adverse impact at nearby residential premises as determined in accordance with British Standard BS 4142:2014+A1:2019 Methods for rating and assessing industrial and commercial sound shall be submitted to and approved in writing by the Local Planning Authority. The details shall include all receptors in Moorland Road, Heather Close, Reeves Street, Irvine Road and Water Reed Grove and within 300m from any part of the site perimeter.

14b. The development hereby permitted shall not be carried out otherwise than in accordance with the agreed details under part A of this condition and shall be fully implemented prior to the first use of the development and thereafter be retained for the lifetime of the development.

Reason: To safeguard the amenities of local residents in accordance with Policies GP2 and ENV10 of the UDP.

15. Prior to the development first coming into use, all access roads, turning areas and parking facilities shown Site Layout drawing number 1380_PL111 submitted 09/09/2019 shall be consolidated, hard surfaced and drained so that surface water from these areas does not discharge onto the public highway or into any highway drain, together with the clear demarcation of all parking bays and directional markings. These areas shall be thereafter be retained and kept available for those uses at all times.

Reason: In accordance with UDP Policy GP2, T7 and T13 and in the interest of highway safety, and ensure the free flow of traffic using the adjoining highway.

16. Prior to the development first coming into use, the proposed cycle shelter facility as illustrated on Shelter Plan and Elevations plan and elevations drawing number 1380PL407 submitted 09/09/2019 and as shown in location on Site Layout drawing number 1380_PL111 submitted 09/09/2019, shall be fully implemented and available for use for staff and visitors and thereafter be retained for the lifetime of the development and shall not be used for any purpose other than a bicycle shelter.

Reason: To encourage sustainable modes of travel and in accordance with UDP policy T13 and Black Country Core Strategy TRAN4.

17. Prior to the development first coming into use, where internal pedestrian routes cross vehicular carriageways, tactile dropped kerbs shall be installed and available for use for staff and visitors and thereafter be retained for the lifetime of the development

Reason: To ensure the development is fully accessible to all users in accordance with Policies GP2 and T8 of the UDP.

18. A 2.4m x 43m visibility splay shall be provided at both access points within which no structure or planting exceeding 600mm in height above carriageway levels shall be permitted at any time.

Reason: To ensure adequate inter-visibility at the access points in the interests of highway safety in accordance with Policy GP2 of the UDP and Policy T4 of the SAD.

19. Notwithstanding the Environmental Statement and technical appendices submitted on 09-09-2019, noise emissions from fixed plant and machinery shall not give rise to a cumulative Noise Rating exceeding NR Curve 35, 1 metre from the window of residential premises, as determined at a height above ground level of not less than 1.5 metres, between the hours 23.00 and 07.00 Mondays to Sundays. The details shall include all receptors in Moorland Road, Heather Close, Reeves Street, Irvine Road and Water Reed Grove and within 300m from any part of the site perimeter.

Reason: To safeguard the amenities of local residents in accordance with Policies GP2 and ENV10 of the UDP.

20. Doors serving the waste processing and energy generation buildings shall not be open except when used for access and egress purposes.

Reason: To safeguard the amenities of local residents in accordance with Policy ENV10 of the UDP.

21. The Resource Recovery and Renewable Energy Production Facility hereby approved shall not generate electricity above 49.9MW.

Reason: To ensure the proposed Resource Recovery and Renewable Energy Production Facility does not fall into a nationally significant infrastructure project category and to ensure compliance with Policy W3 of the SAD.

22. The development hereby approved shall not be undertaken otherwise than in accordance with the facing, roofing and other details as specified on the following plans and thereafter be retained for the lifetime of the development:

- Ammonia hydroxide plan and elevations drawing number 1380PL406 submitted 09/09/2019
- Bicycle shelter plan and elevations drawing number 1380PL407 submitted 09/09/2019
- Electrical container plan and elevations drawing number 1380PL408 submitted 09/09/2019
- Electrical container roof plan drawing number 1380PL410 submitted 05/09/2019
- Fencing details drawing number 1380PL409 submitted 09/09/2019

- Fire Water Tank Plan & Elevations drawing number 1380PL401 submitted 09/09/2019
- Fuel Oil Tank Plan and Elevations drawing number 1380PL405 submitted 09/09/2019
- Weighbridge Gatehouse Plans & Elevations drawing number 1380PL400 submitted 09/09/2019
- Main Building - East Elevation drawing number 1380 PL311 submitted 09/09/2019
- Main building ground floor plan drawing number 1380 PL120 submitted 09/09/2019
- Main building north elevation drawing number 1380 PL310 submitted 09/09/2019
- Main building roof plan drawing number 1380 PL130 submitted 09/09/2019
- Main building south elevation drawing number 1380 PL312 submitted 09/09/2019
- Main Building - West Elevation drawing number 1380 PL313 submitted 09/09/2019
- Admin Floor Plans drawing number 1380 PL140 submitted 09/09/2019
- Pump House Plans & Elevations drawing number 1380 PL402 submitted 09/09/2019
- Switchyard & WPD Control Room Elevations drawing number 1380 PL403 submitted 09/09/2019
- Switchyard & WPD Control Room Plan drawing number 1380 PL404 submitted 09/09/2019

Reason: In the visual amenities of the area in accordance with Policies GP2, ENV35 of the UDP and Policy ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD.

23. The development hereby approved shall not be undertaken otherwise in accordance with the Proposed Fencing Plan drawing number 1380_PL160 submitted 09/09/2019 and thereafter be retained for the lifetime of the development.

Reason: In the visual amenities of the area in accordance with Policies GP2, ENV35 of the UDP and Policy ENV3 of the BCCS and Policy DW3 of Designing Walsall SPD.

24. No waste or material deliveries taken at or despatched from the site otherwise than between the hours of 07.30 hours to 19.00 hours Mondays to Fridays and 07.30 hours to 13.00 hours Saturdays with no waste or material deliveries on Sundays, Bank and Public Holidays

Reason: To protect the amenities of nearby residential occupiers in accordance with saved UDP policies GP2 and ENV32.

Notes to the Applicant: Development Management

Condition 3a to be discharged in consultation with the Coal Authority

Condition 4a to be discharged in consultation with Severn Trent Water and Canal and River Trust

Condition 5a to be discharged in consultation with Canal and River Trust

Conditions 6a, 8a, 9a, 10a and 14a to be discharged in consultation with Pollution Control

Condition 7a to be discharged in consultation with Pollution Control, Highways, Canal and River Trust and Network Rail

Condition 9a to be discharged in consultation with the Highways

Condition 12a to be discharged in consultation with Canal and River Trust and Public Lighting Manager.

Condition 11a to be discharged in consultation with Network Rail

Notes to the Applicant: Network Rail

Refer to condition 7a:

All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.

The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast.

Applications that are likely to generate an increase in trips under railway bridges may be of concern to Network Rail where there is potential for an increase in 'Bridge strikes'. Vehicles hitting railway bridges cause significant disruption and delay to rail users. Consultation with the Asset Protection Engineers is necessary to understand if there is a problem. Developers will be liable for the cost of any necessary bridge protection barriers.

Where low bridges may be impacted by the proposal the applicant may also need to contact the local Highways Agency to liaise with them over the erection of signage.

Refer to condition 13a:

Needs to be agreed by Network Rail's Asset Protection prior to implementation.

Tower cranes have the potential to topple over onto the railway; the arms of the cranes could over-sail onto Network Rail air-space and potentially impact any overhead lines, or drop materials accidentally onto the existing infrastructure. Crane working diagrams, specification and method of working must be submitted for review and agreement to Network Rail prior to work(s) commencing on site.

Notes to the Applicant: Highways

Highway Works

No work on the public highway should commence until any engineering detail of improvements to the public highway have been approved by the Highway Authority and an agreement under S278 of the Highways Act 1980 or Road Opening Permit entered into/obtained. For further advice please contact Highway Development Control Team on 01922 655927.

The relocation of the existing street lighting at the proposed access point should be agreed in writing with Walsall Metropolitan Borough Council's Street lighting partner Amey.

Mud on Highway

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

Drainage

No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

Notes for Applicant – Contaminated Land

CL1

Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in the National Planning Policy Framework 2018; British Standard BS10175: 2011 +A2:2017 'Investigation of potentially contaminated sites – Code of Practice'; British Standard BS5930: 1999 Code of practice for site investigations'; Construction Industry Research and Information Association Assessing risks posed by hazardous ground gasses to buildings (Revised)' (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential

retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 'Model Procedures for the Management of Land Contamination', The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 'Updated technical background to the CLEA model' and Science Report – SC050021/SR2 'Human health toxicological assessment of contaminants in soil' or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water.

Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation Reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in Validation Reports.

Notes for Applicant – Cadent

Considerations in relation to gas pipeline/s identified on site:

Cadent have identified operational gas apparatus within the application site boundary. This may include a legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent assets in private land. The Applicant must ensure that proposed works do not infringe on Cadent's legal rights and any details of such restrictions should be obtained from the landowner in the first instance.

If buildings or structures are proposed directly above the gas apparatus then development should only take place following a diversion of this apparatus. The Applicant should contact Cadent's Plant Protection Team at the earliest opportunity to discuss proposed diversions of apparatus to avoid any unnecessary delays.

If any construction traffic is likely to cross a Cadent pipeline then the Applicant must contact Cadent's Plant Protection Team to see if any protection measures are required

All developers are required to contact Cadent's Plant Protection Team for approval before carrying out any works on site and ensuring requirements are adhered to.

Email: plantprotection@cadentgas.com Tel: 0800 688 588

An assessment has been carried out with respect to Cadent Gas Limited, National Grid Electricity Transmission plc's and National Grid Gas Transmission plc's apparatus. Please note it does not cover the items listed in the section "Your Responsibilities and Obligations", including gas service pipes and related apparatus. For details of Network areas please see the Cadent website (<http://cadentgas.com/Digging-safely/Dial-before-you-dig>) or the enclosed documentation.

Are My Works Affected?

Searches based on your enquiry have identified that there is apparatus in the vicinity of your enquiry which may be affected by the activities specified.

Can you please inform Plant Protection, as soon as possible, the decision your authority is likely to make regarding this application.

If the application is refused for any other reason than the presence of apparatus, we will not take any further action.

Please let us know whether Plant Protection can provide you with technical or other information that may be of assistance to you in the determination of the application.

Due to the presence of Cadent and/or National Grid apparatus in proximity to the specified area, the contractor should contact Plant Protection before any works are carried out to ensure the apparatus is not affected by any of the proposed works.

Your Responsibilities and Obligations

The "Assessment" Section below outlines the detailed requirements that must be followed when planning or undertaking your scheduled activities at this location.

It is your responsibility to ensure that the information you have submitted is accurate and that all relevant documents including links are provided to all persons (either direct labour or contractors) working for you near Cadent and/or National Grid's apparatus, e.g. as contained within the Construction (Design and Management) Regulations.

This assessment solely relates to Cadent Gas Limited, National Grid Electricity Transmission plc (NGET) and National Grid Gas Transmission plc (NGGT) and apparatus. This assessment does NOT include:

I Cadent and/or National Grid's legal interest (easements or wayleaves) in the land which restricts activity in proximity to Cadent and/or National Grid's assets in private land. You must obtain details of any such restrictions from the landowner in the first instance and if in doubt contact Plant Protection.

I Gas service pipes and related apparatus

I Recently installed apparatus

I Apparatus owned by other organisations, e.g. other gas distribution operators, local electricity companies, other utilities, etc. It is YOUR responsibility to take into account whether the items listed above may be present and if they could

be affected by your proposed activities. Further "Essential Guidance" in respect of these items can be found on either the National Grid or Cadent website.

This communication does not constitute any formal agreement or consent for any proposed development work; either generally or with regard to Cadent and/or National Grid's easements or wayleaves nor any planning or building regulations applications.

Cadent Gas Limited, NGGT and NGET or their agents, servants or contractors do not accept any liability for any losses arising under or in connection with this information. This limit on liability applies to all and any claims in contract, tort (including negligence), misrepresentation (excluding fraudulent misrepresentation), breach of statutory duty or otherwise. This limit on liability does not exclude or restrict liability where prohibited by the law nor does it supersede the express terms of any related agreements.

If you require further assistance please contact the Plant Protection team via e-mail ([click here](#)) or via the contact details at the top of this response.

Notes for Applicant – Fire Officer

Access routes should have a minimum width of 3.7m between kerbs, noting that WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes (ADB Vol 2, Table 20)

Turning facilities should be provided in any dead-end access route that is more than 20m long (ADB Vol 2, Diagram 50, designed on the basis of Table 20)

Dead end/cul-de-sac access routes must not exceed 180 metres in length unless an emergency vehicle access is provided, or the carriageway width is increased to 7.3 metres from the entrance to the dead-end route to the point where it is 180 metres to the end of the dead-end (The Design of New Streets in Residential Areas; WMCC 1984, 3.8)

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 15 and "National Guidance Document on the Provision for Fire Fighting" published by Local Government Association and WaterUK:

<https://www.water.org.uk/wp-content/uploads/2018/11/national-guidance-document-on-water-for-ffg-final.pdf>

For further information please contact the WMFS Water Office at the address given above or by email on Water.Officer@wmfs.net

ADB Vol 2, 15.7-8: where bldg. having a compartment of 280m sq or more and more than 100m from an existing fire hydrant additional hydrants should be provided as follows:

- bldg. with fire main – hydrant within 90m of dry fire main inlet

- bldg. without fire main – hydrant within 90m of entry point to building and not more than 90m apart)

The approval of Building Control will be required to Part B of the Building Regulations 2010 and/or

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, B5.i)

The external access provisions for a building should be planned to complement the internal access requirements for a fire attack plan. (CIBSE Guide E, Fire Safety Engineering 2010, p. 13-14)

There is indication of a barrier across the access road – what provision will be made for access by the fire service.

Notes for Applicant – Police

Below is a link to secured by design commercial, police approved crime reduction information guidance.

https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf

Notes for Applicant – Coal Authority

General Information for the Applicant

Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission will result in trespass, with the potential for court action. In the event that you are proposing to undertake such work in the Forest of Dean local authority area our permission may not be required; it is recommended that you check with us prior to commencing any works. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at:

<https://www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property>

Building over or within the influencing distance of a mine entry (shaft or adit) can be dangerous and has the potential for significant risks to both the development and the occupiers if not undertaken appropriately. The Coal Authority would draw your attention to our adopted policy regarding new development and mine entries:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

Disclaimer

The above consultation response is provided by The Coal Authority as a Statutory Consultee and is based upon the latest available coal mining data on the date of the response, and electronic consultation records held by The Coal Authority since 1 April 2013. The comments made are also based upon only the information provided to The Coal Authority by the Local Planning Authority and/or has been published on the Council's website for consultation purposes in relation to this specific planning application. The views and conclusions contained in this response may be subject to review and amendment by The Coal Authority if additional or new data/information (such as a revised Coal Mining Risk Assessment) is provided by the Local Planning Authority or the Applicant for consultation purposes.

In formulating this response The Coal Authority has taken full account of the professional conclusions reached by the competent person who has prepared the Coal Mining Risk Assessment or other similar report. In the event that any future claim for liability arises in relation to this development The Coal Authority will take full account of the views, conclusions and mitigation previously expressed by the professional advisers for this development in relation to ground conditions and the acceptability of development.

