



## DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning,  
Regeneration  
On 28<sup>th</sup> November 2006

### Contents Sheet

Item	Page	App No	Site Address	Proposal	Recommendation
1.	1.	06/1450/OL/W1	LAND TO THE SOUTH OF, WOLVERHAMPTON STREET, WALSALL, WEST MIDLANDS, WS2 8LS	Outline application for a mixed use scheme including leisure, offices, retail, apartments and associated multi storey parking (consisting of 12 buildings, 7 of which are submitted as reserved matters) (excluding landscape proposals).	Grant Permission Subject to Conditions and a Planning Obligation



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning,  
Regeneration  
On 28 November 2006

**REASON FOR BRINGING TO COMMITTEE: Major Application**

**Application Number:** 06/1450/OL/W1

**Case Officer:** Bob Scrivens

**Application Type:** Outline Application

**Telephone Number:** 01922 652488

**Applicant:** Urban Splash Ltd

**Agent:** Max Titchmarsh

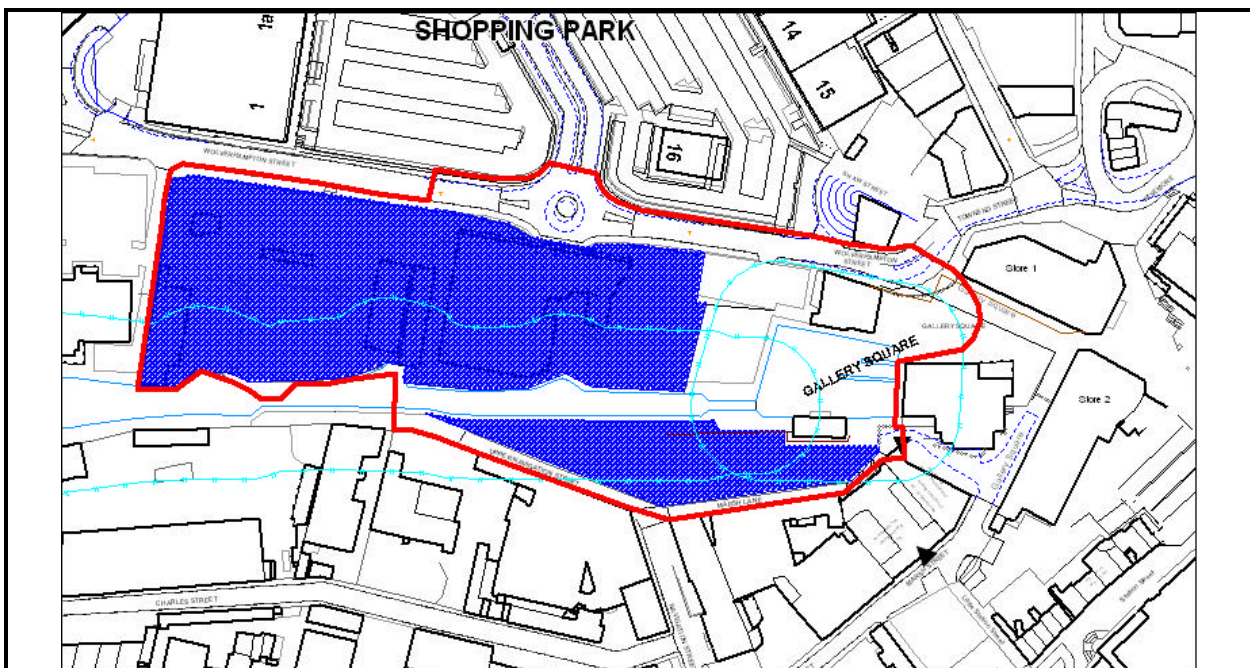
**Proposal:** Outline application for a mixed use scheme including leisure, offices, retail, apartments and associated multi storey parking (consisting of 12 buildings, 7 of which are submitted as reserved matters) (excluding landscape proposals).

**Location:** LAND TO THE SOUTH OF, WOLVERHAMPTON STREET, WALSALL, WEST MIDLANDS, WS2 8LS

**Ward:** St. Matthews

**Expired:** 17 November 2006

**Recommendation Summary:** Grant Permission Subject to Conditions and a Planning Obligation



**Crown Copyright.** Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Walsall MBC. Licence Number LA 076414.

## **Application and Site Details**

This is an outline application. The site is on the south side of Wolverhampton Street, and extends to Marsh Lane and Upper Navigation Street. It encompasses land on both sides of the canal arm at this point. The boundary is shown on the attached plan. The site is an extension of the town centre, to create a new sector of the town.

Within the site boundary, 12 buildings are proposed. Seven of those buildings are specified in detail, for approval at this time. As a result, the application puts before you:-

- a) 7 buildings for detailed approval
- b) access and all other matters related to making those buildings work
- c) 5 buildings with details reserved for future approval
- d) landscaping for the entire site is also reserved for future approval
- e) an outline application for permission for a range of uses and buildings on the site (encompassing the list above)

The proposed designs for the detailed submissions are bold, and very individual. Green roofs are proposed for a number of these buildings.

The buildings submitted in detail occupy about three quarters of the site, at the eastern end. They are:-

### **Wharfinger's Cottage**

Existing building to be retained and substantially modified. First use as information / marketing for rest of development. Brick gables on both ends to be replaced with glazing. New interior. Possibility is raised of extensions in the future (not part of this application).

### **North and South Oysters (two buildings)**

These two buildings stand opposite each other, either side of the canal, close to the basin. The concept is a single oval shaped building cut in half by the canal. There are 11 floors (though within this, the ground floor is a double height space). The upper floors are flats (total of 154 units, from studio up to 3 bedrooomed, including a few duplex units on the top levels). The ground floors of each Oyster are commercial. The outer faces are curved, and feature balconies for each of the flats on those faces (some flats are on the inward facing elevations and have no balconies). Decorative Plexiglas fins are attached to the edges of the balconies. Access to the flats is on the canal side face. A pedestrian bridge across the canal is proposed, adjacent to these entrances.

### **Raised Office Building**

This is on the north side of the canal, next to the Oysters, moving west. It is a four storey building, raised above ground level on stilts. Proposed use is as offices. The floor plan is a parallelogram (i.e. it is not square in plan).

### **Shedkm office**

(Shedkm are the designers of the building - the naming is simply a convenient label) West of the Raised Office Building. Proposes four storeys of offices above a double height ground floor, proposed for commercial uses.

### **Parking Hedge Building**

This occupies most of the Wolverhampton Street frontage of the site. The ground floor is a double height commercial use. The upper six floors are a multi storey car park.

The building is an exposed steel frame, and the walls are to be heavily planted with ivy, and a mix of other plants for variety (hence the Hedge designation). There are 630 car spaces. Two vehicle ramps are proposed in drum shapes on the ends of the building (one up, one down). There is a pedestrian stair and lift core in the centre of the building.

### **East Hedge Building**

This sits on the eastern end of the Parking Hedge as a continuation of it (close to Woolworths, and on the site of the Wharf Bar). The ground floor is a double height commercial use. The upper four floors would be commercial space for a range of uses (see following paragraph). A similar building on the west end of the Parking Hedge, as part of the Phase 2 works, will round out this frontage.

The application specifies a range of uses for most of the buildings, with the intention of gaining approval for that range, to allow flexibility in letting etc. though this only applies to about 25% of the proposed floorspace. The list of uses, by Use Class, is as follows:-

#### **Wharfinger's Cottage**

A1, A2, A3, A4, B1a, D2

#### **North and South Oysters (two buildings)**

A1, A2, A3, A4, B1a, D2 (ground floor)

Flats above.

#### **Raised office**

B1a

#### **Shedkm office**

A2, A3, A4, D2 (ground floor)

B1a (upper floors)

#### **Parking Hedge**

A2, A3, A4, D2, B1a (ground floor)

Parking (upper floors)

#### **East Hedge building**

A2, A3, A4, B1a, C1, D2

*A1 is retailing.*

*A2 is financial and professional services appropriate to a town centre, e.g. estate agents, banks*

*A3 is restaurants and cafés*

*A4 is drinking establishments*

*B1a is offices (head office, administrative office, etc)*

*C1 is hotels.*

*D2 is leisure (cinema, concert hall, dance hall, gymnasium etc).*

In addition to this list of proposed uses, the application specifies that there will be a maximum of 1,500 sq.m. of retailing on the site, and a maximum of 2,679 sq.m. of A2 uses (the total possible floorspace for each is larger, to allow flexibility). The retail space is described as being ancillary to the rest of the proposal.