Notes for Applicant – Canal and River Trust

The applicant is advised to contact Mansoor Omar, Works Engineer on 07484 913026 or by email to mansoor.omar@canalrivertrust.org.uk to ensure that all necessary consents are in place and that the works comply with the Canal & River Trusts Code of Practice for works affecting the Canal & River Trust.

End of Officers Report

Economy and Environment, Development Management**Planning Committee**

Report of Interim Head of Planning and Building Control on 28-May-2020

Plans List Item Number: 2.

Reason for bringing to committee: Major application

Location: SPORTING KHALSA, ASPRAY 24 ARENA, NOOSE LANE, WILLENHALL, WV13 3BB

Proposal: RETROSPECTIVE CHANGE OF USE FROM FOOTBALL CLUB TO A MIXED SUI GENERIS USE; COMPRISING A FOOTBALL CLUB, MARTIAL ARTS CLUB, LOUNGE AND BAR FACILITIES, BUILDING FOR THE STORAGE OF MAINTENANCE EQUIPMENT. RETENTION OF: - 1 SINGLE STOREY MODULAR BUILDING (MARTIAL ARTS CLUB) - 2 STOREY MODULAR BUILDING (HOSPITALITY USE IN CONJUNCTION WITH FOOTBALL CLUB) - A SINGLE STOREY FITNESS AND CHANGING ROOMS, EAST STAND - GAZEBO (MARQUEE) AND PERGOLA SEATING AREAS ASSOCIATES WITH CLUB 442 - 4 SINGLE STOREY MODULAR BUILDINGS (USE UNKNOWN) - 2 STOREY BOUNDARY BUILDING (STORAGE OF MAINTENANCE EQUIPMENT) - 1 FULL SIZE 3G FOOTBALL PITCH - 5 X 5 ASIDE 3G FOOTBALL PITCHES - BOUNDARY TREATMENTS - NEW RAISED SPECTATOR AREAS - REAR LANDSCAPED BUNDS - CAR PARK BEHIND EAST STAND

Application Number: 19/1132

Applicant: Rajinder Gill

Agent: John Mason

Application Type: Full Application: Major Use Class D2 (Assembly and Leisure)

Case Officer: Gemma Meaton

Ward: Willenhall South

Expired Date: 09-Dec-2019

Time Extension Expiry:

Recommendation Summary: Grant Planning Permission Subject to Conditions

- A marquee with seating areas associated with the existing 'Club 442' measuring 6.3m by 9.3m with white canvass plasticised walls
- Four single storey ancillary modular buildings
- A two storey building for the storage of maintenance equipment located close to the eastern boundary of the site measuring 21m by 9.5m and a height of 5.8m
- One full size (64m x 100m) 3G football pitch with flood lighting and boundary fencing (previously approved by 14/1847/FL, however constructed otherwise than in accordance with the permission)
- The division of the existing approved (14/0187/FL) 3G pitch into four 5-a-side 3G football pitches with associated boundary and internal wire mesh fencing with a maximum height of 4m and a black polythene netting roof and lighting
- An additional 5-a-side 3G football pitch with associated wire mesh boundary fencing with a maximum height of 4m and a black polythene netting roof and lighting
- Boundary treatments including walls and 3.0m high security fencing around and within the various sections of the site
- New raised spectator areas to the west of the main pitch to the north of the site
- A new food stand and hospitality area with toilets located to the west of the main football pitch measuring 3.2m by 19.5m clad in timber and painted black
- An additional gravel surfaced car park behind the east stand to accommodate at least 37 new standard parking spaces
- The block paving of the access area close to the highway at Noose Lane and along the east of the property measuring 63.5m in length and 17.5m wide at the intersection

Through the works on the site some excavation has taken place which has removed some earth from the site which has been piled in bunds to the rear of the site. It has been confirmed that this will be removed when construction is completed. There is also a static caravan on the property which the applicant has advised will also be removed upon completion of construction.

Site and Surroundings

The application site is located on Noose Lane, the former Willenhall Town FC now known as Sporting Khalsa. The site is open and fronts Noose Lane. In front of the site is a grass verge and wide footpath. Within the site there is a fine gravel area

towards the front of the site which is used for parking. Further into the site are the buildings and uses described in the proposal.

The application site sits at a lower level than Noose Lane, with double yellow lines along the eastern side of Noose Lane.

To the east of the site is Fibbersley School and to the west Waddens Brook Site of Importance for Nature Conservation (SINC). On the opposite side of the road is Aspray 24, a commercial depot and adjacent to that and opposite the SINC is Willenhall Memorial Park.

The application site, the adjacent school, Waddens Brook SINC and the Memorial Park are classed as public open space in the Site Allocation Document, 2019.

Relevant Planning History

App No.	Description of Development	Decision	Decision Date
03/2257/FL/W4	Demolition of former social club, car park surfacing, boundary and other fencing and bowling green shelter	Grant Subject to Conditions	11/03/2004
14/0187/FL	New Astro turf pitch with fencing and netting roof enclosure, and floodlights	Grant Subject to Conditions	10/10/2014
14/1847/FL	Replacement of grass pitch with 3G Artificial Pitch, erection of rebound fence, netting, extension to car park and erection of new changing rooms and medical facilities	Grant Subject to Conditions	06/10/2015
16/1601	Retention of single and double storey buildings for use as a nursery.	Refused	07/02/2017
19/0710	New Car Park (37 spaces)	Withdrawn	13/02/2020

The application under reference 19/0710 was withdrawn in consultation with the LPA. The development described within that application was included with this application such that all the existing and proposed development on the site is included within this consolidated application.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic,

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social and environmental terms, and it emphasises a “*presumption in favour of sustainable development*”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 8 – Promoting healthy and safe communities**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**
- **NPPF 16 – Conserving and enhancing the historic environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV11: Light Pollution
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- T7: Car Parking
- T13: Parking Provision for Cars, Cycles and Taxis
- 8.3 Urban Open Space
- LC6: Sports Pitches
- LC7: Indoor Sport including Health and Fitness Centres
- LC8: Local Community Facilities

Black Country Core Strategy

- EMP6: Cultural Facilities and the Visitor Economy
- CEN2: Hierarchy of Centres
- CEN7: Controlling Out-of-Centre Development
- TRAN2: Managing Transport Impacts of New Development
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV6: Open Space, Sport and Recreation

Walsall Site Allocation Document 2019

OS1: Open Space, Sport and Recreation
EN3: Flood Risk
M1: Safeguarding of Mineral Resources

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect species, habitats or earth heritage features

- NE1 – Impact Assessment
- NE2 – Protected and Important Species
- NE3 – Long Term Management of Mitigation and Compensatory Measures

Survey standards

- NE4 – Survey Standards

The natural environment and new development

- NE5 – Habitat Creation and Enhancement Measures
- NE6 – Compensatory Provision

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW3 Character

Consultation Replies

Cadent Gas – No objection, an assessment has identified that there is apparatus in the area and the developer should contact cadent gas in relation to their responsibilities in this regard.

Coal Authority – No objection

Drainage – We require further technical details of how the surface water from the site is attenuated and discharged in a controlled manner that would not increase flood risk

Natural England – No objection

West Midlands Police – No objection, recommendations include dusk to dawn LED lighting to all aspects of the building and to the new car park. Any access to the new parking area should be locked and gated to the front of the site out of hours. Internal and external CCTV should be extended to any new areas and new parking.

Highways - To ensure the satisfactory operation of the car park it is usual for the parking area to be clearly demarcated on a solid surface. The applicant should confirm how they are to delineate car parking bays.

Pollution control – No objection

Severn Trent Water – No objection

Sport England – No objection

Ecology Officer (Birmingham and the Black Country Wildlife Trust) – No objection, request for a sensitively designed lighting scheme

Representations

One representation was received with reference to the application. Issues with relation to noise, parking provision and light pollution were raised.

Determining Issues

- Principle of development
- Amenity of surrounding occupiers and character of the area
- Ecology
- Ground conditions
- Structural Issues
- Drainage
- Parking and access

Assessment of the Proposal

Principle of the Development

The proposal is for retrospective approval of the change of use from a Football Club to a mixed sui generis use. The application site is not in a Green Belt but is recognised as open space by the Site Allocation Document (SAD). The SAD states in Policy OS1 that *“d) Development proposals that would reduce the overall value of the open space, sport and recreation network, or prejudice any of the functions listed within UDP Saved Policy LC1 and BCCS ENV6, will be resisted. Development proposals that would increase the overall value of the network will be encouraged.”* Given that the proposal will allow the diversification of uses within an existing sport and recreation area it is considered that the proposal is in line with policy OS1.

The Unitary Development Plan (UDP) states in saved Policy LC7 that *“(a) The Council will encourage the widest range of indoor sport and recreation, through improvement to existing facilities and provision of new ones. First preference will be given to enhancing and expanding existing sport and recreation centres which are accessible to the whole community...”* The enhancement and expansion of the facility to widen the range of sport and recreation available on the site is therefore considered compatible with the aims of saved policy LC7 of the UDP.

Walsall Council's Playing Pitch Strategy, published in March 2016, indicates that the site lies within Area 6, where it concludes that there were 15 pitches available for use and a demand for 67 pitches that were being created by existing teams and clubs. This highlights the undersupply of sports pitches in the Wilenhall area and the Borough as a whole, and supports the increase in pitches included within this application. Sport England have supported the development subject to completion of the pitches to the standards required by the Football Association and the inclusion of

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a community use agreement, a draft of which has been provided by the applicant. The finalisation of the Community Use Agreement with the Council can be included as a condition to this application.

Given the compatibility of the proposal with policy, the proposal is considered acceptable in principle.

Impact on Character of Area and Surrounding Occupiers

The site is characterised by an existing football club with club house and the more recent smaller enclosed Astroturf pitches at the front, therefore the sport and recreation use has been established by the approval of previous applications. The nature of the changes would increase the use of the site, therefore there would be more people and vehicle movements associated with the site. The club is located next to a school and across the road from a large distribution company. The increased activities are considered not to cause significant harm to the character of the area.

The structures have a maximum height of 6m, and when considered within the context of the established use and the mature landscape buffer surrounding the site, there would be limited views of these buildings from public areas and accordingly they would have limited visual impact. The buildings are constructed in a similar style, all being constructed from modular metal components (former shipping containers) painted in dark colours, with sections of timber cladding.

To the west of the site, 33m away and separated by the former railway cutting and mature dense landscaping is Trentham Cottage Caravan Park. The existing floodlights have overspill lenses that direct illumination away from residents. Across Noose Lane is Aspray 24, a 24 hour logistics company which provides a level of background noise. In consideration of the lawful established use of the site, the commercial uses nearby, the separation distance to the caravans and location of the buildings weighed against the community benefits the proposal would bring it is considered the proposal would not result in a significant loss of amenity by virtue of increased noise and disturbance. Both Environmental Health and Pollution Control have considered the proposal and raise no objection on amenity grounds.

It is therefore considered that the proposal does not have an unacceptable impact on the character of the area or the amenity of surrounding occupiers, and is compatible with Policy ENV32 of the Saved UDP.

Ecology

A Protected Species Report has been submitted which provides information that there is a large population of great crested newt on the SINC adjacent to the site, with a breeding pond within 10m of the site.

The site is however assessed as having a negligible risk of great crested newts due to the suboptimal habitat including the barrier created by the impermeable perimeter wall to three sides of the site, and the busy wall to the fourth side. It is concluded that subject to the maintenance of the wall, future works within the site will not need supervision for great crested newts and there is no predicted impact of such works on great crested newt individuals or populations. Natural England and the Birmingham and the Black Country Wildlife Trust have not objected to the application, subject to a sensitively designed lighting scheme. The details for the design or any necessary amendments to the lighting scheme within the development can be secured by the application of a suitable condition. The proposal is therefore considered in line with Policy ENV24 of the UDP and ENV1 of the BCCS

Ground Conditions

The application site falls within the Development High Risk Area as defined by the Coal Authority. A Coal Mining Risk Assessment was submitted with the previous application in 2016 and referred to in a report on a Mineworkings Investigation and Mineshaft Stabilisation Works submitted with this application in January 2018. The report includes verification that the works recommended in the Coal Mining Risk Assessment has been completed, and concludes that the works carried out have demonstrated that there is no requirement for further works.

The Coal Authority has commented that they consider that the content and conclusions Report on Mineworkings Investigation & Mineshaft Stabilisation Works (January 2018, prepared by Spilman Associates) is sufficient for the purposes of the planning system in demonstrating that the application site is safe and stable.

Pollution control has confirmed that the ground gas venting provided on site is acceptable for the existing buildings and no further remedial action is required. It is therefore considered that the proposal is compatible with Policy GP2 of the UDP.

Structural Issues

The application is accompanied by a ground investigation into the near surface nature of the ground and calculate appropriate allowable bearing pressures to allow the Structural Engineer to review the suitability of the existing building foundations for the buildings within the site. The assessment was undertaken to satisfy the LPA in relation to the ability of the buildings to comply with Building Regulations.

The investigation concluded that the foundations under loading would be within acceptable settlement limits.

Drainage

The application site is located in an area recognised as Flood Zone 1 which is an area least likely to be affected by flooding. The proposal includes the retrospective approval for several buildings and the hard surfacing of new areas to form a car

park, although these are well below the size of one hectare where a flood risk assessment is recommended. Although the flood authority has requested additional details, the applicant has provided detail of soakaways and drains to prevent the waterlogging of the site.

The details of the attenuation measures provided are considered sufficient to mitigate the flood risk on the property, and compliant with policy ENV5 of the BCCS and EN3 of the SAD. .

Parking and Access

The site is served by one access point from the Noose Lane and has a car park at the front. The proposal seeks to increase the parking provision by 37 further spaces, including provision for disabled parking, this brings the total provision to 126 spaces 7 of which are disabled parking. The most recent application indicated that there were 500 seats within the stadium. The proposal provides capacity for up to 300 additional spectators through the addition of the east stand, meaning a total capacity of 800 people.

In UDP T13 parking policy terms, there is a requirement for 1 bay for 15 seats. Meaning that 53 spaces would be required. Whilst the overall parking provision will be significantly more parking spaces than the T13 policy requirement, in this instance however, the level of parking is considered consistent with Policy T10 (a) in that it is in an area of Noose Lane where there are known parking issues relating to the adjacent school and hence a higher level of on-site parking provision is justified.

There are three bicycle stands shown within the proposed access arrangements. The provision of facilities for cycling complies with the provisions of saved UDP Policy T11 and T13 which states that for every stadium there should be one bike stand for every 10 parking spaces, meaning a requirement for at least 13 cycle parking stands within the development. The details for provision of cycle parking can be secured by the application of a suitably worded condition.

The Highway Officer has indicated that the scheme required the satisfactory marking out of the parking spaces and the consolidation of the parking surface such that there is no discharge of material onto the highway. The scheme includes an area of block paving close to the access which would prevent the movement material onto the highway. The applicant has indicated that the parking bays will be marked out using scaffolding poles and numbered on the adjacent fences in order to control access. Details of the proposed block paving and marking out can be secured by condition.

Conclusions and Reasons for Decision

The proposal is compatible with the provisions of Policy LC7 of the UDP and OS1 of the SAD, would provide an important community facility and would assist in the provision of sports pitches in the area.

The scheme does not have an unacceptable impact on the character of the area or the amenity of surrounding occupiers and is compatible with Policy ENV32 of the Saved UDP and Policy DW3 of Designing Walsall SPD.

The proposal does not have an unacceptable impact on the ecology of the area, specifically on the local population of Greater Crested Newts and is therefore in line with Policy ENV24 of the UDP and ENV1 of the BCCS policies NE1 to NE10 of Conserving Walsall's Natural Environment.

Details of the mine stabilisation works carried out and the structural soundness of the buildings' foundations have been provided such that the proposal is compatible with Policy GP2 of the UDP.

The details of the attenuation measures provided are considered sufficient to mitigate the flood risk on the property, and compliant with policy ENV5 of the BCCS and EN3 of the SAD.

The parking and cycle storage proposals are considered sufficient and compliant with policy T7, T11 and T13 of the UDP.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Officers have confirmed to the applicant's agent that the submitted details are acceptable and no further changes have been requested.

Recommendation

1. Grant subject to conditions

Conditions and Reasons

1: The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents: -

- Site Plan 1451.001 Rev. C – submitted 02/03/20
- Survey of building A – Hospitality, 1451.002 – submitted 04/09/19
- Survey of building B/G, 1451.0006 Rev. A – submitted 13/09/19
- Survey of Building C – Martial Arts Club, 1451.003 – submitted 04/09/2019
- Survey of Building D – Store Building, 1451.004A – submitted 04/09/19
- Survey of Building F – Changing Room Facilities, 1451.005A – submitted 04/09/19
- Survey of Buildings K, M & N, 1451/ - submitted 04/09/19
- Light Weight Seat Stand, 1340_030 – submitted 13/09/19
- Lighting Plan Prepared by Sports Lighting UK under ref. 048452 – submitted 04/09/19
- Report on Ground Investigation prepared by Spilman Associates, December 2019 under ref. J19079/01 rev. A – submitted 5/12/19
- Report on Mineworkings Investigation & Mineshaft Stabilisation Works prepared by Spilman Associates, January 2018 under ref. J17097/01 – submitted 04/09/19
- Design Statement prepared by J Mason Associates, 2 September 2019, submitted 04/09/19
- Coal Mining Risk Assessment prepared by Keith Edmondson Ltd., August 2015 Under ref. 21544 – submitted 04/09/19
- Protected Species Report prepared by Ampha Associates Ltd., September 2019 – submitted 18/10/19

Reason: To ensure the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted (except in so far as other conditions require).

3a. The use hereby permitted shall cease within three months from the date of this decision unless a scheme setting out the type, design, lux levels and measures to control glare and overspill light from sports lighting, and measures to ensure sports lights are switched off when not in use, has been submitted to and approved in writing by the Local Planning Authority after consultation with Sport England. The scheme shall accord with [Sport England's "Outdoor Sports Lighting" Briefing Note published in 2012]

3b. The use hereby permitted shall cease within three months from the date of approval of condition 3a unless an independent written validation statement confirming installation of the approved measures has been submitted for the written approval of the Local Planning Authority.

Reason: To balance illuminating the [playing field/sports facility] for maximum use and benefit to sport with the interest of amenity and sustainability to protect the amenities of surrounding occupiers and impacts on the nearby population of Greater Crested Newts in accordance with saved UDP policies GP2, 3.7, ENV11, ENV24, ENV32 and S10.

4. The use hereby permitted shall cease within three months of the date of this decision unless an independent written validation statement confirming installation of the block paved access area shown on the Site Plan 1451.001 Rev. C – submitted 02/03/20

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

5a. The use hereby permitted shall cease within three months from the date of this decision unless a scheme setting out the marking of parking bays has been submitted to and approved in writing by the Local Planning Authority

5b. The use hereby permitted shall cease within three months from the date of approval of condition 5a unless an independent written validation statement confirming installation of the approved measures has been submitted for the written approval of the Local Planning Authority.

Reason: In accordance with the requirements of saved Unitary Development Plan policies GP2, T7, T13 and ENV40 and in the interest of highway safety.

6a. Notwithstanding the details shown on the approved plans, the use hereby permitted shall cease within three months from the date of this decision unless details of cycle storage areas of a 'sheffield' stand design or similar shall be submitted for written approval of the Local Planning Authority. There should be provision for at least 13 cycle storage spaces. The cycle shelters shall be covered and illuminated.

6b The use hereby permitted shall cease within three months from the date of approval of condition 6a unless an independent written validation statement confirming installation of the approved measures has been submitted for the written approval of the Local Planning Authority.

Reason: To encourage sustainable modes of travel in accordance with UDP policy GP2, T7 and T13 and Black Country Core Strategy TRAN4.

7a. The use hereby permitted shall cease within three months from the date of this decision unless a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to the proposed 3G artificial grass pitch (AGP) and its associated facilities, and include details of pricing policy, hours of use, access by non-club users, management responsibilities and a mechanism for review.

7b. The development shall not be used otherwise than in compliance with the approved Community Use Agreement under part a of this condition.

Reason: To secure well managed safe community access to the sports facilities, to ensure sufficient benefit to the development of sport and to accord with Policy LC6 and LC7 of the UDP.

8a. No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

8b. No external lighting shall be installed on the site otherwise than in accordance with the approved details.

Reason: In the interests of the visual amenities of the area in accordance with saved policies GP2, ENV11 and ENV32 of Walsall's Unitary Development Plan.

End of Officers Report



Planning Committee

Report of Interim Head of Planning and Building Control on 28-May-2020

Plans List Item Number: 3.

Reason for bringing to committee: Major application

Location: FORMER JACK ALLEN HOLDINGS LTD, MIDDLEMORE LANE, ALDRIDGE, WALSALL, WS9 8DL

Proposal: OUTLINE PERMISSION FOR 2 DETACHED COMMERCIAL UNITS (B1(A) & B2) WITH ASSOCIATED EXTERNAL WORKS. APPROVAL SOUGHT FOR ACCESS ONLY.

Application Number: 18/1702

Applicant: Mr Tandy

Agent: Grahame French

Application Type: Outline Permission: Major Application

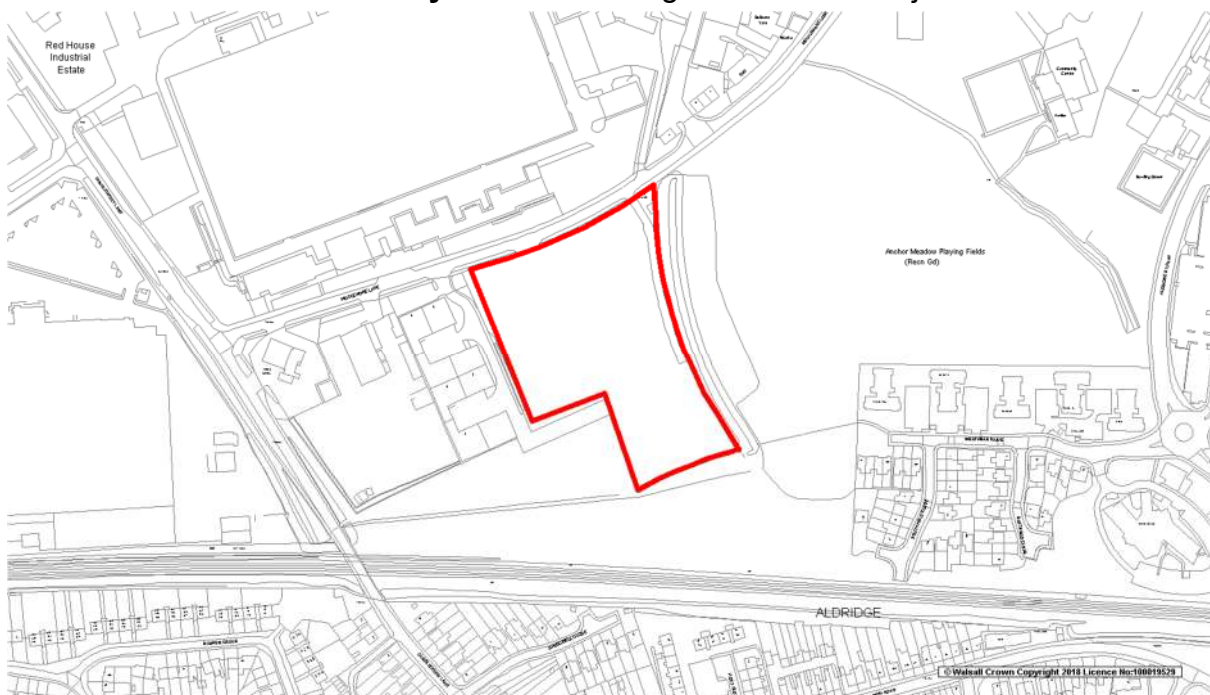
Case Officer: Gemma Meaton

Ward: Aldridge Central And South

Expired Date: 24-Feb-2020

Time Extension Expiry:

Recommendation Summary: Grant Planning Permission Subject to Conditions



Current Status

The application was first reported to Planning committee on 3 October 2019 at which point the applicant had lodged an appeal against non-determination of the application and an appeal for an award of costs. The Committee at that time endorsed the officer recommendation that they indicate to the Planning Inspectorate that they would have refused the application had determination remained in their remit. The grounds of refusal recommended were as follows:

- 1. The proposed layout fails to take into account any risks arising from land instability from former mining activities or to demonstrate that the application site is safe, stable and suitable for development and consequently does not accord with paragraphs 178-179 of the NPPF or saved policies GP2 and ENV32 of Walsall Unitary Development Plan.*
- 2. In the absence of any evidence to demonstrate that the largest commercial vehicles can enter and leave the access on Middlemore Lane and manoeuvre safely within the site to serve unit 2 or to take into consideration approved development of the McKechnie site opposite within the Transport Assessment and thereby address the potential cumulative impact of the development on the operation of the highway network the appellant has failed to demonstrate that the level of proposed development can be accommodated on the site without causing an unacceptable impact on the highway network detrimental to highway safety and is contrary to the provisions of the NPPF and to saved policies GP2 and ENV32 of Walsall Unitary Development Plan and policy T4 of Walsall Site Allocations Document.*
- 3. In the absence of evidence to demonstrate that the means of access will not have an unacceptable impact on the highway network detrimental to highway safety it is not possible to consider whether the layout of the site and scale of the buildings can satisfactorily be accommodated on site in terms of the integration of the buildings with the external space around them and adequacy of the means of access and is contrary to saved policies GP2 and ENV32 of Walsall Unitary Development Plan.*

On 8 November 2019 the Planning Inspectorate advised that the appeal had been turned away and would not be progressed by them. In the circumstances the determination of the application now remains with the Council.

Since the original application was considered by committee the applicants have sought to address the recommended reasons for refusal and in doing so have amended the application. As an outline proposal they have amended the matters to be considered and instead of seeking determination of means of access, layout and

scale of development they are now seeking only to determine means of access. The amended proposals and assessment now follow.

Proposal

This is an outline application for erection of two detached commercial units for a proposed Class B1(a) office and B2 general industrial use with associated external works and seeks determination of access to the development only.

The submitted plans show an indicative layout as per the following but this is for information only and is not for determination at this stage:

Unit 1 – floor area of 4,866m² with two storey offices at the front facing Middlemore Lane

87.28m wide x 55.75m long x 8.3m high with a flat roof

Office section 56.5m wide X 9m deep

Utilises the central access for the staff car parking

80 parking spaces with 3 disabled spaces and a cycle parking area

Segregated commercial vehicle access from the existing eastern access

8 roller shutter doors in the eastern side elevation

Unit 2 – floor area of 2,081m² with two-storey offices located at the rear of the site

Offices located within the front north-western corner of the building

58.9m wide x 32.87m long x 8.3m high with a flat roof

Office section 17m wide X 9.5m deep

30 parking spaces with 2 disabled spaces

5 roller shutter doors on the eastern half of the front elevation

Parking areas and commercial access share the eastern access.

The application form identifies 1310m² floor space for B1(a) purposes and 6171m² floor space for B2 purposes (total 7481m²). Both buildings comprise insulated cladding panels on a steel frame with aluminium powder coated windows and doors.

A Supporting Statement has been submitted describing the history of the site and planning applications, proposed development and its location; environmental considerations including ecology drainage and ground conditions, sustainability and policy context.

A Coal Mining Risk Assessment has been supplied that identifies coal mining risks including two mineshafts either within the site boundary or within 20m of it that are likely to represent a significant development constraint. Potential risk posed by shallow underground workings could be mitigated by intrusive investigation which would need to be finalised on consideration of the final layout as a reserved matter.

A Transport Statement and Travel Plan have been supplied. The Transport Statement describes the proposals, site and surroundings including the local road network, local amenities and proximity to bus stops and railway stations. It assesses the TRICS data in respect of vehicles arriving/departing in the am/pm peak (am peak: 65.5 arriving, 52.1 departing; pm peak: 27.7 arriving and 60.1 departing). It also assumes vehicle split leaving the site as 35% turning left and 65% turning right (13 turning left and 33.9 turning right in the morning and 21 turning left and 39.1 turning right in the evening). Swept path drawings of Articulated Vehicles are included to demonstrate that an Articulated Vehicle can satisfactorily enter, leave and manoeuvre within the site. No works are considered necessary to reduce accidents in the area. The Travel Plan gives travel targets, management and measures to raise awareness of sustainable travel and promote measures to reduce the need to travel by private car.

A Flood Risk Assessment has been provided. This concludes the site is within flood zone 1 with low probability (less than 1 in 1000 year probability) of fluvial flooding. There is a surface water sewer located in the footway verge of Middlemore Lane that connects to the site. It also describes foul and surface water drains within the site that appear flooded so will need to be attenuated as they are not suitable to serve the proposed development. Some measures to prevent surface water flooding are recommended i.e. floor levels of units raised by 150mm above ground level.

Site and Surroundings

The site is located on the southern side of Middlemore Lane within an employment area, however it is also surrounded to the south and east by open space known as Anchor Meadow. The subject property currently appears vacant but has recently been occupied for storage of vehicles and trailers. There is a tall evergreen hedge behind palisade fencing along the frontage to Middlemore Lane and dense woodland to the east and south of the site separating it from the adjacent open space. There are two accesses to the site, one on the eastern boundary and one just off-centre along the frontage. The entire site is hard surfaced comprising a mix of tarmac and hardcore.

There is a large vacant industrial site opposite (former McKechnie Brass) plus other industrial premises to the west and north. There is also a football club and a social club with bowling green opposite the site adjacent to the former McKechnie Brass premises. The nearest residential premises are three storey housing and four storey flats in Westfield Drive on the opposite side of the open space at approximately 81m away from the nearest part of the site.

The site covers 1.8 hectares.

The site is 500m to the west of Aldridge district centre.

Relevant Planning History

11/0240/FL - Change of use to a hire depot for secure portable containers and offices – GSC 03/05/2011.