The scheme is phased, with all of the detailed buildings in Phase 1A, except the parking hedge. This is in Phase 1B. The remainder of the buildings envisaged on the site are in Phase 2. No specific times are set against the phases, only the sequence.

The five buildings envisaged in Phase 2 are in the western and south-western areas of the site.

Until the Parking Hedge Building is in place, a temporary car park is proposed (about 350 spaces) on the western part of the Wolverhampton Street frontage and the western part of the land south of the canal arm, and some adjacent to the Wharfinger's Cottage.

As set out, none of the landscaping is submitted for approval at this time. It is a Reserved Matter for future approval. However, a highly detailed illustrative scheme has been submitted to support the rest of the application (and the applicants acknowledge that although it is illustrative, it represents their aims for the scheme). Key features of this illustrative submission are:-

- a) the intention is a high quality public realm
- b) the scheme will be predominantly hard landscaping
- c) green areas will be used as accents, for example a small area of canal basin being re-created as an ecological asset
- d) landscaping will link the parts of the site together
- e) surfacing is concrete with textures and additives to create patterns and textures, such as a wave effect, forming a 'robust and passive landscape' underpinning the 'tools' of the design elements (main service routes are in defined and constructed trenches to control the need to dig up defective services)
- f) those tools are:-
  - street furniture
  - lighting, which is to be used creatively as below:-
    - wall or building mounted mainly
    - decorative uplighters primarily around the basin and known as shadow casters for the way they will affect light in these areas even during the day
    - networks of lights over spaces
    - lights embedded in the paving
    - lighting will also be co-ordinated with CCTV installations
- g) the pre-existing canal basins are re-interpreted as paved public spaces between the buildings
- h) the area under the raised office building is to be an event square

The application is supported by consultant's reports on:-

- Sustainability
- Environmental Sustainability
- Energy and Environment
- Servicing and refuse
- Building services (heat, ventilation, etc)
- Structures
- Disability Design
- Lighting
- Ecology
- Noise
- Air quality
- Transport and parking
- Flood Risk
- Ground conditions

Servicing for the buildings (including fire service access) is by two routes through the development. One, on the north of the canal basin, comes from Wolverhampton Street at the western end, through the site and back onto that street adjacent to Woolworths.

The other comes from Upper Navigation Street, through the site and into Marsh Street adjacent to the Gallery.

The applicants advise that they *'will seek to reduce carbon emissions ... by a series of measures which will include good practise design, energy efficiency and an aspiration to incorporate renewable technologies.'* There will be an emphasis on natural ventilation wherever possible, maximum use of daylighting, increased insulation in buildings, energy efficient installations, heat recovery etc.

A community heating scheme is aspired to (it would be in the ground at the base of one of the car park access drums).

They also point out that the current Building Regulations require buildings to show a 25 to 28% saving in carbon dioxide emissions compared to current buildings of the same type.

The ecological study draws on the study work done for the Council's Supplementary Planning Document on Waterfront. It identifies a range of animals and plants present on the site. These are generally characteristic of rough ground which is of limited fertility (though the canal arm is more complex). The point is made that such areas are common in developing locations such as Walsall (essentially any cleared site is likely to have such characteristics after a short span of time). The prevailing character is transitory as plants develop a more complex ecology on such sites, and the present characteristics are superseded. The loss of such an area to this development will not, generally, have significant ecological impacts.

The canal arm is an extensive linear aquatic habitat. It forms a wildlife corridor. The works needed to the canal arm and the site will remove much of this habitat, (though this is comparable to routine canal maintenance) but recolonisation will follow. The modest ecological status of the arm is such that the impacts are not seen as significant.

No protected species has been identified on the site other than bats using it for foraging. Black redstarts are protected and are known to occur in the locality.

A few species of invertebrate on the site are identified as requiring special treatment. These comprise 6 species nationally scarce or under threat. They are all associated with the brownfield habitats.

The ecological report proposes some mitigation for adverse impacts, and some improvements to the ecological value of the site. The applicants have considered this, and have concluded that (with the exception of green / brown roofs for the invertebrates, and measures such as nesting boxes for bats and birds, such works are inconsistent with the image the development is proposing, which is one of crisp urban design. The illustrative landscaping scheme is therefore the proposal before your committee.

### **Relevant Planning History**

The site has had many previous uses on various parts. Some of those have had planning applications, but as those uses have all been cleared, these are not relevant, in general.

Parts of the site have been included in some of the redevelopment applications that have created surrounding uses, such as the retail park to the north. Other than confirming this as a site for significant town centre related development they are of no relevance.

Simple remediation of the surface of the site has been approved and carried out.

**Relevant Planning Policy Summary (Note the full text version of the UDP is available from Planning Services Reception and on Planning Services Website)**

**Unitary Development Plan**

Waterfront is one of the major sites in the UDP, and has a dedicated policy, WA12 (though this covers a wider area than this application site). The policy states (key passages have been marked in **bold** text):-

Policy WA12: Town Wharf ('Walsall Waterfront')

- (a) The land within this area represents the continuation of the second phase of the Town Wharf development: the possibility exists to consolidate the previous two phases and maximise the opportunity offered by this canalside location. **Given the proximity of the area to the New Art Gallery and The Wharf Public House, both of which have received wide acclaim for their high quality contemporary design, the Council will require particularly high standards of design in this area.** This should be reflected not only in relation to future construction of buildings, but also in the relationship to the canal, and the quality of public space, with the aim that the development should provide a major 'gateway' to enhance the town centre as a whole.
- (b) **The area, on both sides of the canal, is considered to be the main location in the town centre for substantial leisure development** to serve the Borough and surrounding areas. It should be developed principally for leisure uses which can serve all sections of the community, and examples of uses that would be particularly welcomed by the Council include a cinema, a family entertainment centre and an adventure activity centre. **Associated bars / restaurants would also be encouraged, provided they form part of a comprehensive scheme** to provide major facilities. Other appropriate uses will include hotel, and conference facilities, cultural uses, and office / business uses (including small scale craft-based activities) to complement development primarily for leisure uses. **Retail use, except small-scale, complementary activities, will not be permitted.** Generally, the mix of uses and the arrangement of those uses should be such as to ensure the creation of the most attractive possible scheme for investment in leisure facilities.
- (c) **Residential uses may be acceptable in appropriate locations as part of a comprehensive scheme**, but must be able to provide an acceptable residential environment (in terms of Policy S8 in Chapter 5) without constraining the development of leisure and other commercial uses or the operation of existing nearby industry.
- (d) Should the existing industrial uses in the area south of the canal remain, they will be able to develop and enhance their existing properties - provided that this would not have any greater adverse impact on the development of leisure and other town centre uses around the canal. Where any new development opportunities might arise in the area - for example, through the relocation of existing businesses - then the guidelines set out in this policy (and in any Supplementary Planning Document produced by the Council) will apply.
- (e) The emphasis within the area should be on redevelopment rather than refurbishment. However, within the Marsh Street / Navigation Street area there are a number of buildings of local architectural interest which must be retained.

- (f) The development of the area should relate positively, in visual and functional terms, to surrounding areas and particularly to the rest of the town centre. Strong, and secure, pedestrian linkages will be required both to and within the development to encourage the maximum public access. In particular:
- I. **public access must be provided along both sides of the canal arm**, with a canalside promenade on the northern side and the retention and appropriate enhancement of the existing link along the southern side; and
  - II. **at least one bridge should be provided across the canal arm** to link the developments north and south of the canal - this should be designed so that navigation of the canal arm is not restricted unduly.
- (g) Development proposals should be brought forward in a manner which will ensure the comprehensive development of the area and should accord with a Development Brief and Design Guidelines produced by the Council as a Supplementary Planning Document.

The UDP also has more general policies of relevance.

Policy GP1 seeks the sustainable location of development (as do 4.6, and 5.1 to 5.6.). Retailing, offices etc are directed to centres, and this is further supported by policies S1 to S4.