06/1282/FL/E11 - Variation of condition 1 of permission BC64539P to extend the time limit for New industrial units for B1(C) Light Industrial and B2 General Industrial use – GSC 21/09/2006.

05/2181/FL/E5 - Change of use from Industrial land to Storage of incomplete and complete commercial vehicles – GSC 06/02/2006.

02/0257/FL/E5 - Additional car parking spaces for existing commercial vehicle repair and assembly buildings – 28/03/2002.

BC64539P - New industrial units for B1(C) Light Industrial and B2 General Industrial Use – GSC 02/11/2001.

Plus older applications between 1994 and 1998 relating to minor works at the site for an earlier business operating from the site.

The site was occupied for a short while in 2015 for an unauthorised recycling facility but following successful enforcement action this use ceased.

McKechnie Brass Site

17/0485 - A hybrid application for the redevelopment of this site:

- A full planning application for demolition of all buildings and change of use of the land from general industrial (Class B2) to a mixed use of light industrial (Class B1), general industrial (Class B2) and storage or distribution (Class B8) and for the access of Middlemore Lane, the internal road layout and the drainage infrastructure.

- An outline application for construction of up to 22,703sq.m. of new buildings, the provision of associated car parking, servicing and circulation areas, landscaping of the site, SUDs ponds and all other associated works (other than those detailed within the full planning application) – GSC 24/10/2017.

16/0133 - Screening Opinion as to whether an environmental statement is required for B1(c), B2, B8 Industrial development – EIA not Required 16/02/2016.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

Walsall Site Allocation Document 2019

IND2: Potential High Quality Industry

IND5: New Employment Opportunities

OS1: Open Space, Sport and Recreation

EN1: Natural Environment Protection, Management and Enhancement

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EN3: Flood Risk
M1: Safeguarding of Mineral Resources
T4: The Highway Network

Supplementary Planning Document

Conserving Walsall's Natural Environment

Development with the potential to affect trees, woodlands and hedgerows

- NE7 - Impact Assessment
- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting
- NE10 – Tree Preservation Order

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites
- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Officer comments in italics.

Archaeology - The site in the location of Victoria Colliery – a small colliery recorded on the Historic Environment Record as including 2 shafts, loading bay, tramways, and buildings on the 1st Edition Ordnance Survey map of 1886. However, any

remains relating to this heritage asset would be of local significance only, and there is a high likelihood of truncation by later activity in this area. For these reasons, it is recommended there would be no archaeological implications for this development.

Coal Authority – No objection to outline application. The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment (CFM/28208, 29/03/2019), based on the professional opinions provided by GIP Limited; that coal mining legacy currently poses a significant risk to the proposed development and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues within the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring intrusive ground investigation works prior to commencement of development. This will include the determination of the exact location / condition of on-site mine entry 405300-001.

In the event that the site investigations confirm the need for remedial works to ensure the safety and stability of the proposed development, the Coal Authority also recommends that this be conditioned to ensure that any remedial works identified by the site investigation are undertaken prior to commencement of the development.

The layout of the proposal should be informed by the results of the site investigations works as recommended made by the applicant's technical consultants: GIP Limited within their Coal Mining Risk Assessment (CFM/28208, 29/03/2019).

Community Safety – No objection, the rear of Unit 2 should be secured with camera coverage and PIR lighting as it backs onto green space which could offer opportunity for attack. Adequate lighting around the site is also recommended and consideration of security fencing.

This comment is more relevant to any succeeding reserved matters application wherein the layout will be assessed in detail. A condition requiring details of security lighting to be submitted with any Reserved Matters application can be included.

Environment Agency – No objections.

Fire Officer – No objection subject to compliance with Part B of the Building Regulations 2010

Adherence to building regulations is a matter for building control

Highways England – No objection.

Historic England – No objection.

Lead Local Flood Authority – No objection subject to a condition to secure a satisfactory surface water design to prevent flooding by ensuring satisfactory storage of/disposal of surface water from the site.

Designs for surface water drainage would have to be undertaken as part of the layout considerations in a reserved matters application but a condition can be imposed for such details to be provided at that stage.

Natural England – No objection.

Network Rail – No objections as does not affect the rail infrastructure.

Police – No objections. A note for applicant regarding secure by design commercial, police approved crime reduction information guidance is provided.

Policy –The site is allocated as potential high quality industry under SAD policy IND2 (site IN12.6). The submitted details are ambiguous about the proposed use. The application description refers to uses B1(a) and B2 but the supporting statement refers to B1/B2/B8. However, the submitted plan shows warehousing (which would be B8) and offices. A B1(a) office is a main town centre use so would not be acceptable for this site unless it was ancillary to a B2 or B8 use. The submitted plans appear to show that the office use would be ancillary. However, a B2 and/or B8 use would be strongly supported by the SAD policy.

Pollution Control – No objections but recommends conditions to mitigate the effect of noise associated with the proposed use and provides an advisory note concerning contaminated land.

The proposed development is located on the site of a former colliery works with subsequent industrial use. The applicant will therefore need to undertake appropriate investigation in order to assess the extent of the ground contamination at the site and inform of any remedial measures that may be required.

With regard to noise the site is within close proximity (<100 metres) of residential properties on the southern and eastern boundaries and the proposal therefore has the potential to cause noise nuisance to the occupants of nearby dwellings. Under such circumstances Pollution Control recommends conditions to protect local amenity.

There are no concerns regarding relevant pollutant levels at the proposed site but, with reference to the adopted Black Country Air Quality Supplementary Planning Document (SPD), this is a Type 1 application. The applicant therefore needs to install electric vehicle charging points and low NOx boilers in the development.

Public Footpaths – No objections – there are no public rights of way affected by the application.

Public Health – Recommends EV charging points are included as per the Black Country Air Quality SPD.

Severn Trent Water – No objections subject to a condition to secure drainage details.

Sport England – No objection as the proposals do not involve the loss of any sports facility.

Transportation – No objections subject to a maximum GFA of 7,481m² and conditions regarding provision and maintenance of parking and turning spaces, ancillary use of office spaces, cycle parking, construction method statement, upgrade of the bellmouths at the access points.

It is noted that a travel plan is required under the reserved matters application. Notes are provided reminding the applicant of the need to keep the highway free from any mud or other material emanating from the application site and the need for an agreement under S38/278 of the Highways Act 1980 or obtain a Road Opening Permit for all works within the existing public highway and adoptable highway.

Representations

One representation received on the original submission commenting they have no knowledge of development on the application site.

Determining Issues

- Principle of Class B1(a)/B2 development
- Means of Access
- Flooding
- Coal
- Ground conditions
- Air Quality
- Security

Assessment of the Proposal

Principle of Class B1(a)/B2 development

The site is allocated as potential high quality industry under Site Allocation Document, 2019 (SAD) policy IND2 (site IN12.6). Whilst there is some discrepancy between the proposed use referred to on the forms, supporting statement and plans (the plans refer to 'warehouse' where the application form and supporting statement refer to 'commercial' use) the description of development is for Class B2 use with ancillary Class B1(a) offices.

A B1(a) office is a main town centre use so would not be acceptable for this site unless it remains ancillary to a B2 use, which could be a condition of any permission. Such a condition would also ensure there remains adequate parking provision. On this basis a Class B2 (or for that matter B8) use would be strongly supported by the SAD policy.

Whilst the layout provided is at present intended for indicative purposes only, the application form does indicate the proposal entails a floor space of 7,481m².

The indicative layout indicates two large units typical of the type of construction evident in the surrounding employment areas. Large units of their size and scale would not be out of keeping with the surrounding area and to a large extent they will be screened from the wider area by existing trees and woodland. Subject to the applicant demonstrating that the access is acceptable for the scale of development proposed, the general scale is considered acceptable to inform the assessment of the acceptability of the principle of development.

Means of Access

The NPPF paragraph 109 states *"development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"*.

The proposed means of access to the site retains the existing two access points off Middlemore Lane, with commercial vehicles utilising the eastern access only.

The submitted Transport Assessment provides a detailed description and justification for the access design. According to the Transport Assessment visibility splays of 43m are required at a distance of 2.4m from the give way line on Middlemore Lane since the posted speed limit is 30mph. These are shown to be achievable.

The Transportation Officer requested that additional information be provided to demonstrate that the largest type of vehicles can enter and leave the commercial vehicle point on Middlemore Lane and also to demonstrate that the largest commercial vehicle can manoeuvre within the site to serve both units. This information has been provided in the updated transport statement in the form of

swept path drawings, which show that Articulated Vehicles can satisfactorily enter and leave the site as well as manoeuvre within it.

In line with the requests made by the Transportation Officer, the Transport Assessment makes consideration of the development approved for the McKechnie site opposite and potential cumulative impact on the surrounding highway network. The Assessment concludes that the combination of both sites would create an increase in traffic of just under 1 vehicle every minute turning in a north-easterly direction towards the Middlemore Lane/Leighswood Road Junction, and comments that this is not excessive considering that Middlemore Lane is a HGV advised route. HGVs would be unlikely to turn left out of the site as Dumblederry Lane is weight restricted.

The indicative layout shows the provision of 110 parking spaces within the site, of which 5 are laid out to accommodate disabled users. Saved policy T13 of the UDP requires that 1 parking space per 30m² of (B1a) office space be provided, and 1 parking space per 50m² of (B2) general industrial space up to 250m² and 1 per 100m² thereafter. Given the floor space provided the development would therefore require 110 parking spaces, which is in line with the indicative layout.

Given the information provided in the indicative layout and updated, the Highway Authority has indicated that the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF paragraph 109. It also addresses the earlier recommended reasons for refusal.

This conclusion is reached subject to the imposition of conditions requiring that the accesses be consolidated hard surfaced and drained, that turning areas be kept unobstructed, that office space remain ancillary, that cycle shelters be provided as indicated, that a construction management plan be implemented and that the bellmouths be altered as indicated.

Flooding

The site lies in Flood Zone 1 where there is a medium to high risk of flooding at the site entrance and low risk along the eastern boundary of the site. There is some evidence of flooding along Middlemore Lane to the north-east of the site boundary.

A Flood Risk Assessment (FRA) has been provided, which has allowed the Lead Local Flood Officer to support the proposals subject to a condition to secure satisfactory surface water design to prevent flooding by ensuring satisfactory storage of/disposal of surface water from the site.

In the circumstances the proposals comply with the provisions of the NPPF and to saved UDP policies GP2, ENV10 and ENV40 and to policy ENV5 of the Black Country Core Strategy.

Coal

A Coal Mining Risk Assessment (CFM/28208, 29/03/2019) has been provided that identifies that shallow coal mining may have occurred in the Top Robins Coal seam. Given the estimated depth of this coal seam of 39m and the overall seam thickness of 3.8m including partings. The Assessment also identifies the presence of two recorded mine entries (one on-site; one off-site) affecting the site.

The Coal Authority agrees with the recommendations of the Coal Mining Risk Assessment that coal mining legacy currently poses a significant risk to the development of the site and that intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues within the site.

The indicative layout provided is unacceptable as the identified on-site mine-entry would be built over. The final layout of the proposal should be informed by the results of the site investigations works as recommended made by the applicant's technical consultants.

The outline application is therefore acceptable subject to the identified coal mining issues being dealt with in the layout design to be proposed during a reserved matters application, and the present application can be said to accord with paragraphs 178-179 of the NPPF or saved UDP policies GP2 and ENV32. This addresses the earlier recommended reason for refusal.

Ground Conditions

In addition to the coal mining issues referred to above the applicant would need to undertake appropriate investigation in order to assess the extent of the ground contamination at the site and inform of any remedial measures that may be required. This could be secured as part of a reserved matters application or prior to commencement of any development by an appropriate condition. On this basis the proposals comply with saved UDP policies GP2 and ENV10 in this respect.

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

Air Quality

In accordance with policy ENV8 of the BCCS and the Black Country Air Quality SPD this is a type 1 application where there is a need to install electric vehicle charging points and low NOx boilers in the development in order to reduce emissions and improve air quality. This could be secured by conditions.

Security

The Police and Community Safety teams comments on safety and security of the site and recommend security measures such as CCTV, security fencing and lighting. These details could be provided as part of a reserved matters application or secured by condition and note on any decision notice. This accords with saved UDP policies GP2 and ENV32.

Conclusions and Reasons for Decision

The principle of development for Class B2 general industrial premises with ancillary offices is considered acceptable as the site is allocated as potential high quality industry under Walsall Site Allocation Document policy IND2 (site IN12.6).

The site is within the mineral safeguarding area but does not exceed the threshold (5 hectares) for requiring supporting evidence to demonstrate how non mineral proposals will safeguard the mineral resource as required by BCCS policy MIN1.

A Transport Assessment has been provided which demonstrates the viability of the accesses for use by the largest vehicles cumulative impact of recent approvals on the highway network and other factors that highlight its compliance with NPPF paragraph 109. The proposal has therefore demonstrated that access to the development is satisfactory and would not have a severe impact on highway safety in line with the provisions of the NPPF, saved policies GP2 and ENV32 of Walsall UDP and policy T4 of Walsall SAD.

Other matters relating to provision of a cycle store and continuous pedestrian routes throughout the site could be determined by conditions at reserved matters stage.

The site lies in Flood Zone 1, however where there is a medium to high risk of flooding at the site entrance and low risk along the eastern boundary of the site. There is some evidence of flooding along Middlemore Lane to the north-east of the site boundary.

The Flood Officer confirms the Flood Risk Assessment supplied is acceptable subject to a condition to secure satisfactory surface water design supplied at reserved matters stage the proposals comply with the provisions of the NPPF and to saved UDP policies GP2, ENV10 and ENV40 and to policy ENV5 of the Black Country Core Strategy.

The Coal Mining Risk Assessment identifies the presence of the two recorded mine entries (one on-site; one off-site) affecting this site. The Coal Authority records confirm the exact location of both mine entries, it is unlikely that the off-site mine entry will affect this development. The indicative layout would have to be adjusted to take the on-site mine entry into account at reserved matters stage.

The outline application is therefore acceptable subject to the identified coal mining issues being dealt with in the layout design to be proposed during a reserved matters application, and the present application can be said to accord with paragraphs 178-179 of the NPPF or saved UDP policies GP2 and ENV32.

An appropriate investigation in order to assess the extent of the ground contamination at the site would need to be undertaken and would inform of any remedial measures that may be required. This could be secured prior to commencement of any development by an appropriate condition. On the basis the proposals comply with saved UDP policies GP2 and ENV10 in this respect.

In accordance with policy ENV8 of the BCCS and the Black Country Air Quality SPD this is a type 1 application where there is a need to install electric vehicle charging points and low NOx boilers in the development in order to reduce emissions and improve air quality. This could be secured by conditions.

Taking into account the above factors it is considered that the application should be recommended for approval.

Positive and Proactive Working with the Applicant

Approve

Through the course of the application officers have negotiated with the applicant's agent and in response to concerns raised regarding the information provided in the transport assessment and concerns over the impacts of historic mining the application has been amended to be considered as an outline proposal with all matters reserved save for access provision and additional information has been provided in the form of amended supporting documentation. These amendments and additional information has enabled full support to be given to the scheme.