GP2 states that account will be taken of the provision made for the sustainable management of waste from the proposal. More detailed requirements are set out in the Strategic Policy Statement on Waste Management and in Policy WM4. Energy conservation, and the implications for water resources will be taken into account

Policy GP7 requires development proposals to have regard to safety and crime prevention, and maximise surveillance, defensible space, and appropriate lighting.

Policy 3.6 encourages developments to improve the environment of the Borough, while 3.7, ENV10, ENV14 seek to protect people from the adverse effects of development, including light pollution (ENV11).

In relation to housing in town centres S8 sets out terms for reconciling housing to more active centre uses. S10 amplifies such issues in relation to takeaways, restaurants etc. Windfall sites for housing are offered a degree of environmental protection though policy H3, and affordable housing is required by policy H4.

Policies 3.12, ENV19, ENV21 to ENV24, seek to protect the natural environment, while 3.13, ENV27, ENV29 extend the same aims to building conservation (the site is in the Walsall Locks Conservation Area). The canal is a Site of Local Importance for Nature Conservation, protected by ENV21.

Policies 3.16, ENV32, ENV33, seek high standards of design. 3.17, ENV39, and ENV40 seek to promote high standards of recyclables and energy efficiency and the conservation of water resources. Policy ENV32 also identifies water frontages as areas where design is of particular importance, and lists the factors that will be taken into account when assessing schemes, including the height, proportion, scale and mass of the buildings, effect on character of the area, and integration of natural and built features of value.

Policies 8.1 to 8.9 seek to promote facilities for entertainment, culture, open space, canals and community facilities, among others.



WA18 seeks to control or reduce car parking for long-stay commuters, and T7 states that car parking within or on the edge of centres should be generally available to serve the needs of centre as a whole. T13 sets parking standards.

### **Council's Supplementary Planning Document (SPD) for Walsall Waterfront,**

The purpose of the SPD is to expand on Policy WA12 of the UDP. The document is intended to shape the quality of developments being brought forward, and give further guidance. It is a material consideration in the determination of planning applications. It was approved by Cabinet on 8/11/2006.

The SPD covers a wider area than the application site, covering subsequent developments.

It sets out a Vision for Waterfront, to create an exciting and vibrant addition to Walsall, providing greater breadth to the attractions of the town centre through the creation of new, complementary and linked uses and economic growth whilst maintaining and enhancing the unique character of the area.

It seeks to maximise the dynamism and character of the canal frontage through appropriate public realm improvements, creating an accessible canal and water-space. It also seeks to promote pedestrian use, and to highlight Walsall's position on the 'National Waterway Map'.

A key feature is the delivery of 'world class' architecture and public art within a scheme that reflects the character of the area. The retention of the Wharfinger's Cottage is required. It has been the subject of an international design competition to transform it to accommodate A3 and A4 uses (though the competition results are not embodied in the application).

Contemporary, aspirational, building designs are expected, although the historic fabric of the area and the waterside location should be respected and enhanced. In particular the setting of the New Art Gallery, the basin and retained building(s) should be improved. The importance of maintaining and enhancing clear and exciting views from and toward the New Art Gallery is pivotal, notably along the axis of the Town Arm. The canal and the Wharfinger's Cottage are in the Walsall Locks Conservation Area.

Large areas of surface car parking should be avoided. Well designed multi-storey or underground solutions should be explored. Only in the short-term should vacant sites be considered as appropriate for temporary parking.

Re-opening canal basins is encouraged, if practical. UDP Policy LC9 encourages secure moorings, and canalside facilities to enhance the canal network'

The Strategic Environmental Assessment undertaken for this SPD concentrated on ecological and nature conservation issues. The overall conclusion was that the impacts of the proposed development scheme were of negligible impact. The Assessment did propose that certain mitigation measures should be introduced.

## Regional Spatial Strategy

This sets the vision for the West Midlands as an economically successful, outward looking and adaptable Region, which is rich in culture and environment, where people, working together, are able to meet their aspirations and needs without prejudicing the quality of life of future generations.

Sustainability and climate change are central, promoting a more sustainable pattern of development.

Four major challenges are identified for the Region. Of these, three are important for this application:-

- a) **Urban Renaissance** - developing the Major Urban Areas (MUAs) so they can increasingly meet their economic and social needs
- c) **Diversifying and modernising the Region's economy**
- d) **Modernising the transport infrastructure of the West Midlands**

In the MUAs of Birmingham/Solihull, the Black Country, Coventry and the North Staffordshire conurbation more development opportunities will be created to retain and attract people and investment primarily by (among other things) protecting and enhancing the quality of urban environments and creating a balanced network of vibrant town centres as the strategic focus for retail, leisure and office developments. The Black Country will be continuing its economic, physical and environmental renewal focused around improved infrastructure and the regeneration of town and city centres (including Walsall, West Bromwich and Wolverhampton) to create modern and sustainable communities.

Flagship schemes and cultural projects can be a catalyst for regeneration, such as Brindley Place in Birmingham, and the Walsall Art Gallery. The aim should be to create distinctive built environments that provide a sense of identity and place to which communities can relate and in which they can have pride.

The Spatial Strategy identifies the need for high density, high quality developments. Within the MUAs it is particularly important that the range of housing types and sizes is attractive to economically independent households.

Whilst the Region's most valued historic heritage is protected by statutory designations it is also important to consider historic landscapes and townscapes as a whole to understand what gives an area its sense of place and identity.

Local authorities should encourage the maintenance and enhancement of the Region's wider biodiversity resources.

Appropriate design and construction of buildings can minimise energy demand, heating and cooling, etc.

## National Policy

PPS1 promotes sustainable development and social inclusion. Good design is important. Community involvement and inclusive access are stressed.

PPG3 on housing stresses meeting the needs of the community, sustainability, and making efficient use of land. Providing affordable housing is also supported. The need for good design and layout are stressed. Parking standards should be suitably flexible.

PPS6 on town centres again stresses sustainability, and the need to promote inclusive, vital and viable town centres. Out of centre, and edge of centre developments for retail and other uses needed special justification.

PPG13 on transportation again promotes sustainability in the context of a safe, integrated and efficient transport system. Reducing the need to travel is identified. Where retail and leisure developments are located in a town centre, or edge of centre, local planning authorities should consider allowing additional parking provided it will genuinely serve the town centre as a whole. In relation to inland waterways, Councils should seek to re-use disused wharves and basins, to retain boatyards etc. and to protect and enhance the waterway environment, where these are viable options.

PPG15 - Planning and the Historic Environment identifies that there should be effective protection for all aspects of the historic environment. The physical survivals of our past are to be valued and protected for their own sake, as a central part of our cultural heritage and our sense of national identity. Many conservation areas include gap sites, or buildings that make no positive contribution to, or indeed detract from, the character or appearance of the area; their replacement should be a stimulus to imaginative, high quality design, and seen as an opportunity to enhance the area. What is important is not that new buildings should directly imitate earlier styles, but that they should be designed with respect for their context, as part of a larger whole which has a well-established character and appearance of its own.

PPS22 on renewable energy aims to cut UK carbon dioxide emissions by 60% by 2050, with real progress by 2020, and to maintain reliable and competitive energy supplies. The development of renewable energy, alongside improvements in energy efficiency and the development of combined heat and power, will make a vital contribution to these aims.

There is now a legal requirement under the Climate Change and Sustainable Energy Act 2006 for public authorities to have regard to climate change, the desirability of eliminating fuel poverty, and the desirability of securing a diverse and viable long-term energy supply.

## **Consultations**

### **Strategy Team**

Support in general, but with areas of concern (key items in **bold** text):-

Agree there is no need for an open space contribution, on basis of work to be done on site.

The A3, A4, B1a, C1, C3 and D2 proposed uses are all acceptable in principle and are supported.

The A1 uses are in an edge of centre location and have not been justified against the policy framework (tests of need, impact and the sequential approach). Such uses might migrate to the site from the primary shopping area, or the site might attract uses that are better located in the primary shopping area. **Therefore strongly advise conditions controlling retail uses, as set out in the recommendation.**

The second phase will need to concentrate much more on leisure to meet WA12, which emphasises leisure.

The proposed new buildings would dwarf surviving features of the area, and the treatment of the Wharfinger's Cottage would leave very little of the original fabric. There is little evidence of the character of the surrounding area being reflected in the design of the new scheme.