Recommendation

Grant Subject to Conditions

Conditions and Reasons

1. Application for the approval of reserved matters must be made not later than the expiration of three years beginning with the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development to which the permission relates must be begun not later than the expiration of 2 years from the final approval of the reserved matters application, or the last reserved matters approval.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

3. This development shall not be commenced until details of the following, hereafter named the Reserved Matters have been submitted to and approved by the Local Planning Authority:-
 - a) Appearance
 - b) Landscaping
 - c) Layout
 - d) Scale

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 92 of the Town and Country Planning Act, 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

4. This development shall not be carried out otherwise than in conformity with the following approved plans and documents: -
 - Location Plan (Plan Number 18019 (P)01) received 19/12/18
 - Site Proposals (Plan Number: 453-19-05) received 03/04/20 (*to be updated*)
 - Articulated Vehicle Swept Paths 01 and 07 (Plan Number 453-19-71) received 05/12/19 (*to be updated*)
 - Articulated Vehicle Swept Paths 04 and 06 (Plan Number 453-19-70) received 05/12/19 (*to be updated*)
 - Supporting Statement prepared by the Planning Group (25/11/19 Revision 02) received 05/12/19
 - Transport Statement prepared by Summer Consultancy (26/11/19 Issue 2) received 05/12/19

- Interim Travel Plan prepared by Summer Consultancy (20/05/19 Issue 1) received 05/07/19
- Flood Risk Assessment prepared by Summer Consultancy (04/09/19 version 1) received 24/09/19
- Coal Mining Risk Assessment prepared by Ground Investigation and Piling Limited (29/03/19 Ref CFM/28208) received 05/07/19

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

5. The development hereby permitted shall not be used otherwise than for the purposes of Class B2 (General Industry) of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Order revising, revoking or succeeding that Order with or without modification and any office space supplied shall be ancillary to this use only.

Reason: To define and control the use of the site in accordance with levels of predicted traffic contained within the submitted Transport Statement in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32

6. a. Prior to the commencement of development a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

1. Construction working hours
2. Parking and turning facilities for vehicles of site operatives and visitors
3. Loading and unloading of materials
4. Storage of plant and materials used in constructing the development
5. A scheme for recycling/disposing of waste resulting from construction works
6. Temporary porta cabins and welfare facilities for site operatives
7. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
8. Measures to prevent flying debris
9. Dust mitigation measures
10. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
11. Noise and vibration mitigation measures

b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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Reason: To ensure that no works commence on the site until a scheme is in place to safeguard the amenities of the area and the occupiers of the neighbouring properties and to control the environmental impacts of the development in accordance with saved policies GP2, T4 and ENV32 of Walsall's Unitary Development Plan.

7. a. Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.
- b. The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.
- c. The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

Reason: To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

8. a. Prior to commencement of the development hereby permitted:
 1. Details of intrusive site investigations for past coal mining activity shall be submitted in writing to and approved in writing by the Local Planning Authority;
 2. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring shall be submitted in writing to the Local Planning Authority;
 3. details of remedial works shall be submitted to and approved in writing by the Local Planning Authority;
- b. Prior to the carrying out of building operations of the development hereby permitted the approved details of remedial works shall be carried out in accordance with the details approved under part a(iii) of this condition.
- c. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure the safety and stability of the development, to safeguard the amenities of occupants and to comply with NPPF Paragraph 109 and saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

9. a. Prior to built development commencing a ground contamination survey having regard to current best practice shall be undertaken. (see Note for Applicant CL1).
- b. Prior to built development commencing a copy of the findings of the ground contamination survey, together with an assessment of identified and / or potential hazards arising from any land contamination shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2).
- c. Prior to built development commencing a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination on the site and a timetable for their implementation shall be submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2).
- d. The remedial measures as set out in the 'Remediation Statement' required by part c) of this condition shall be implemented in accordance with the agreed timetable.
- e. If during the undertaking of remedial works or the construction of the approved development unexpected ground contamination not identified by the site investigation required by part a) of this condition is encountered, development shall cease until the 'Remediation Statement' required by part c) of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.
- f. A validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted to and accepted in writing by the Local Planning Authority prior to the development being brought into use. (see Note for Applicant CL3).

Reason: To ensure safe development of the site and to protect human health and the environment in accordance with saved UDP policies GP2 and ENV10.

10. Prior to first occupation of the development, the commitments, measures and targets to encourage sustainable travel modes to reduce car based trips to the site contained with the Interim Travel Plan prepared by Summer Consultancy (20/05/19 Issue 1) shall be developed into a Travel Plan
- b. The development hereby permitted shall not be carried out otherwise than in accordance with the plan.

Reason: To encourage sustainable travel modes, in accordance with BCCS policy TRAN2 and saved UDP Policy T10.

11. a. Prior to first occupation of the development hereby permitted details of electric vehicle charging points, to be provided for each the development shall be submitted in writing to and agreed in writing by the Local Planning Authority.

b. Prior to first occupation of the development the approved electric vehicle charging points shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy

12. a. Prior to any unit within the development hereby approved coming into operation all access ways, parking and vehicle manoeuvring areas associated with that unit, shall be consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain together with the clear demarcation of all parking and loading bays.

b. These areas shall thereafter be retained and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with saved UDP policy GP2, T7 and T13.

13. a. Prior to the development first coming into use, the location and design of the pedestrian crossing points with tactile pedestrian dropped kerb crossings on each of the two existing bellmouths on Middlemore Lane shall be submitted in writing to and agreed in writing by the Local Planning Authority

b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To improve pedestrian accessibility to the site and for the general public passing by the site, in accordance with UDP Policy T1 and T5.

14. a. Prior to the development first coming into use, full details of the proposed cycle shelters for each unit, which shall be covered and illuminated, shall be submitted to and approved in writing by the Local Planning Authority and the facilities fully implemented in accordance with the approved details.

b. The cycle shelter facilities shall thereafter be retained and used for no other purpose.

Reason: To encourage sustainable modes of travel and in accordance with the saved Walsall's Unitary Development Plan policy T13 and Black Country Core Strategy TRAN4.

15.a. Prior to the development first coming into use, full details of the proposed security measures including lighting, boundary treatments and CCTV, shall be submitted to and approved in writing by the Local Planning Authority and the facilities fully implemented in accordance with the approved details.

b. The security measures shall thereafter be retained.

Reason: To maintain the safety and security of the development in line with Walsall's Unitary Development Plan policy GP2 and ENV32 and the designing Walsall SPD.

16. No loading and unloading of goods or storage of goods materials or equipment shall take place within the parking, turning or vehicle manoeuvring areas on the site.

Reason: To ensure the satisfactory functioning of the development and in the interests of highway safety and to prevent pollution in accordance with the saved Walsall's Unitary Development Plan policy GP2, T7, T13, ENV10 and ENV32.

17. No boilers shall be installed in any of the units hereby permitted, save for

- Gas and liquefied petroleum gas (LPG) boilers with maximum NOx emissions no greater than 56 mg/kWh
- Oil-fired boilers with maximum NOx emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1.

Notes for Applicant

Highways

1. The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

2. The applicant will be expected to either enter into an agreement under S38/278 of the Highways Act 1980 with the Highway Authority or obtain a Road Opening Permit from the Highway Authority for all works within the existing public highway and

adoptable highway. For further advice please contact Highway Development Control Team on 01922 655927.

3. The position of the pedestrian crossing points to be agreed in advance with the Highway Authority and will involve the formal adoption of a section of the main HGV access bellmouth as publicly maintainable highway to accommodate the crossing point in an appropriate location due to the width of the access.

Contaminated Land

CL1: Ground investigation surveys should have regard to current Best Practice and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 +A2:2017 Investigation of potentially contaminated sites – Code of Practice; British Standard BS5930: 1999 Code of practice for site investigations; Construction Industry Research and Information Association Assessing risks posed by hazardous ground gasses to buildings (Revised) (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2: When making assessments of any contaminants identified as being present upon and within the land considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 Model Procedures for the Management of Land Contamination, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 Updated technical background to the CLEA model and Science Report – SC050021/SR2 Human health toxicological assessment of contaminants in soil or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3: Validation reports will need to contain details of the as installed remediation or mitigation works agreed with the Local Planning Authority. For example, photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported clean cover materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate, records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

Air Quality SPD

Pollution Control is of the opinion that the Application falls under the Type 1 category, therefore the Applicant needs to install at least one electric vehicle charging point per Plot and/or one charging point per 10 parking spaces for shared parking, and low NOx boilers.

The Air Quality SPD (Section 5.6) advises the following about Electric Vehicle Charging Points.

An external weatherproof and lockable covered 32 Amp external 7 pin charging socket to comply with EN 62196-2 and be compatible with a J1772 Type 2 connector. The charging unit should feature a Mode 3 (IEC 61851) communication module.

Wherever possible the power supply and charging point should both be phase 3 compatible and be located near the parking area for each dwelling. Where only single-phase power supply is available the charging unit should be capable of handling 3-phase power if supply is subsequently upgraded.

The charging unit is to be supplied by its own independent radial circuit.

Further information on Electric Vehicle Charging Points and the necessity to provide these can be found in the following:

- West Midlands Low Emissions Towns and Cities Programme, Good Practice - Air Quality Planning Guidance,
- Black Country Air Quality Supplementary Planning Document (SPD),
- General Procurement Guidance for Electric Vehicle Charging Points, UK Electric Vehicle Supply Equipment Association (April 2015),
- Institute of Engineering and Technology (IET) Code of Practice for Electric Vehicle Charging Equipment Installation.

Environmental Legislation Hours of Construction

No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and otherwise such works shall not take place other than between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours. (* *Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday, Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday*)

Community Safety

It is recommended that the rear boundary of the site in particular be protected with camera coverage/PIR lighting as the property backs onto green space which could offer an extended opportunity for attack. Adequate lighting to the rear and sides of the buildings and car parking spaces will also need to be considered, in particular as this site will not be overlooked during out-of-hours times. It may be worth considering replacing palisade fencing with security mesh (358 weld or similar) which is less susceptible to attack.

End of Officers Report



Planning Committee

Report of Interim Head of Planning and Building Control on 28-May-2020

Plans List Item Number: 4.

Reason for bringing to committee: The matter is now subject to an appeal against Non-Determination to present Members with a recommendation that would have been made.

Location: 5, RICHMOND STREET, WALSALL, WS1 2JX

Proposal: FIRST FLOOR EXTENSION TO FACTORY

Application Number: 17/0589

Applicant: Mr Haroon Bashir

Agent: Maurice Cotton

Application Type: Full Application: Minor Use Class B2 (General Industrial)

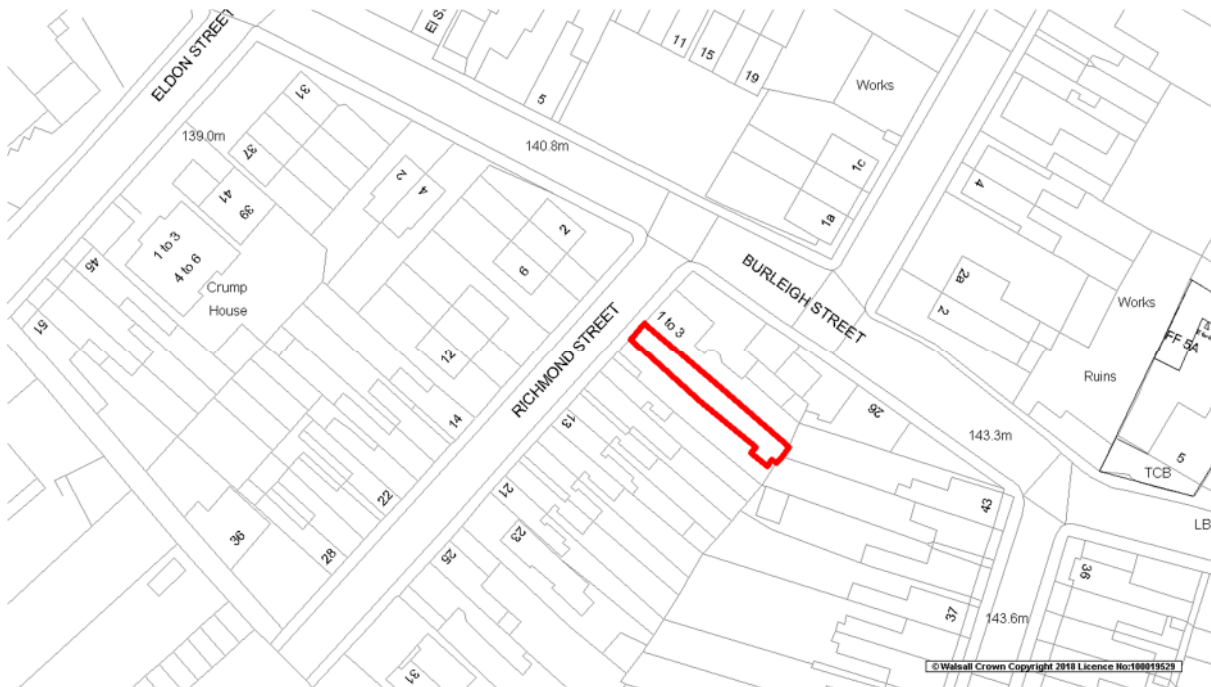
Case Officer: Andrew Watson

Ward: Paddock

Expired Date: 16-Jul-2017

Time Extension Expiry:

Recommendation Summary: Refuse



Proposal

This application seeks permission to build an extension for an existing business premises, to provide a facility to process larger roles of fabric. Though configured as a mid-terraced dwelling located within a street of similar, the interior of the building and its extension along the full length and width of what was once the rear garden is utilized as an upholstery workshop with some materials storage and offices on a small upper floor. Access to the site is via a 3m wide entrance and loading area into the building that can accommodate a van.

The planning application seeks to extend the existing upper storey cutting area and material store. This would be extended from existing to occupy the other half of the 15m long ground floor roof-space over the full width of the structure. This essentially creates a two storey structure occupying the full width of the original garden space, extending to the rear garden boundary whilst retaining a gap of 7.5 metres between the original house and the business premises at first floor. As well as an internal stairwell, an additional external steel staircase would also provide access to the upper level, positioned in the rear garden area of No.7 with the redline of the application drawn tightly around the open staircase. The applicant's claims No.7 is in the same ownership, indicated as such within the red line area on the location plan, whilst No.7 is outlined in blue as additional land ownership of the applicant.

In accordance with the latest drawings submitted on 9th July 2018, a flat roof would be utilized and high level obscure windows installed on the elevation facing over no.7. The rear of the building is finished in a buff coloured stock brick with felt roof and this would continue to be used on the extension. The rendered finish of the front of the building would remain unchanged.

The proposals are supported by two Noise Impact Assessments, one appears to be prepared by the agent and the other by noise consultants.

The first Noise Impact Assessment (received 26/10/17) briefly describes the project description, the site, operation, sets out the noise sources and processes, identifies the receptors and sets out the mitigation.

The premises form part of a street of generally terraced houses and in an area of mixed residential, commercial and industry. Chuckery has the typical mix prevalent in many older midlands areas. There is nearby heavy industry. The sensitive receptors are residential neighbours in Richmond Street and to the rear Bernard Street whilst other local industry has much higher noise.