The 'Oyster' buildings do not line up evenly with the Art Gallery and cut part of it off from view along the canal. **This could place the design at variance with ENV32, the need to assess the effect of developments on the adjacent areas, street and character of neighbourhood. It also seems at variance with the Council's Draft SPD for the Walsall Waterfront, paragraph 7.3,** which states that the importance of maintaining and enhancing clear and exciting views from and toward the New Art Gallery is pivotal, notably along the axis of the Town Arm.

There is relatively little green space overall, which is disappointing.

Parking for the residential uses is acceptable. However the rest of the parking is intended solely for those using the development. This is at variance with UDP T7, and PPG13. There may be a case for dedicating the office parking, given the over-riding need to provide more of an incentive for offices and hotels to locate in Walsall. **Accordingly we would advise that, for the offices, there should be a temporary renewable permission for dedicated parking. If after a certain amount of time the developer has failed to attract any office or hotel development, it should take steps to revert this parking to be used by all town centre users, in line with policy T7.**

Details of energy saving / efficiency measures should be incorporated into the affordable homes, but there is no firm commitment to this. If there is a communal heating scheme, the Council should require that the affordable dwellings should benefit from it.

The scale of development will potentially consume a significant amount of energy, and emit significant amounts of carbon dioxide. The Appendices to the application explain the aspiration for a low carbon development: It is disappointing that the only renewable energy provision at this stage (roof-mounted wind turbines on the Parking Hedge Building) are aimed at powering the irrigation system for the green roof rather than making a contribution to the development's lighting and heating needs. **We consider that the applicant should be asked to clarify why the scope for on-site renewable energy generation is so limited.** Subject to clarifying this, we consider that the proposal complies with the UDP energy policy.

As a sustainable, accessible, town centre location the development is supportable.

Concerned that the hard landscaping would be likely to exacerbate surface run-off and could create flooding. No consideration appears to have been given to permeable surfaces or larger areas of soft landscaping. Concerned that no details are provided about water minimisation, although few details are given. **The applicant should be asked to provide further details.**

Cannot find any information about how waste will be managed during construction. There also appears to be no information about the use of sustainable/recycled materials in the construction of the new buildings, nor is there any information about how waste will be managed within the development when it is built, including storage areas for recycling bins/ centralised waste collection points, in line with UDP Policy WM4. **The applicant should therefore be requested to provide details of how waste will be managed during construction, including the use of sustainable/ recycled materials, and how waste will be managed within the development once it is in use.**

## Transportation

No objections to the principle of the development.

Issues that will need to be addressed in the detail stage. These matters can be secured by condition and relate to clarity over car parking provision for phase 2 of the development, the layout of the temporary car parking areas including access routes etc, prohibition of public parking on the site, details of the exit route for service vehicles on the northern side of the canal, including the re-location of the pedestrian crossing, the detailed location of the East Hedge building in relation to the carriageway and a requirement for full travel plans following occupation of each element of the scheme.

The conclusion in the Transport Assessment is that, when the development is implemented completely, there will be an impact in the morning peak, particularly on the junction of Wolverhampton Road / Hollyhedge Lane / Pleck Road. The signalised junctions being installed under the TCTP scheme will be centrally controlled to manage traffic flow. The consultants have demonstrated that the impact of the generated traffic can be absorbed by the TCTP without a significant increase in congestion. This analysis has been carried out on the assumption that Wolverhampton Street will be closed to general traffic at the Crown Wharf roundabout, effectively turning Wolverhampton Street into a cul-de-sac for other than buses and service traffic.

The 630 space multi-storey car park should provide for phase 1 and a proportion of the requirements for phase 2. This leaves uncertainty over parking for phase 2. A condition is suggested to address this.

The design philosophy for these proposals requires a continuous straight built edge along Wolverhampton Street. Consequently, the roundabout will need to be modified and highway rights over a small section of carriageway extinguished. As part of the environmental improvements, it is proposed to restrict traffic continuing past this roundabout into town. Swept path drawings in the TA demonstrate that any vehicle entering Wolverhampton Street from the ring road which is subsequently not permitted to continue past the roundabout will be able to turn round at the roundabout and exit the area.

### **Walsall Regeneration Company**

#### **Support**

- will create a thriving new quarter and an impetus to deliver a revitalised Waterfront area
- will transform the office, leisure and residential offer
- will deliver first class design
- will help establish the town as a leading regional destination
- fully aligned with the emerging Black Country Study
- will provide a significant employment opportunity.

### **Advantage West Midlands**

As both consultee and co-promoter of the scheme they point out this is a £180 million regeneration scheme aiming to transform this 7 hectare site into a high quality mixed use development, providing in the region of 600 new jobs. They are providing funding for the scheme. The West Midlands Economic Strategy addresses the delivery of good quality sites, and the importance of quality of design as a key facet of sustainable economic development. A balanced portfolio of land is needed to achieve economic success through sustainable regeneration. This application harnesses an opportunity to substantially boost economic activity through the provision of jobs and improved housing stock.

## **Pollution Control**

Support the scheme with conditions, in relation to land contamination and ground condition, noise and vibration.

Initially concerned at air quality issues associated with Kirkpatricks (see Representations). There have been further discussions on the issue and the conclusion is that emissions from Kirkpatricks Ltd do not materially affect air quality at the proposed development site. However, the issue of amenity is slightly more complex. The foundry process is permitted under the Pollution Prevention and Control Act 1999 and the permit specifies emission limits. It does not preclude fugitive emissions or specify zero emissions. Therefore emissions can occur occasionally to a certain extent. It is unlikely in my view that emissions of smoke, fume or dust from this process will cause a loss of amenity to occupiers of the proposed development.

## **Education Walsall**

Contribution is necessary for secondary school provision - have agreed with applicant that it can be in 4 equal payments reflecting progress on site.

## **Housing**

Abnormal costs on site are such that no contribution for affordable housing is required.

## **Highways Agency**

Have concerns.

They conclude (contrary to the applicant's Transport Assessment) that there will be a material impact at M6 Junction 10 in terms of exacerbating the queues and delays.

They argue development proposal needs to include more robust measures to reduce the traffic impacts at M6 Junction 10, and Junction 9.

The framework travel plan in the application is inadequate and does not provide a basis for influencing future travel patterns to and from the development.

They recommend significant improvements to the proposed travel plan

## **Public Lighting Team**

Scheme is illustrative only. Detailed proposal needs to be assessed in due course. The following are some of the recommendations that would be in their brief to produce a good design:

1. Lighting to provide optical guidance to the users
2. Lighting to be adequate for CCTV cameras if any
3. Lighting levels in some areas can be reduced at certain times coupled with additional lighting for security in some periods
4. Lighting to take into consideration living things in the canal (no spillage) and intruding into properties
5. Lighting to reduce sky glow and pollution and glare
6. Energy saving equipment to be used
7. Lighting for emergency planning (like flooding, fire, snow, etc)
8. Minimising light emitted in directions where it is neither necessary nor desirable (spillage onto vehicular traffic routes etc.)

## **Police**

Parking Hedge should have 24-hour security patrols tied in with management of car park, and access control, and the lighting should conform to BS5489 Part 9. CCTV is appropriate (full facial recognition, and automatic number plate recognition).

The shape of the Oysters means people could climb down to lower balconies, so security is key. Consideration should be given to the type of door entry and the locking systems.

Pedestrian access to the Oysters needs control, using a concierge system to prevent unauthorised access. All doors that give access into individual apartments should be to BS-PAS 24-1: 1999

Would like to see a specific area where canal boats can be anchored securely. This area should provide good surveillance and lighting, as boats can provide an easy target for burglary

Advise against a bench that is totally moveable (and the benches should be collapsible during the night when their usefulness has expired).

The temporary car park needs temporary security measures - one entry/exit point and perimeter fencing. There should be a combination of lighting, CCTV and 24 hour security to reduce the risk of vehicle crime.

The street lighting layout should be carefully designed to cover all vulnerable areas and must not create shadows. Well-positioned lighting will deter and reveal potential intruders

Secured By Design accreditation should be applied for, as this would benefit the end users and future residents.

### **Conservation**

No objections - some clarification is required.

Conservation Area (CA) - little mention of it in the submissions. Should be appraised by applicants and this should then inform the application.

Wharfingers Cottage - is the only building on the site which is in the CA. Proposals have marked effect on this building (contrary to supporting statement) and this should be justified in terms of the preservation or enhancement of the CA. Chimney stacks should be retained.

Building should be recorded before any work done.

Wharf Bar - designed and built to complement the Art Gallery - no justification is offered for demolition in the submission. There are concerns both nationally and locally at its loss.

Public Realm - there are a number of large projects in the town centre, each with areas of new public realm - Council and WRC are working on a strategic framework for public realm works and this should be used to guide the landscaping reserved matters.

### **English Heritage**

No comments - the application should be determined in accordance with national and local policies, and on the basis of in-house specialist advice.

### **Black Country Archaeologist**

No objections subject to condition.

### **Environment Agency**

No objections, in principle, subject to conditions as recommended.

### **Central Networks**

Advise of installations in the area and the need for appropriate working practises.

### **West Midlands Regional Assembly**

Application does not require them to confirm conformity as it would not materially prejudice implementation of the Unitary Development Plan, and while they consider it a departure, it does not meet any relevant thresholds for conformity issues.

## Structures

Identify detailed issues which remain unresolved at this time. Site is in a former limestone consideration zone. Infilling has been done but not to a standard to support specific development. Previous advice was that a maximum of four stories was acceptable. The applicant's consultants have concluded that '*.. the ... proposals are viable subject to the results of further detailed ground investigations. This necessary future ground investigation may result in ... reassessment of the scale and height of some of the buildings.*' Structures accept that those future investigations are costly, and it would be unreasonable to require them in advance of the grant of a planning permission.

## British Waterways

Support the proposed mixed use scheme as a major catalyst for the regeneration of the area. On design issues they welcome the innovative design, as complimenting the Gallery and the other contemporary buildings in the area, though careful detailing will be necessary to deliver those results.

They identify issues which need to be carefully resolved on ecological impact mitigation, maintenance costs, bridge design and its impact on pedestrians and boaters.

*(The developers have met British Waterways and discussed the issues. There is general agreement that a good outcome is needed, and that more detailed debate is needed as matters progress. British Waterways take the position that increased ecological value can be achieved in ways that are consistent with the illustrative design, and that this should be a matter for future debate.)*

Clarification is required about the canal footbridge and before a competition is undertaken the developers should contact BW with a view to scoping the relevant issues to identify engineering and broad design principles and any potential opportunities and constraints to the footbridge design before announcement of a competition.

Whilst it is recognised that the proposed development will assist in the regeneration of the area and revitalise this part of Walsall there is still the matter of how to resolve maintaining the site, the waterway and the canal side and the proposed footbridge/s which will see an increased usage of the waterway including the towpath and we seek further details and clarification of suitable/ satisfactory management arrangements for their maintenance.

At a recent meeting it was agreed by the developer that the management agreement would be discussed at a later date and at this meeting we also requested details of the proposed tow path improvement scheme/s; hard and soft landscaping scheme and ecological works and the monetary value of each of the proposed schemes. It will be useful to see these details before considering whether BW would wish to request section 106 contributions towards waterway enhancement.

## Inland Waterways Association (IWA)

Objects. Application should be refused.

More canal basins should be re-opened, as more water creates a more desirable development. No indication of how the archaeological assessment (proposed in the SPD) is to be done. Scheme does not meet needs of boaters, and appears boater unfriendly. Detailed objections to

- demolition of Wharf Bar
- replacement building on Wharf Bar site, which will dominate Wharfingers Cottage
- The Oysters are '*.. the most obnoxious and objectionable buildings within the application and are totally unacceptable.*' They are out of scale with the canal. The inward facing, largely featureless walls are



oppressive. The southern building will shade the towpath, creating serious safety issues in winter.

- Shedkm offices, Raised Office Building, Parking Hedge and East Hedge Building designs are outdated and characterless - such buildings are being demolished elsewhere
- Changes to Wharfingers Cottage destroy its canal related character which will hinder Black Country Consortium bid for World Heritage status for local canal network
- Those changes also make its use as a sanitary station for boaters impossible (a possibility stated to have been mooted by British Waterways)
- Scheme does not include any of the features needed to make the arm more attractive to boaters (e.g. sanitary facilities, and water supplies)
- Proposed decking over part of basin will reduce visitor moorings by two, and will make it harder to turn large boats, which will reduce the attractiveness of the site for boaters, contrary to the aims of the Council and others (*the applicants have confirmed that a decision on whether to do this is to be part of the landscaping Reserved Matter*)
- Surfacing towpaths in smooth materials is hazardous (*a condition is recommended addressing this*)
- No mooring rings are shown (boaters will therefore hammer in stakes to moor, damaging the surface) (*a condition is recommended addressing this*)
- Footbridge design by competition will result in an impractical, showcase design, not boater friendly and hard / expensive to maintain (the examples in the submission are located where there is no towpath and no conflict with boat users as a result)
- Proposed lighting is intended to reflect off the water, animating it - this is not likely to work in practise as this is not a generally windy area
- The lights will shine into boats moored for the night, disturbing sleeping boaters
- Submission makes no mention of fishing as a canal use
- Scheme ignores PPG13 and other national policy

### **Natural Environment**

Landscape should not be reserved, it should be integral with the building design process.

Green roof design is important at an early stage of building design.

Little planting is proposed in the scheme. There is no coherent landscape concept, and the illustrative details do not create spaces or character. Some of the features are susceptible to vandalism etc. Policing and maintaining this space may be difficult.

The concrete surface does not lend itself to maintenance of underground services (trenching etc).

The proposed hard edge to the canal does not promote ecology.

The applicant's consultant has advocated ecological mitigation which is not reflected in the landscape design.

Canal dredging is likely to damage water plant growth.

Aquatic planting may not flourish in the shaded areas under or near buildings, etc.

### **English Nature**

Objects.

Applicant's ecological consultants have made appropriate recommendations but these have not been embodied in the application. Not satisfied that the necessary ecological mitigation will be secured.

#### **Centro**

No objection - within minimum standards for accessibility to public transport - developers should be required to prepare a mixed use travel plan, and affiliate to Company TravelWise (as appropriate)

#### **Severn Trent**

No objection subject to condition.

#### **Lichfield District Council**

No objection, provided Walsall is satisfied this scheme meets the terms of UDP WA12 (as the scheme does not appear to be leisure-led).

#### **Sandwell M.B.C.**

No objections. Consistent with UDP, except that the emphasis on leisure has declined. Scheme needs to be consistent with the emerging RSS Reviews, and have appropriate levels of parking.

#### **Energis**

Not affected.

#### **Fire Service**

No objections in principle -discussions being held as Building Regulations submission is prepared. Scheme needs to provide for 17 tonne high reach vehicle. condition

#### **Representations**

CAMRA consider the Wharf Bar and the Wharfingers Cottage make an attractive group, the Wharf bar is extremely rare (as an award winning modern pub design - the first such in the last 14 years of the award), and that bringing tall buildings so close to the Gallery and the Wharf Bar will create a threatening atmosphere. They also advise that a public meeting is scheduled on 12/12/06 to press for the retention of the Wharf Bar and launch a petition to that effect. They ask that a decision on this part of the Waterfront scheme be deferred to a later date.

Anne French, local historian considers the Wharf Bar should remain where it is, rather than be sacrificed for a service road. The bar, with the Wharfingers Cottage and the Gallery are an important group of buildings.

One resident has expressed the view that Waterfront is an opportunity to provide facilities for young families, not just bars, expensive restaurants, and residential (residential demand could be met on other brownfield sites). There is a need for a theatre, and provision for the under-18s (bowling, roller skating, replacement skate park?).

Kirkpatrick's, an industrial operator in Frederick and Charles Street, have objected that no consideration has been given to their operation. Their emissions of smoke, fume and dust will 'pour' over this site. The application makes no provisions for this issue.

The occupiers of the Wharf Bar (held on a fairly long lease) support the general principles of the scheme but object to the closure / demolition of the Wharf Bar. It is a popular venue for local beers, and live music. It supports the Art Gallery by adding a service for visitors. It provides a very important facility for the town centre (day and night). It is a thriving business and it would be wrong to close it. It was designed to complement the Gallery, and its merits and use far outweigh the substitute buildings.