In terms of mitigation the workshop has been operating for a century and the processes it operates have not changed. The hours of work will remain unchanged at 0800 to 1730 hours.

The facility is self-contained with materials coming in and going out that would be handled by 3.5tonne vans. The output is not significant and would be unaffected by this proposal.

Employment would not change and no additional car parking is to be generated.

The second Noise Impact Assessment (received 11/04/19) is an external noise assessment for the proposed first floor workshop extension.

A background noise level of 51 dB LA90 was measured in good weather without an operational noise from the workshop building. A operational noise level of 86 dB LAeq 30min was measured when an air compressor was running, powering a nail gun, which represented the loudest operational noise within the existing workshop. With the operational noise figure measured it has been possible to advise a construction specification for the proposed extension walls and roof to attenuate the workshop operational noise too at least 10dB below the background noise level in the adjacent garden areas outside the nearest residential windows.

The two new building envelope area that need to provide the appropriate degree of noise insulation performance, the new first floor wall and the new first floor roof.

The new first floor wall facing the adjacent garden area is 36m² of blockwork, taken to be 1250kg/m³ medium density block with 6m of normally closed double glazed windows. The resultant break-out noise from the first floor new wall area, at a receiving point in the garden at 3m distance is 39dBA, which is 12dB below the measured background noise and below WHO advise noise criterion for outdoor amenity areas.

The new first floor roof of 105m² it is assumed that it would be a profiled metal roof, Kingspan Roof R3, KS1000 RW/40+I+L. The noise break out from the first floor roof area at a receiving point in the adjacent garden or nearest neighbours window of 6m. The predicted workshop break-out noise is 27dBA. Which is 14dB below the measured background noise and below the WHO advised noise criterion for outdoor amenity areas.

BS8233:2014 advises a deduction of 15dB to be applied to the outside noise level. The wall break-out noise @3m distance as 39dBA, the resultant room noise level would be only 24dBA. The new roof break-out noise @6m distance as 27dBA, the resultant room noise level would be 12dBA. BS8233:2014 guideline for daytime habitable room background noise level is 35dBA Leq 16hr.

Based on a measured operational noise level of 86dBA, the applicant concludes the new first floor extension walls and roof will provide satisfactory noise insulation performance to protect the adjacent garden and nearest windows.

Site and Surroundings

The site is located within a residential area of the town consisting mainly of 19th century residential properties but with some long-standing commercial enterprises such as this placed within the local mix.

There are commercial premises to the south side of Richmond Street, with the first properties being in a commercial use (numbers 3, 3A and 3b, the application property number 5 and 7) with the first residential property being number 9 on the same side of the road and consist of two-storey terraced properties. Whilst there are a pair of two-storey terraced properties on the opposite side of Richmond Street, before the properties return to two-storey terraced properties The existing or original terraced properties are tight up to the rear of the footpath, whilst the two storey modern terraced properties are set back from the public highway.

Richmond Street is a narrow road with sufficient space for parking down on side, without having to park on the pavement.

Bernard Street to the rear of the application site and also consists of tight Victorian terraced properties, which is the predominant type of housing in this part of Walsall.

Relevant Planning History

None recorded

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a "*presumption in favour of sustainable development*".

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 6 – Building a strong, competitive economy**
- **NPPF 7 – Ensuring the vitality of town centres**
- **NPPF 9 – Promoting sustainable transport**
- **NPPF 11 – Making effective use of land**
- **NPPF 12- Achieving well-designed places**

On **planning conditions** the NPPF says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the '2010 Act ') sets out 9 protected characteristics which should be taken into account in all decision making. The **characteristics** that are protected by the Equality Act 2010 are:

- age
- disability
- gender reassignment
- marriage or civil partnership (in employment only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Of these protected characteristics, disability and age are perhaps where planning and development have the most impact.

In addition, the 2010 Act imposes a Public Sector Equality Duty “PSED” on public bodies to have due regard to the need to eliminate discrimination, harassment and victimisation, to advance equality and to foster good relations. This includes removing or minimising disadvantages, taking steps to meet needs and encouraging participation in public life.

Section 149(6) of the 2010 Act confirms that compliance with the duties may involve treating some people more favourably than others. The word favourably does not mean ‘preferentially’. For example, where a difference in ground levels exists, it may be perfectly sensible to install some steps. However, this would discriminate against those unable to climb steps due to a protected characteristic. We therefore look upon those with a disability more favourably, in that we take into account their circumstances more than those of a person without such a protected characteristic and we think about a ramp instead. They are not treated preferentially, because the ramp does not give them an advantage; it merely puts them on a level playing field with someone without the protected characteristic. As such the decision makers should consider the needs of those with protected characteristics in each circumstance in order to ensure they are not disadvantaged by a scheme or proposal.

Local Policy

www.go.walsall.gov.uk/planning_policy

Black Country Core Strategy

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP4: Place Making
- DEL2: Managing the Balance Between Employment Land and Housing
- EMP1: Providing for Economic Growth
- EMP3: Local Quality Employment Areas
- TRAN2: Managing Transport Impacts of New Development
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality

Saved Unitary Development Plan

- GP2: Environmental Protection
- ENV10: Pollution
- ENV32: Design and Development Proposals
- JP8: Bad neighbour industrial uses
- T7: Car Parking
- T13: Parking provision for cars, cycles and taxi's

Supplementary Planning Document

Designing Walsall Council

- DW3 Character
- DW7 Diversity
- DW8 Adaptability

Consultation Replies

Highways (18/09/2017) - No objection but the Applicant does need to demonstrate that thought has been given to the following three items:

1. Where will the construction personnel and visitors to the site park their vehicles. Richmond Street is a residential street and parking will be at a premium therefore understanding when the construction work will be taking place is important as there may be scope to control on-street parking of the construction traffic by limiting the working hours to the hours between the peak traffic times.
2. Where will the contractor be loading and unloading plant and materials. Plant, especially, would have the ability to block Richmond Street whilst vehicles and other plant are moved off a flat-bed lorry and into the site.
3. Storage of plant and materials. Where will the plant be stored? Where will the material be stored?

Rather than imposing a Condition on the decision notice would it be practicable to work with the Applicant to agree these details before permission is granted I envisage a single plan that would be referenced within the Decision Notice to show where the relevant locations are to address the above three issues.

Highways (04/09/2018):

No objections to the development as submitted, subject to a suitable worded condition or agreement to the effect that the use of the extended factory is specifically for the present user and/or a similar type of industrial process currently carried out at the site.

Whilst the current operation is relatively small scale, the Highway Authority has a concern based around the fact that the premises is located in a predominantly residential terraced type street and any change to a different operation within the current B1(c) use class or permitted change of use, could result in an intensification of vehicle trips to the site and add extra parking demand which could not be physically accommodated on-site. This, in turn, is likely to result in additional on street parking demand where there is already pressure from residents in the street. Additionally, historically there is no turning facility in Richmond Street so any increase in vehicle trips to the site, in particular delivery/commercial vehicles is likely

to result in increased reversing movements along the residential street, contrary to highway safety.

On balance taking into account the industrial premises has been operating for a long time, the relatively small scale of the current operations and the imposition of a suitable condition or agreement to prevent any change to other uses within the B1(c) use class, the Highway Authority considers the development will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Notes for the applicant:

The attention of the applicant is drawn to the need to keep the highway free from any mud or other material emanating from the application site of any works pertaining thereto.

Pollution Control (21/05/2019):

The above proposal involves extending the cutting room and store of the existing upholstery factory and office.

Whilst Pollution Control has no record of complaints from local residents regarding activities at the existing factory, we were concerned that this development may give rise to additional noise emissions that could affect the occupiers of nearby dwellings.

The applicant has now submitted a noise impact assessment (Ref. RandTech Consulting, Re: 5 Richmond Street, Walsall – Proposed First Floor Workshop Extension – Noise Assessment, MDR/J3869a, 17 March 2019) to predict the proposed developments likely impact on occupiers of nearby residential premises and to identify any noise mitigation measures required.

The report concludes that the new first floor extension walls and roof, based on a normal specification of block wall, double glazed window and insulated profile steel roofing, will provide a satisfactory noise insulation performance to protect occupiers of the adjacent garden areas and nearest dwellings.

Whilst Pollution Control is satisfied with the assessment, its findings and recommendations, we remain concerned that an unrestricted use would permit a range of activities at the development that may give rise to significant noise emissions that could affect the occupiers of nearby dwellings.

Under these circumstances Pollution Control can only support the application if it is suitably conditioned to permit the use detailed in the application. Conditions to address all of these matters have provided below along with conditions to prevent or minimise environmental impact during the course of building works. Please incorporate them into any permission granted.

Severn Trent - As the proposal has minimal impact on the public sewerage system there are no objections to the proposals and do not require a drainage condition to be applied.

West Midlands Fire Service -

Water supplies for firefighting should be in accordance with “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and Water UK:

Representations

One letter received from a near neighbour (*officer comments in italics and brackets*):

My concerns are as follows:

- The original workshop was built upon the wall at the bottom of our garden, and should this wall need to be removed during any building work this would present us with a range of security and privacy issues, as well as leaving our property in a position where it could be damaged. (*Whilst the shared boundary wall would be a civil matter between the two parties, safety and security is a material planning consideration. If the council was determining the planning application, it would have aimed to impose a condition requiring the boundary wall be retained*)
- I am assuming that such a business venture would require an extractor fan on the premises - the plan does not show where this presently is, or would be, if installed. Obviously, we would not want an extractor fan blowing onto our property. (*If the extractor fan is required, potentially requires approval prior to installation, depending on its size and location. Ideally, this should have been submitted by the applicant during the planning application process for neighbours to see sight of its potential location to give them an opportunity to comment. It would not be appropriate to subsequently condition for details as this may impact on the noise assessment outcome*)
- Should this extension be approved, will be a council official/building inspector visit the site to ensure procedures are being followed with minimum disturbance to ourselves and our neighbours. (*In this instance, the planning inspector is making the decision to approve or not the planning application. If an approval is given, it is a matter for the applicant to choose where they source their building inspector, via a third party or the council. It will be a matter for that building inspector to ensure the construction is in accordance with the appropriate requirements*)

Determining Issues

- Principle of development

- Design and Character of the Area
- Impact upon residential amenity
- Impact on Noise
- Traffic generation – Impact upon highway safety.

Assessment of the Proposal

Principle of Development

The proposal relates to the extension of an existing employment use that is situated within an existing residential street.

Bad neighbour uses can pose particular environmental problems for the surrounding area unless properly controlled and the location of potentially bad neighbour uses will be given very careful consideration taking into account the particular environmental implications of individual proposals.

UDP Policy JP8 states that proposals must satisfy all of the following criteria:

- I. Such uses should be within an existing employment area, but not in a core employment Area, and should not have a detrimental effect on the environmental quality of employment areas.*
- II. Uses should not have an adverse, or potentially adverse, environmental impact on housing, schools, facilities for sport and recreation, or other sensitive land uses.*
- III. Sites should be capable of providing satisfactory screening and landscaping.*
- IV. Uses that are unsightly and cannot be screened satisfactorily will not be permitted in prominent or visually sensitive locations (such as next to a main road, railway or canal).*
- V. Sites must be subject to stringent operational control to minimise disturbance to nearby firms or other uses.*
- VI. Proposals should be acceptable in terms of the criteria set out in*

Policy GP2.

The Council will normally impose conditions on planning permission covering the following matters: height of open storage; location, within the site, of activities with a potentially adverse impact; hours of operation; boundary treatment to include fencing of an approved standard, native trees and shrubs, and earth mounding as required; and proper demarcation of areas for parking, loading and manoeuvring which shall be kept clear of stored material.

The current activities undertaken on are carried out behind closed doors with no outside storage. The Pollution Control Section have advised that they have not received any objections concerning the current activities undertaken on site.

It is considered that the current use whilst not normally accepted in such residential situation it is not known for causing harmful problems for the neighbouring residential uses. The potential harm to neighbours from the use, may come from intensification or a different end user within the same planning use class. Therefore, there are no objections regarding the principle of the proposed development subject to appropriate conditions to manage the current use.

Design and Character of the Area

This application seeks to extend the premises and improve the efficiency and operation of the longstanding upholstery business undertaken at the premises and continue to provide full time employment for two people. The upper storey extension to the building as proposed would be purely functional in its design utilizing a flat roof and largely reflect in terms of materials and design what is already there.

The extension would not be visible from Richmond Street which maintains its external configuration as part of the terrace of dwellings albeit with a 3m wide vehicular access into the building. However, the proposed upper storey extension would be visible across the rear gardens of Richmond Street and Bernard Street to the rear. Overall, in terms of design and physical presence the proposal, whilst would have some visual harm, overall it is considered it would be neutral.

The overall design of the extension is considered to be neutral reflecting the current situation within the immediate locality whilst mostly hidden behind the existing street frontage façade. Therefore a refusal of the design of the extension is considered on balance not to be sustained.

Impact upon Residential Amenity

The proposed building extension continues to achieve separation distances to habitable room windows of adjacent houses of 24m or above.

The dwelling at No.3 already has a significant two storey rear addition abutting the boundary of the site and, as such, the proposal would not adversely impact upon the residential amenities enjoyed by this dwelling. However, the erection of a two storey open metal staircase on the north eastern side of the extended building would expose the rear elevation garden and rear main living room windows of No 7 Richmond Street (a separately occupied dwelling) and the houses at the rear in Bernard Street, to overlooking from the upper levels of the stairwell. This would be detrimental of the privacy and residential amenity of these dwellings including the

use of the own gardens. In addition, it also considered the open staircase would also impact on the privacy and residential amenities of No. 9 and No. 11 Richmond Street as well. Operating a commercial site within a high density residential location generates issues of overlooking and loss of privacy which the external metal staircase would exacerbate from this site. The proposal includes high level obscure glazing to the extension which would serve to protect residential amenity from the extended building itself, subject to conditioning a high level of obscurity, such as above Pilkington level 4.

UDP Policy 32 states that poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. When assessing the quality of design of any development proposal the Council will use some or all of the following criteria, which includes the appearance of the development; the height, proportion, scale, and mass or proposed buildings; the visual relationship of the proposed development with adjacent areas, the street and the character of the surrounding neighbourhood.

Good design should be a feature of all development but there are instances where the location of a proposed development requires a higher standard of design.

The construction of the open metal staircase within the garden area of No 7 Richmond Street would adversely impact upon the privacy enjoyed by residents of this and neighbouring properties at Nos 9 and 11, plus residents in Bernard Street by reason of overlooking and to the material detriment of their residential amenity and a refusal of planning permission could be supported on this issue alone.

Therefore, it is considered the inclusion of the open metal staircase on the side of the building would have an adverse impact upon the privacy enjoyed residents of Nos 7, 9 and 11 Richmond Street and residents in Bernard Street to the rear of the application site by reason of overlooking and the material detriment to their residential amenity due to the height and openness of the staircase. As a result the proposed development would therefore be contrary to the National Planning Policy Framework including paragraph numbers 127, 128, 130 and 131; The Black Country Core Strategy policies CSP4, ENV2 and ENV3, Walsall's Unitary Development Plan, in particular policies GP2, ENV32.