A prospective developer of adjoining land has questioned:-

- possible issues of ownership and the application process
- that one of the Phase 2 buildings is closer to the boundary than they had been brought to believe was acceptable
- some of the tree planting being outside the site boundary.

*(I have responded to their questions. The issues which require action are addressed in the recommendation.)*

All letters of representation are available for inspection upon publication of this committee report.

### **Determining Issues**

**Principle of use / Range of uses**

**Supplementary Planning Document (SPD)**

**Transportation impact**

**Parking for Phase 1**

**Parking for Phase 2**

**Design**

**Amenity of residents**

**Loss of the Wharf Bar**

**Landscaping**

**Ecology**

**Conservation / Wharfingers Cottage**

**Service, parking access, and Fire Service access**

**Energy efficiency**

**Noise**

**Air Quality**

**Lighting**

**Security**

**Structural stability / ground conditions**

**Section 106 obligation**

### **Observations**

**Principle of use / Range of uses**

The UDP envisages an important development here. Policy WA12 defines that in more detail, and has been set out in the Policy section, above. A wide range of uses are proposed in the application. The range of uses is generally consistent with the policy (exceptions are addressed below).

High standards of design are central to the policy, and this is addressed in the appropriate sections below.

A bridge is proposed, and public access. Bars and restaurants feature in the Policy and in the application.

An important question for the decision on the application is whether the emphasis on leisure uses in the policy is consistent with the application. The policy clearly sets out an intention for a leisure led development.

The application envisages a range of uses, including D2 (the Leisure Use Class). These are options, and it is unlikely all of the spaces will go to leisure uses. However, as a measure of the degree to which the application fits within the policy, the following assessment helps judge the situation.

A) Proposed buildings (detailed in the application)	42,407 sq.m.
B) Less area of proposed car park	29,964 sq.m.
C) Less area of proposed residential upper floors	17,141 sq.m.
D) Maximum area of D2 uses in application	4,953 sq.m.
D) Proportion of leisure uses (D as a percentage of C)	28.9%

It would be hard to argue that just under 30% of the commercial floorspace being permitted for leisure uses fails to meet the SPD target. The situation is further assisted when it is recognised that the SPD covers a wider area than just the application. It is reasonable to expect subsequent areas covered by the SPD to also make provision for leisure uses.

Another important question is the presence of retailing on the site, at the proposed level of floorspace (1,500 sq.m.). This is part of the optional range of uses applied for.

The position is set out by the Strategy Team, that A1 uses here are edge-of-centre and have not been justified against the tests of need, impact and the sequential approach. As a result, there is a risk of shops migrating out of the primary shopping area, or of attracting uses that ought properly to be in that area. An approval here would be a departure from the UDP. (The necessary departure publicity has been done. Finally, national and local policy seeks to direct retailing to town and district centres. Edge of centre sites are not to be supported over in centre sites. In Walsall the retail situation is such that any study is almost certain to fail to demonstrate that this scheme is consistent with policy in terms of need, impact or the sequential test.

However, the Council is seeking a high quality, mixed use development of this site. It is looking for a development which will be lively, animated, and busy, over as much of the day as possible.

Retailing is a use which will contribute to meeting those objectives. It will be particularly supportive of those objectives if it is either shopping relevant to meeting the day to day needs of occupiers of the site (newsagent, grocery etc), or specialist and unusual shops, bringing people to the site for things not available elsewhere.

Occupation of shops on the site by uses capable of attracting people, in their own right, is an appropriate feature of a mixed use scheme. Such uses will add a layer of complexity to the site and to the town centre, to the benefit of both.

It is reasonable to specify a maximum floorspace for the shop units. A condition specifying a maximum retailing floorspace on the site, but also specifying that the total floorspace should not be in a small number of large units will best prepare the way for the sort of retailing intended.

A further condition defining uses and occupiers (as far as that can be defined at this stage) is also appropriate.

With such conditions, it is reasonable to conclude that the adverse impact (in policy terms) that might flow from retailing on the site is outweighed by the gains in character and vitality for this important site. The threat to achieving the principles of the UDP is modest, but the opportunity to attract retail offers that would otherwise be unlikely to be attracted to the existing town centre or district centres is significant.

Those principles are embodied in the recommendation.

### **Supplementary Planning Document (SPD)**

The SPD was approved by Cabinet on 8/11/06. While this may seem late in the process (as it follows the submission date of this application), the reason is that the SPD was delayed by necessary processes. The concepts needing to be addressed have been apparent for some time (the first draft was prepared some time ago).

The SPD is a material consideration in the determination of this planning application. It covers a wider area than the application site, and sets out a Vision for Waterfront.

The application offers solutions to the issues of linked uses, economic growth, maintaining the character of the area, public realm improvements, and an accessible canal.

The quality of the architecture is a judgement that everyone involved has to make, and is addressed in more detail in the design section below.

The retention of the Wharfinger's Cottage is required by the SPD and is proposed in the application, though again there are design issues (see the section below on Wharfingers).

The views of the New Art Gallery are identified as being important. There has been some criticism of this from the objectors. The applicants advise the initial concept of the scheme generated concerns about these views, and there was a complete re-think of the scheme. A protected corridor of view was opened up towards the Gallery where previously there had been none. However, the Gallery does not align closely with the town arm (as the waterfront scheme does) but also, a totally clear viewing corridor would render the southern part of the site commercially unviable and the northern part of the site would be severely compromised at its eastern end. The scale and mass of the proposed development is believed by the design team to be appropriate for both purpose and site. The Gallery set the context for the scale of development and is exceeded in height only by the two Oysters which are seen as an iconic gateway to the Waterfront.

It is clear to officers that two tall buildings, close to the Gallery, will change the views of it. The other buildings on the site add their quota of change. However, from points halfway along the site, in the vicinity of the Shedkm Building, most of the Gallery is visible from both banks of the canal arm, between the Oysters. This is the critical direction of view that the SPD seeks to protect.

Views from the rest of the site are more restricted, by the proposed buildings. This is inevitable, if the site is to be developed. It can also be argued that complex and shifting views animate the area, by providing interesting glimpses of new destinations and places to go to or from. These tantalising effects add to the interest of the urban design of the area. Overall, this is not a reason to resist the scheme.

While the SPD encourages re-opening old canal basins, this is subject to the test of practicality. The scheme does little of this. The question for your Committee is, does this lack of new water warrant refusing the scheme. Given the coherent design, and the ideas in the illustrative landscaping proposals, this is not seen as a reason to refuse the scheme.

## **Transportation impact**

Some elements of the proposals are effectively speculative and permission is sought for a broad range of uses. This has made predicting and assessing the traffic generated by the development complicated. Current changes being implemented to the road network (TCTP) have also added to the complications.

Trip generations and distributions have been agreed with consultants working for the developer and the Council's VISSIM traffic computer model for the design and justification of the TCTP works has been made available to the consultants to assist with the assessment of the impact of this traffic.

The conclusion in the Transport Assessment is that, when the development is implemented completely, there will be an impact in the morning peak, particularly on the junction of

Wolverhampton Road / Hollyhedge Lane / Pleck Road. (2012 has been assumed as completion year.) The impact in the evening peak is not significant.

The signalised junctions being installed under the TCTP scheme will be centrally controlled to manage traffic flow. By re-running the VISSIM model and varying the signal timings, the consultants have demonstrated that the impact of the generated traffic can be absorbed by the TCTP without a significant increase in congestion. This analysis has been carried out on the assumption that Wolverhampton Street will be closed to general traffic at the 'Crown Wharf' roundabout, effectively turning Wolverhampton Street into a cul-de-sac for other than buses and service traffic.

The TA also includes a Framework Travel Plan as the basis of full travel plans to be developed following occupation of each element of the scheme. This is required as a condition.

The Highways Agency are concerned in relation to the capacity of Junction 10. They have concerns over some of the figures used in the applicants Transport Assessment (other parts are accepted as reasonable).

Overall, their position is that:-

The base assessments for 2012 and 2027 indicate that M6 Junction 10 is already operating beyond its capacity with excess queuing and significant delays on most approaches

The comparison of results for 'with development' and 'without development' scenarios confirm there will be a material impact at Junction 10, exacerbating queues and delays.

The proposed Walsall Waterfront Development will worsen the existing traffic conditions at M6 Junction 10. This does not accord with the Transport Assessment conclusion that the proposed development *'would have an imperceptible impact on M6 Junction 10.'*

In line with current government policies and the Highways Agency's emerging policy for the strategic road network, the development proposal needs to include more robust measures to reduce the traffic impacts. The framework travel plan in the Transport Assessment is inadequate and does not provide a basis for influencing future travel patterns, nor does it provide any reassurance that the projected traffic impact on the strategic road network would not worsen due to more car-borne trips in the future.

They offer a range of recommendations on the content and format of the necessary Travel Plan. A condition is recommended on the subject of implementing the proposed travel plan. Ensuring the concerns of the Agency are met is important, and the potential for a more complex condition, or other measures has coloured the recommendation. Members will be updated at the meeting.

## Parking for Phase 1

The application specifies that as only broad land use classes are known and applied for on the development site, the level of car parking has been calculated assuming that the residential elements would need 1 space per dwelling, and that the commercial elements would require 1 space per 40sq.m.

Phase 1 of the development calls for 582 car parking spaces. The current application proposes 630 car parking spaces. This level of over provision (7%) is not unreasonable (though the following section on parking for Phase 2 addresses this in other ways).

The Parking Hedge Building is a late element in the programme of construction of Phase 1. During the earlier stages of construction it will be necessary to provide temporary parking. It is understood that the North and South Oysters, the Shedkm building and 50% of the Raised Office Building would be operational prior to the construction of the Parking Hedge Building. These elements, based on the car parking rates set out above would require 334 spaces. This level of temporary car parking would be provided, and the submitted plans show this on the western and southern edges of the site.

Associated with the level of parking is an issue about its allocation. The parking is intended solely for those using the development (with the exception of any 'spare' spaces). This is at variance with UDP policy, and PPG13, which expect town centre located parking to be available for the whole town centre. Strategy Team identify that there may be a case for dedicating the office parking, to provide an incentive for offices to locate in Walsall but that there should be a temporary renewable permission for dedicated parking. If after a certain amount of time the developer has failed to attract any office or hotel development, it should take steps to revert this parking to be used by all town centre users.

It is recognised that such an approach is consistent with policy, however, there are two problems with this.

Firstly, it introduces a significant element of uncertainty over the terms of the permission and will affect the economic viability of the scheme.

Secondly the design of the car park appears to make it unsuitable for public use. Public multi-storey car parks are arranged, generally, such that cars pass all possible parking spaces in sequence, on their way through the car park. The Hedge Building is arranged such that all floors are accessible from the access ramp at one end, but once on a floor the only exit is down the exit ramp to the street, it is not possible to access any other floor either up or down.)

It is recommended that public parking be excluded from the permission.

(The developers have indicated they wish to explore with the Council, after the decision is made on the application, whether there is any scope to use un-used spaces as a public car park. There is no objection to exploring this possibility, but it does not, on present information, alter the conclusions reached above.)



## Parking for Phase 2

It is suggested in the application submission that the level of additional car parking provided for Phase 2 be the subject of discussion later.

In addition to the parking to serve Phase 1, just 48 car spaces are available in the Parking Hedge Building. The floorspace proposed for Phase 2 (23,750 sq.m.) calls for 593 car spaces (assuming the same rate of car parking need as embodied in the application so far).

This is not an issue that can be easily postponed for future debate, as the application specifies the envisaged floorspace, and seeks approval as part of the outline application process. The developers envisage identifying un-used spaces from the Phase 1 allocation, and probably the use of underground parking to bridge any gap (values will have increased, as a result of Phase 1, to a level where this is likely to be economically viable). It is possible that such solutions can be achieved. However, the lack of certainty means that any permission granted on the current application must resolve the issue (as the grant of an outline permission means there is at least one solution to the proposal).

The solution embodied in the recommendation is a condition that specifies a level of floorspace to be allowed in the remainder of the site, consistent with the 'surplus' spaces in the Hedge, on the floorspace to car park space ratio in the application. It prohibits buildings containing more than this floorspace unless a parking scheme can be agreed. It is a simple approach, but one which restricts the potential for future development which can be identified at this time.

This is known to be unpopular with the developer, but no practical alternative can be seen at this time. The condition embodies as much flexibility as is consistent with granting permission.

A further issue for debate in Phase 2 would be the extent to which the car parking should be shared with other users of the town centre.

## Design

A critical feature in the expectations for this scheme is design. Each of the 7 buildings presented for approval is a distinctive and powerful design. It is therefore inevitable that some people will like them, and some will dislike them. There is little scope for a neutral stance.

The Parking Hedge Building creates a major new frontage to Wolverhampton Street. Its size is balanced by the steel frame, decorated by the plants which form a dominant component. The drums create a sculptural effect on either end, and act as markers for the pedestrian links from north to south (in and out of the site).

The East Hedge Building creates a neat end to the Parking Hedge, and has a strong elevation towards Gallery Square, inviting users into the building.

The colonnade which is a common feature of both of these buildings, on both sides, adds interest, and provides a functional aid to circulation around the buildings.

The Shedkm Building is the simplest design proposed for the site. The elevation to the canal is animated by a large projecting element (the applicants call it a nose cone), and the northern elevation has a four storey bay window.

The Alsop Office Building is raised above ground, to create a public space under it. It is also highly decorated on its elevations.

All of these buildings have double height ground floors, for commercial uses.

Wharfingers Cottage, on the eastern end of the site, contrary to its appearance, is a modern structure. It is a replica of the building that stood there. The proposal is to simplify its exterior, and lighten the building by replacing the end walls with glass.

The most prominent buildings proposed are the two Oysters. The central slot between them frames the Gallery when viewed along the canal arm from the west. Their vertical inner faces and simple texture add a counterpoint to the outer faces, and the visual tension between the two elements adds a layer of interest to the relationship between the buildings and the Gallery.

Each building has a feature or features which mark it out from the others on the site, and from any buildings around the site. They have variety, and interest. Taken together they will, without doubt, create a unique development, with great visual power.

The scheme includes a bridge between the entrances to the Oysters. Its design is reserved for future approval. It is intended that a design competition will be organised, with the intention of promoting ingenious design, contributing to the overall effects of the scheme. It is appropriate that the Council retains a measure of control over the design, and a condition is proposed. It requires the design to be submitted and agreed before commencement of either of the Oysters. The condition does not define the start date for the buildings, but the major advantage of this timing is that if the bridge design demands a slight revision to the Oysters it can be addressed. The applicants do not accept that the start date for construction of the oysters should be dictated by the design of this bridge (though this is not the case anyway, in the condition as drafted). They do point out that pedestrian access is likely to be restricted for much of the construction process for health and safety reasons. However, this does not affect the need for agreement at an early stage.

It is also important to note that British Waterways are concerned at the maintenance and health and safety implications of a complex bridge. The IWA object to the entire concept of a competition. The applicants still wish to conduct a competition (hoping to use it as an opportunity to attract new, young designers). They welcome a representative of British Waterways, to seek an agreed solution, both practical and attractive.

Another issue of detailed concern is that goods access and storage areas will potentially create blank frontages on the outer faces of the commercial spaces. This may not look good. This needs to be considered / addressed and a condition is proposed. Similarly, window cleaning cranes raise design issues (a clumsy solution to this design issue would mar the skyline of the buildings).

### **Amenity of residents**

The site is part of the town centre. Within the town centre, standards of amenity, privacy and similar elements of 'normal' housing design are treated more flexibly than suburban locations, in the interests of creating an urban centre.

An obvious lack in the scheme is any private amenity space. This is a feature the scheme has in common with other town centre sites, such as the adjoining Crown Lofts scheme. In a town centre site, in general, such spaces would be inappropriate, and out of place.

The separation between other buildings and the habitable room windows in the Oysters varies with the locations in the Oysters. However, a key design decision has been to allow windows close to the site boundary. The significance of this is that when later developments take place on adjoining sites to the south side of Marsh Lane (and such schemes are already in preparation by other developers), windows in the Oysters will be potentially as little as 11.25 metres from habitable room windows in adjoining developments. Only a few windows are involved (as the curved surface of the Oysters moves windows away, and faces them in different directions).