Impact on Noise

Issues of noise from the extension of this workshop have been raised by the Council's Pollution Control Officer with the recommendation for refusal if the development is not supported by a properly prepared Noise Impact Assessment.

Whilst there has been has no record of complaints from local residents regarding existing activities at the site there is a concern that extending the current factory may give rise to significant noise emissions which could affect the occupiers of

nearby residential dwellings. In this respect, noise sources could include vehicle deliveries, unloading, manoeuvring, sorting and cutting activities.

Two separate Noise Assessments have been provided by the agent one appears to have been prepared by themselves whilst the second has been prepared by a Noise Consultant.

Whilst the first Noise Impact Assessment was requested from the applicant but nothing other than a short Desk Top Study received by this authority on 26th October 2017, produced by the applicant which, in summary indicated that the use had been in place for over a century with no complaints locally. Such a short assessment is inadequate to properly assess potential noise impacts' upon the locality.

Following the submission of this statement the applicants have also submitted a further Noise Impact Assessment that has been prepared by a firm of Noise Consultants. Pollution Control have been consulted further. The latest Noise Assessment should help to predict the proposed developments likely impact on occupiers of nearby residential premises and to identify any noise mitigation measures required.

Pollution Control are satisfied following the submission of the latest assessment, its findings and recommendations, however they remain concerned that an unrestricted use would permit a range of activities at the development that may give rise to significant noise emissions that could affect the occupiers of nearby dwellings. On this issue there does not appear to be any conditions to cover such activities or restrictions.

Under these circumstances Pollution Control can only support the application if it is suitably conditioned to permit the use detailed in the application. Conditions to address all of these matters have provided below along with conditions to prevent or minimise environmental impact during the course of building works. Therefore please incorporate them into any permission new granted.

Based on the revised Noise Assessment Pollution Control now support the proposals subject to conditions tying the proposals to the applicant and other restrictions covering building works. The conditions covering building works could be imposed as they relate to the current proposal and would meet the 6 tests for imposing conditions. However, to impose the condition that ties the development to the applicant along with the requirement for the applicant to submit an acoustic mitigation scheme and validation report cannot be added given the proposal is for a first floor extension and it would not meet any or the 6 tests for imposing conditions to proposed developments.

The Local Planning Authority (LPA) cannot see how a personal condition and a condition requiring the submission of an acoustic mitigation scheme along with a validation report cannot be imposed on the development. Likewise the LPA cannot impose a condition on the development that restricts to minimise the noise impacts from the development overall as we are only dealing with an application for the first floor extension and not for the whole site or use. Consequently to impose such a condition to deal with this issue would not meet the 6 tests for imposing a condition and therefore it would not be enforceable if in the future the use either intensified or a different business were to move in operating within the wider planning use class that created greater noise.

Consequently and notwithstanding the submitted Noise Assessment it is considered that the proposal should be refused for the potential impact from industrial noise and the impact on the neighbouring residential properties given that the proposed conditions requested by Pollution Control cannot be included. As a result the proposal is considered to be unacceptable given it does not meet the requirements of Policies ENV10 and JP8 of Walsall's Unitary Development Plan.

Traffic Generation – Impact on Highway Safety

Whilst the current operation is relatively small scale, the Local Highway Authority has a concern based around the fact that the premises is located in a predominantly residential terraced type street and any change to a different operation within the current B1(c) use class or permitted change of use, could result in an intensification of vehicle trips to the site and add extra parking demand which could not be physically accommodated on-site. This, in turn, is likely to result in additional on street parking demand where there is already pressure from residents in the street. Additionally, historically there is no turning facility in Richmond Street so any increase in vehicle trips to the site, in particular delivery/commercial vehicles is likely to result in increased reversing movements along the residential street, contrary to highway safety.

Operation of the business activities from these premises would be consistent with those already carried out at present with the extension of the premises required for the improvement of the internal production and business operation within the site. As now, roles of fabric and finished goods would be taken from the existing drive in and front loading bay. There would be no material increase in traffic generated from the site for the current use and local Highway authority have no objection to this proposal for the current use.

Therefore, on balance and taking into account the industrial premises have been operating for a long period of time, the relatively small scale of the current operations and the imposition of a suitable condition or agreement to prevent any change to other uses within the B1(c) use class, the Highway Authority considers the

development will not have severe transportation implications and is acceptable in accordance with NPPF para 32.

Whilst the Highway Authority recommends a suitable condition to prevent any change to other uses within Use Class B1(C) it is considered by the LPA that it is not possible to impose such a condition given that we are only considering an application for a first floor extension and not the whole development or use; neither would it meet the 6 tests for imposing a condition. Given that the proposed development only relates to the first floor extension it is not possible to impose conditions that relate to control of the ground floor or the existing house.

Despite having no objections the Highway Authority concerns around the fact that the premises are located in a predominantly residential terraced type street and any change to a different operation within the current B1(C) Use Class or permitted change of use, could result in an intensification of vehicle trips to the site and add extra parking demand which could not be physically be accommodated on-site. This, in turn would likely result in additional parking demand where there is already pressure from residents in Richmond Street. Additionally and historically there is no turning facility in Richmond Street so any increase in vehicle trips to the site, in particular any increase in delivery or commercial vehicles is likely to result in increased reversing movement along a residential street, contrary to highway safety and policy TRAN2 of the Black Country Cores Strategy and policies T7 and T13 of Walsall's Unitary Development Plan.

Therefore, contrary to the Highway Authority advice permission should also be refused for this reason given that the development cannot be controlled as suggested by the Highway Authority.

Conclusions and Reasons for Decision

Whilst the Council always aims to support local businesses to grow, in this instance, the practicalities of the proposal as presented would:

- The construction of an open metal staircase providing first floor access to the proposal within the garden area of No 7 Richmond Street would adversely impact upon the privacy enjoyed by residents of this and neighbouring properties in Richmond Street and Bernard Street by reason of overlooking and to the material detriment of their residential amenity. As a result the proposed development would therefore be contrary to the National Planning Policy Framework including paragraph numbers 127, 128, 130 and 131; The Black Country Core Strategy policies CSP4, ENV2 and ENV3, Walsall's Unitary Development Plan, in particular policies GP2, ENV32.
- Whilst the comments from Pollution Control are noted and whilst a Noise Assessment has been provided it is considered that the proposal should be

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refused for the potential impact from industrial noise and the impact on the neighbouring residential properties given that the proposed conditions requested by Pollution Control cannot be included. As a result the proposal is considered to be unacceptable given it does not meet the requirements of Policies ENV10 and JP8 of Walsall's Unitary Development Plan.

- The Highway Authority is concerned that the premises are located in a predominantly residential terraced street and any change to a different operation within Use Class B1(C) and could result in an intensification of vehicle trips to the site and add extra parking demand which could not be physically be accommodated on-site. In turn this would result in additional on street parking demand where there is already pressure from residents in Richmond Street. Given that historically there is no turning facility in Richmond Street so any increase in vehicle trips to the site, in particular any increase in delivery or commercial vehicles is likely to result in increased reversing movement along a residential street, contrary to highway safety and policy TRAN2 of the Black Country Cores Strategy and policies T7 and T13 of Walsall's Unitary Development Plan.

Taking into account the above factors it is considered that the application should be refused.

Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent pertaining to concerns raised in respect of clarification of the design of the proposal particularly in respect of overlooking of the adjacent premises. Though a number of amendments have been submitted none have fully addressed the concerns of officers in respect of the maintenance of privacy of neighbouring properties.

Recommendation

- Refuse

Reasons for Refusal

1. The construction of an open metal staircase providing first floor access to the proposal within the garden area of No 7 Richmond Street would adversely impact upon the privacy enjoyed by residents of this and neighbouring properties in Richmond Street and Bernard Street by reason of overlooking and to the material detriment of their residential amenity. As a result the proposed development would therefore be contrary to the National Planning Policy Framework including paragraph numbers 127, 128, 130 and 131; The Black

2. Whilst a Noise Assessment has been provided it is considered that the proposal should be refused for the potential impact from industrial noise and the impact on the neighbouring residential properties given that the proposed conditions requested by Pollution Control cannot be included. As a result the proposal is considered to be unacceptable given it does not meet the requirements of Policies ENV10 and JP8 of Walsall's Unitary Development Plan.
3. The premises are located in a predominantly residential terraced street and any change to a different operation within Use Class B1(C) and could result in an intensification of vehicle trips to the site and add extra parking demand which could not be physically be accommodated on-site. In turn this would result in additional on street parking demand where there is already pressure from residents in Richmond Street. Given that historically there is no turning facility in Richmond Street so any increase in vehicle trips to the site, in particular any increase in delivery or commercial vehicles is likely to result in increased reversing movement along a residential street, contrary to highway safety and policy TRAN2 of the Black Country Cores Strategy and policies T7, T10 and T13 of Walsall's Unitary Development Plan.

End of Officers Report



Planning Committee

Report of Interim Head of Planning and Building Control on 28-May-2020

Plans List Item Number: 5.

Reason for bringing to committee: An appeal against non-determination of the application has been lodged. The report seeks the committee view on how they would have determined the application.

Location: 2 , COALPOOL LANE, WALSALL, WS3 1QJ

Proposal: ERECTION OF A NEW TWO-STOREY DWELLING ATTACHED TO NO 2 COALPOOL LANE PLUS SINGLE STOREY REAR EXTENSION TO 2 COALPOOL LANE

Application Number: 19/1086

Applicant: VEACESLAV SCORICI

Agent: Howard Lawrenson

Application Type: Full Application: Minor Use Class C3 (Dwellinghouses)

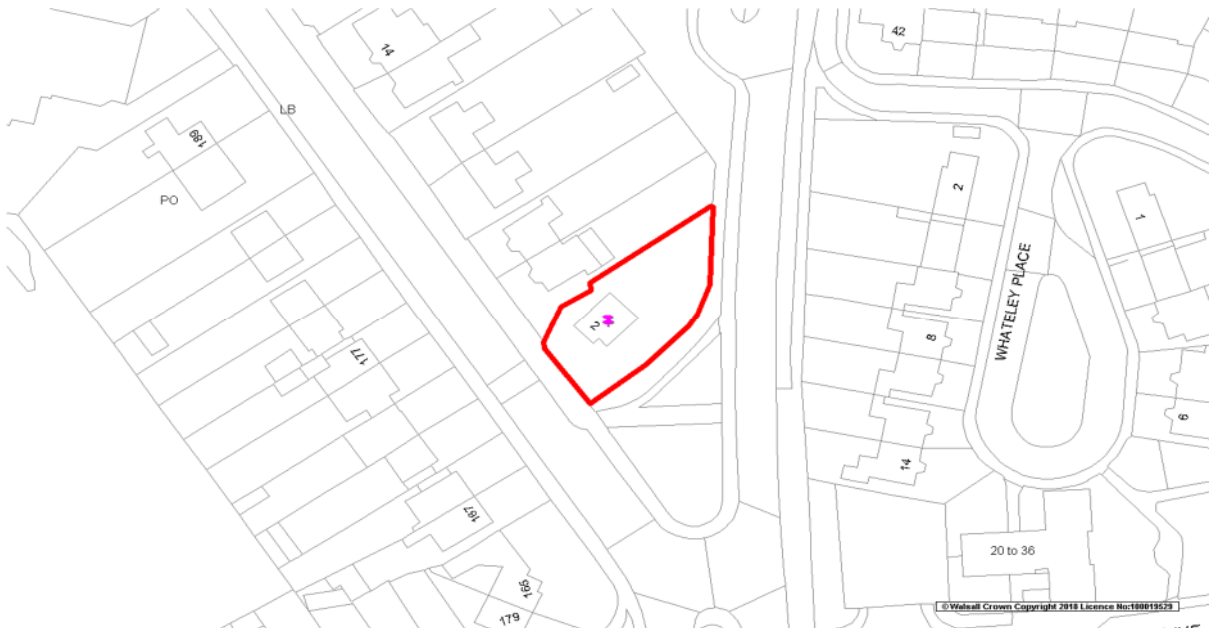
Case Officer: Mike Brereton

Ward: Blakenall

Expired Date: 14-Oct-2019

Time Extension Expiry:

Recommendation Summary: Delegate to the Interim Head of Planning & Building Control to advise the Planning Inspectorate that the Local Planning Authority would have granted permission subject to conditions and a S106 Agreement to secure replacement tree planting and ongoing maintenance of the same.



Current Status

There is a current appeal against non-determination of the application. There is also an appeal for an award of costs which is to follow. Officers are seeking a Committee resolution on how they would have determined the application were the decision within their authority rather than the Planning Inspectorate. The resolution will be forwarded to the Planning Inspectorate and form part of the appeal documents.

Proposal

The proposal seeks permission for erection of a new two-storey dwelling attached to 2 Coalpool Lane plus a single storey rear extension to 2 Coalpool Lane. This will form a pair of semi-detached dwellings.

Ground floor rear extension to no 2

3.5m deep

6.7m wide

Mono-pitch roof 2.5m to eaves, 3.2m to pitch

Double door and two narrow windows either side facing the rear garden

Retained garden area: Around 130m²

New dwelling

Ground Floor: 5.6m wide and 12m long drawing level with the front and extended rear elevation at no 2 Coalpool Lane

First Floor: 5.6m wide and 10.5m long including a 2.2m rear projection

Windows at front and rear elevations plus kitchen window in the side elevation

7m in height to pitch

Gable projection at front with windows mirroring those at no 2 Coalpool Lane

Garden: Around 70m²

The submitted drawing (Drg.104 Rev A) does not accurately correlate between floor plans and side elevation as there are no windows shown on the first floor plans yet a window is shown on the elevation drawing.

The layout identifies individual driveways for each dwelling with 3 parking spaces for 2 Coalpool Lane and 2 spaces for the new dwelling respectively.

The layout includes removal of the two trees on the adjacent open space that overhang the site and replacement with 6 replacement trees.

A Design & Access Statement has been provided that explains the planning history of the development and how the application has sought to address a previous refusal of permission plus information about pre-application advice.

Site and Surroundings

The site is located at the junction of Coalpool Lane and Ross Road. Number 2 Coalpool Lane is a detached dwelling so the proposals would form a pair of semi-detached dwellings. The surrounding character is semi-detached dwellings.

There is an area of grassed open space at the highway junction with two trees upon it and a path through it.

Relevant Planning History

18/0916 – Proposed new house adjoining 2 Coalpool Lane forming a pair of semi's – refused 2/10/2018 for the following reasons:

1: The proposal significantly breaches the 45 degree code used to assess the impact on neighbours living conditions. The outlook and light received at the rear of no.2 Coalpool Lane will be adversely affected to the extent that the development harms the living conditions of the existing and future occupiers, contrary to the amenity aims of saved policy GP2 of the UDP and SPD Designing Walsall.

2: Trees 1 and 2 as shown on the submitted plans are considered to be in good health and due to their location have significant group amenity value. T1 is the more dominant tree and the growth of T2 has significantly been affected by the presence of T1. The removal of T1 will leave T2 so one-sided to have a negative effect on this cohesive group feature of the trees, and it will be at an increased risk of failure due to increased exposure to adverse weather conditions, contrary to saved policy ENV18 of the UDP and SPD Conserving Walsall's Natural Environment.

Relevant Policies

National Planning Policy Framework (NPPF)

www.gov.uk/guidance/national-planning-policy-framework

The NPPF sets out the Government's position on the role of the planning system in both plan-making and decision-taking. It states that the purpose of the planning system is to contribute to the achievement of sustainable development, in economic, social and environmental terms, and it emphasises a *"presumption in favour of*

sustainable development”.

Key provisions of the NPPF relevant in this case:

- **NPPF 2 – Achieving sustainable development**
- **NPPF 4 – Decision Making**
- **NPPF 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

On **planning conditions** the NPPF (para 55) says:

Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early is beneficial to all parties involved. Conditions that are required to be discharged before development commences should be avoided unless there is a clear justification.

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

National Planning Policy Guidance

On **material planning consideration** the NPPG confirms- planning is concerned with land use in the public interest, so that the protection of purely private interests... could not be material considerations

Reducing Inequalities

The Equality Act 2010 (the ‘2010 Act ’) sets out 9 protected characteristics which should be taken into account in all decision making.

Development Plan

www.go.walsall.gov.uk/planning_policy

Saved Policies of Walsall Unitary Development Plan

- GP2: Environmental Protection
- ENV14: Development of Derelict and Previously-Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV32: Design and Development Proposals

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- ENV40: Conservation, Protection and Use of Water Resources
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T13: Parking Provision for Cars, Cycles and Taxis

Black Country Core Strategy

- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- ENV3: Design Quality

Site Allocation Document

- HC2: Development of Other Land for Housing
- EN1: Natural Environment Protection, Management and Enhancement

Supplementary Planning Document

Development with the potential to affect trees, woodlands and hedgerows

- NE8 – Retained Trees, Woodlands or Hedgerows
- NE9 – Replacement Planting

Designing Walsall

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW5 Ease of Movement
- DW6 Legibility
- DW7 Diversity
- DW8 Adaptability
- DW9 High Quality Public Realm
- DW10 Well Designed Sustainable Buildings

Air Quality SPD

- ***Section 5 – Mitigation and Compensation:***
- Type 1 – Electric Vehicle Charging Points
- Type 2 - Practical Mitigation Measures
- Type 3 – Additional Measures
- 5.12 - Emissions from Construction Sites

- 5.13 – Use of Conditions, Obligations and CIL
- 5.22 - Viability

Consultation Replies

Clean & Green (Arboricultural Surveyor) – No objection to removal of the two trees subject to appropriate mitigation.

Fire Service – Comments on requirements for Fire Service.

Policy- Support. The construction of an additional dwelling on site is potentially supported by chapter 11 of the NPPF as it would make more effective use of land. The proposal is therefore supported on a strategic planning grounds subject to adequate amenity space being provided for the existing and proposed dwellings and the impact on neighbouring properties and protected trees.

Severn Trent – No objections and no need for a condition to secure drainage details. A note for applicant regarding the possibility of a public sewer located within the application site is recommended.

Transportation – No objection subject to conditions to secure a footway crossing and consolidated parking area.

Police – No comments received.

Tree Officer - No comments received.

Representations

No comments received.

Determining Issues

Whether the proposals overcome reasons for refusal of 18/0916 in terms of:

- Impact on living conditions of occupiers of 2 Coalpool Lane
- Impact on the adjacent trees

Other issues:

- Principle of development
- Layout and Design
- Relationship to adjacent residential properties
- Access and Parking

Whether the proposals overcome reasons for refusal of 18/0916 in terms of:

Impact on living conditions of occupiers of 2 Coalpool Lane

The earlier proposals put forward under 18/0916 showed the new dwelling had a 3m deep projection to the rear beyond the rear elevation of 2 Coalpool Lane. As a consequence the earlier proposals seriously breached the 45 degree code measured from the nearest habitable room windows at ground and first floor of 2 Coalpool Lane and would have had a detrimental effect on the amenity of these neighbours by reason of the overbearing nature and overshadowing impact.

The proposed development now includes a rear extension to no 2 Coalpool Lane so that it draws level with the proposed new dwelling at ground floor and consequently accords with the 45 degree code guidelines to protect neighbour amenity. The first floor rear projection of the new dwelling is reduced in depth from 3m to 2.2m and complies with the 45 degree code guidelines from the neighbours nearest habitable room window.

In the circumstances the changes to the design have addressed the reason for refusal of application 18/0916 in terms of adverse impact on neighbour's amenity. Under current permitted development rights, a single storey rear extension of between 3m and 6m deep (subject to prior approval) could be erected at No.2, and / or at the new dwelling, which has the potential to result in loss of light, outlook, and breach of the 45 degree code to future occupiers. A condition would therefore be included to remove these permitted development rights to safeguard occupiers' amenity.

Impact on the adjacent trees

The proposal requires the removal of two trees on the adjacent open space which are managed by Clean & Green and includes their replacement with 6 new trees. Clean & Green officers are satisfied that with the appropriate mitigation i.e. planting and maintenance of 6 new trees is considered sufficient mitigation to address the loss of the two existing trees. This would normally be secured by a S106 Agreement. Subject to securing the following commuted sums, this is considered to provide a satisfactory form of mitigation thus overcoming this refusal reason of application 18/0916:

- £585.00 to fell the two existing lime trees and treat the stumps; and
- £900.00 for six replacement trees including their ongoing maintenance.

The mitigation scheme will also help to ensure that the proposal does not result in a loss of biodiversity value as required in Policy EN1 of the Site Allocation Document.

Subject to the above mitigation, the proposal is considered to accord with the provisions of Policies CSP3 of the Black Country Core Strategy, ENV17 and ENV18 of the Saved Unitary Development Plan, EN1 of the Site Allocation Document, NE9 of the Natural Environment SPD and the National Planning Policy Framework.

Other issues:

Principle of development

The principle of residential development in this residential location is considered acceptable, and would make effective use of land which would also bring forward new housing in accordance with Paragraphs 68(c) and 117 of the National Planning policy Framework. The principle of a single dwelling in this location would not be contrary to any of the Council's adopted Development Plan policies, or supplementary guidance listed in this report.

Layout and Design

The overall layout and design is considered would be sympathetic to the character and appearance of the application site itself, and the locality which has a predominantly semi-detached dwelling character. Furthermore, the design of the new dwelling would mirror the style of adjoining No.2 Coalpool Lane to the frontage, and is considered to be of an overall acceptable appearance which would not harm the character or visual amenity of the locality. A condition would be included to seek the use of matching external materials to those used in No.2 to ensure satisfactory appearance.

Whilst it is noted that the submitted proposed floor plans do not match the submitted proposed elevation plans which show a first floor window, this would not result in any overlooking or design issues and would not therefore warrant a reason for refusal. A condition would however be included to ensure that the development is carried out in accordance with the submitted plans to define the permission.

The proposal would meet the separation distances, and garden sizes set out in Appendix D of the Designing Walsall SPD. A condition would however be included to remove permitted development rights for rear extensions which have the potential to significantly reduce the amount of outdoor amenity space serving each dwelling.

Overall, the proposals is considered accords with the provisions of Policies CSP4 and ENV3 of the Black Country Core Strategy, GP2 and ENV32 of the Saved Unitary Development Plan, HC2 of the Site Allocation Document, DW3 and Appendix D of the Designing Walsall SPD, and the National Planning Policy Framework.

Relationship to adjacent residential properties

As set out above, the proposals would not result in any significant additional impacts to the amenity of adjacent neighbours with regard to loss of light, loss of outlook or loss of privacy, and the proposal meets the separation distances set out in Appendix D of the Designing Walsall SPD. As set out, a condition would be included to remove permitted development rights for rear extensions to safeguard occupiers' amenity.

Access and Parking

The proposal would require the installation of a new vehicle crossover from Coalpool Lane to service the proposed car parking related to the proposed dwelling, which the Highway Authority do not object to, but have requested that it is secured by condition. Whilst the land for these works fall outside of the application boundary, it is Highway Authority land, and a Grampian condition would therefore be included to secure these works in line with the Highway Authority recommendation.

In terms of the proposed level of parking, the three spaces to serve No.2, and two spaces to serve the new dwelling meet the requirements of Saved UDP Policy T13. A condition would be included to secure this parking in line with the recommendations of the Highway Authority.

Further conditions would be included to secure the installation of an electric vehicle charging point and use of a low NOx boilers for the new dwelling to reduce impacts on air quality to comply with the requirements of Policy CSP3 of the Black Country Core Strategy, the Air Quality SPD and the National Planning Policy Framework.

Conclusions and Reasons for Decision

The proposal has addressed the previous refusal reasons, and is considered to be an acceptable form of development which would not harm the character or appearance of the area, and would not result in significant additional harm to the amenity of adjacent neighbours. The proposal would not result in any significant impacts on the operation of the highway, or result in any highways safety issues and would not harm the visual appearance, or environmental quality of the area.

Overall, the proposal is considered acceptable subject to the conditions, and mitigation scheme to be secured through a Section 106 Agreement as set out in this report.

Positive and Proactive Working with the Applicant

Officers have maintained contact with appellant's agent, and assisted in the negotiation of an acceptable mitigation scheme for the replacement tree scheme. Whilst these negotiations have now come to a conclusion, and enable the officer to recommend approval subject to conditions and a Section 106 Agreement, this decision now rests with the Inspector as part of the appeal against non-determination.

Recommendation

Delegate to the Interim Head of Planning & Building Control to advise the Planning Inspectorate that the Local Planning Authority would have granted permission subject to conditions and a S106 Agreement to secure replacement tree planting and ongoing maintenance of the same.

Conditions

1. The development hereby permitted shall be begun not later than 3 years from the date of this permission.

Reason: To ensure the satisfactory commencement of the development in accordance with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in accordance with the following approved plans details and documents:

- 101 – Location Plan – received 19/08/2019
- 102 Rev A - Existing and Proposed Block Plan – received 19/08/2019
- 103 Rev A - Existing and Proposed Site Plan – received 19/08/2019
- 104 Rev A - Existing and Proposed Floor Plans and Elevations – received 19/08/2019

Reason: To ensure that the development undertaken under this permission shall not be otherwise than in accordance with the terms of the application on the basis of which planning permission is granted, (except in so far as other conditions may so require).

3. The development hereby permitted shall comprise facing materials that match, in size, colour and texture, those which are used in No.2 Coalpool Lane and the facing materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and the National Planning Policy Framework.

4. Prior to commencement of the hereby approved development, details shall be submitted to and approved in writing by the Local Planning Authority of a vehicle footway crossing to align with the new access. The new crossing shall be designed not to exceed five 900mm flat kerbs and two 900mm taper kerbs. The approved

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crossing shall be fully constructed and implemented prior to first occupation of the hereby approved dwelling, and thereafter retained for the life of development.

Reason: To ensure the satisfactory completion and operation of the access, in the interests of highway safety and in accordance with Saved UDP Policy GP2 and the National Planning Policy Framework.

5. Prior to the hereby approved development first coming into use, the driveways and parking areas as shown on plan reference 103 Rev A - Existing and Proposed Site Plan, shall be fully consolidated, hard surfaced and drained so that surface water run-off from these areas does not discharge onto the highway or into any highway drain. The parking and driveways shall thereafter be retained for the life of development.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with Saved UDP Policies GP2, T7 and T13 and the National Planning Policy Framework.

6(a) Prior to first occupation of the development hereby permitted details of one electric vehicle charging point shall be submitted in writing to and agreed in writing by the Local Planning Authority.

6(b) Prior to first occupation of the development the approved electric vehicle charging point shall be installed in accordance with the approved details and shall be retained and maintained for the lifetime of the development.

Reason: In the interests of creating a sustainable form of development and to encourage the use of ultra-low emission vehicles in accordance with Policies ENV8 and DEL1 of the Black Country Core Strategy, the Air Quality SPD and the National Planning Policy Framework.

7. No boilers shall be installed in the hereby approved dwelling, save for:

- Gas and liquefied petroleum gas (LPG) boilers with maximum NO_x emissions no greater than 56 mg/kWh.
- Oil-fired boilers with maximum NO_x emissions no greater than 120 mg/kWh.

Reason: To conserve and enhance the natural environment in accordance with BCCS policies ENV8 and DEL1, the Air Quality SPD and the National Planning Policy Framework.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), or any Order revising, revoking or succeeding that Order with or without modification, no extensions or additions as

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defined by Schedule 2, Part 1 development within the curtilage of a dwelling house under Class A (enlargement, improvement or other alterations) shall be installed in any part of this development.

Reason: To safeguard the amenities of future occupiers, to retain a satisfactory level of outdoor amenity space to each dwelling, and to comply with saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and the Designing Walsall SPD.

Notes for applicant

Severn Trent

Severn Trent Water advise that there may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under the Transfer of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or diverted without consent and contact must be made with Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building.

Please note there is no guarantee that you will be able to build over or close to any Severn Trent sewers, and where diversion is required there is no guarantee that you will be able to undertake these works on a self-lay basis. Every approach to build near to or divert our assets has to be assessed on its own merit and the decision of what is or isn't permissible is taken based on the risk to the asset and the wider catchment it serves. It is vital therefore that you contact us at the earliest opportunity to discuss the implications of our assets crossing your site. Failure to do so could significantly affect the costs and timescales of your project if it transpires diversionary works need to be carried out by Severn Trent.

Please note if you wish to respond please send to Planning.apwest@severntrent.co.uk where we will look to respond within 10 working days. Alternatively you can call the office on 01902 793851.

Fire Service

B5 Requirements:

1. The building shall be designed and constructed so as to provide reasonable facilities to assist firefighters in protection of life
2. Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building

ADB Vol 2 p.105 – In the Secretary of State's view the Requirements of B5 will be met:

1. If there is sufficient means of external access to enable fire appliances to be brought near to a building for effective use;
2. If there is sufficient means of access into or within the building for firefighting personnel to effect search and rescue and fight fires;
3. If the building is provided with sufficient internal fire mains and other facilities to assist firefighters in their tasks; and
4. If the building is provided with adequate means for venting heat and smoke from a fire in a basement

The approval of Building Control will be required to Part B of the Building Regulations 2010

Transportation

1. The applicant shall ensure that no soil or other debris is washed or placed within the highway. Failure to prevent this incident could result in an offence and a notice being served on the applicant under Section 151 of the Highways Act 1980
2. The applicant must ensure that no water is discharged onto the highway. Failure to prevent this discharge could result in an offence and a notice being served on the applicant under Section 163 of the Highways Act 1980
3. The applicant will be expected to either enter into an agreement under Section 278 of the Highways Act 1980 with the Local Highway Authority for all works within the existing public highway. For further advice please contact the Highways Development Control Team on 01922 655 927
4. The applicant will be expected to obtain the necessary Road Opening Permit from the Highway Authority for the construction of the dropped kerb footway crossing within the public highway. For further information please contact the Traffic Management Team on 01922 654 675
5. The new vehicle crossing shall be installed in accordance with the Council's footway crossing specification SD11/8 dated January 2008.
6. All works within the public highway shall be in accordance with all statutory requirements.

End of Officers Report