The inner faces of the Oysters are 20 metres apart, and there are windows to flats on these walls. In this context, this is regarded as an acceptable arrangement, again because of its town centre location, and the associated judgements.

One of the objectors has identified that part of the Phase 2 proposal may infringe this general level of amenity. It is accepted that, at this time, it is appropriate to embody these ideas in any permission that may be given, and a condition is therefore proposed to address this.

Ground floor commercial uses (and indeed the proximity of other uses in the adjoining buildings) call for noise and odour control, to protect the amenity of residents of the upper floors. A condition is recommended.

### **Loss of the Wharf Bar**

The application proposes the East Hedge Building in the space currently occupied by the Wharf Bar and therefore requires this demolition to happen.

There have been objections, arguing that the Bar should be kept. It is also argued that the replacement building is not good enough.

The occupiers of the Bar have a lease, and their removal from the building is a matter for mutual agreement with the developers, should that be possible. Urban Splash have stated that the scheme could proceed without demolishing the Wharf Bar, should that be the outcome of such a negotiation.

Despite this, the application requires to be determined as submitted, with the East Hedge Building as proposed.

The questions to be answered by your Committee are:-

1. Is the Wharf bar so well designed and so necessary that this application should not proceed as submitted?
2. If the loss of the Wharf Bar is acceptable, is the East Hedge Building a suitable replacement for the Wharf Bar?

The functions which the Wharf Bar performs are acknowledged as valuable in the town centre, but they can be expected to fit into one or more of the new commercial spaces proposed in the application.

Unless it is listed, or otherwise protected (and the Bar is not), the loss of a modern building will rarely raise issues justifying refusal of a replacement, assuming the replacement to be well designed. In this case, the Bar is an effective component in the existing arrangement of the Gallery Square. Equally, the East Hedge Building is a part of the design of the development, and is consistent with the general approaches and outcomes of the scheme.

Overall, there is no justification to resist the demolition and replacement of the Wharf Bar.

CAMRA's suggestion that a decision on this part of the scheme be deferred is only justified if Members conclude the retention of the Wharf Bar is warranted (and if that is the case, the whole application has to be deferred, or even refused). Such a decision would be inconsistent with the conclusion reached in this report.

## **Landscaping**

The illustrative scheme for landscaping design is complex. It is the developer's likely preference for an eventual detailed submission. There are many innovative and intriguing proposals in the scheme. However, all details are reserved for a future submission.

The debate of such matters therefore needs to concentrate on the principles of what should be submitted (to the degree that the Council wishes to influence the eventual submission). Whatever submission which results from the applicants design choices, irrespective of any views expressed at this stage, will have to be judged by the Council, in due course.

British Waterways raise issues of maintenance. These are normally matters between landowners, and would not feature in a planning decision.

The ecological character of the landscaping is dealt with in the following section, and the conclusion reached that the present position is satisfactory.

Criticism of the scheme is offered by some consultees, concerned that it has too few green elements. The applicants have responded to those criticisms:-

In the Design Team's opinion, the landscape proposals are far from incoherent. There is a simple and clear strategy providing a single shared surface that is animated by innovative yet practical items of street furniture that all define and create both routes and spaces across and around the site. (The positioning of some of these elements of street furniture has been reviewed however and will be updated when the landscape proposals are submitted) Some of these spaces are open and flexible and some are defined and intimate, but this variety is very deliberately sought. All of the defined public spaces are contained and/or sheltered by active ground floor uses and/or the canal side itself.

Gallery Square is not shady, bleak and windswept and we consider the comparison to be unjustified. In the Design Team's opinion, the strength of the landscape proposals lies precisely in the combination of approaches that Natural Environment bemoan. Whilst the scattering of the 'tools' that animate the monolithic shared surface might appear in some respects to be random, it is certainly not so. (The positioning of some of these elements of street furniture has been reviewed however; to better define the routes and spaces across the site) This, we feel is a very subjective appraisal of a highly innovative and exciting proposal. We would urge WMBC to have faith in the design and delivery credentials of this very experienced Client and Design team.

On the issue of vandalism the applicants argue

Does Walsall MBC want the design of this important new development to be dictated by patterns of behaviour that the regeneration of this area aims to fundamentally change for the better? The aim of this design is to encourage better standards of behaviour through quality design. Improved surroundings are known to assist in this aim. The design team feels strongly that Walsall cannot afford to take such a negative view of events if its ambitions for regeneration are to succeed. That said, some concerns about materials susceptible to damage will be addressed by the design team in submitting the landscaping reserved matter in due course.

Overall, the recommendation reflects that, in design terms, the illustrative scheme is very urban. It is crisp, decisive and elegant (in places it is even witty). It precisely suits the style of the buildings.

There are a number of details that need careful detailed design, but it is anticipated that a detailed submission based on this illustrative plan will be acceptable. The application as submitted is supported.

## **Ecology**

The Strategic Environmental Assessment (SEA) done by the Council in support of its SPD for this area is a key factor in this issue. It has been used by the applicants as a foundation for their own ecological study.

The SEA identifies that the existing plants and wildlife are a transient ecology, and that with no action of any sort, increasing growth of plants will create a succession woodland, reducing the present suitability of the site for the present species as part of a continuing natural process. Mitigation measures for the species that depend on the existing plant community can be accommodated by the use of green and brown roofs (and these are required by condition).

Some species such as birds and bats can be promoted by providing nesting boxes and similar, within the buildings. Such matters are simple and can be expected to be provided (a condition is recommended). Site clearance should be done outside the breeding bird season (another condition).

Good practise in ecological management calls for an increased provision of ecological features in the development. This would call for areas of planting to support feeding etc. The applicant's ecologists, and the SEA for the SPD also recommend creating a fringe along the banks of the canal, with earth banks and / or pre-planted coir rolls to establish a vegetated fringe. This would create new habitats for species not present in the area. The end result would be an enrichment of the biodiversity in the area, in line with national and local policy.

The SEA also recommends consideration of the provision of bays to increase the width of the canal to create boat free areas which can sustain aquatic and riparian vegetation.

A number of consultees (notably English Nature) identify that the illustrative landscaping scheme does not include enough of these enhancements. British Waterways initially adopted this viewpoint, but have met the applicants and agreed that there is scope for both the landscaping concept illustrated and a degree of ecological enhancement. No details have been developed to reflect this.

There are two components to the ecological studies. Firstly an identification of the ecology on the site and the necessary measures to compensate for disturbance from the development. Little impact has been identified, and correspondingly little mitigation is needed to compensate. That work is intended to be done (primarily through mechanisms such as green and brown roofs and bird and bat boxes). Secondly, the eco-studies have gone on to suggest that it is good practise to add to the basic mitigation measures, and it is this additional work which is at issue.

The applicants position is that the landscaping scheme shows 3 new mature trees introduced to the site (excluding the strip of alder which will benefit the site even though it is shown on its current boundary) as well as the planting associated with the 'tumps' and the canal inlet. In addition, green/brown roofs and walls in the proposals contribute around 6,630sq.m. of planting to the scheme which equates to around 20% of the total site area. This is, they feel a significant improvement on both the current and historical plant coverage. It is prudent to note that this is the site of a very major brown-field development which will be reduced to a building site for a significant period of time. The canal's north edge has developed its marginal plant communities because it is in disrepair. The necessary repair to this north bank will temporarily destroy this margin and its long-term future (apart from the designated inlet area) is not seen as being in keeping with the overarching hard landscaping proposals for this modern

development. This is why efforts to introduce planting into the scheme (which we believe are currently underestimated) are concentrated elsewhere on the site.

As all matters of landscaping are reserved for future approval, and this is reflected in the recommendation, it is concluded that the scheme can be approved as presently submitted.

However, this is intended to be a highly urban space. There is a possibility that the detailed scheme to be submitted will not include the enhanced arrangements for ecology that some consultees seek. Faced with that situation, it is likely that officers would support the approval of a well designed scheme. The design quality of the space should, if necessary, take precedence over the ecological improvement of the canal arm.

### **Conservation / Wharfingers Cottage**

At this point, the Conservation Area includes the canal arm, and the Wharfingers Cottage. The former is a long, narrow feature surrounded by demolished areas, and rough grounds.

As already set out, the Cottage is a modern replica of an older building. It is very small, and is essentially a small cottage, and a storage shed, which is not much larger. The applicants envisage using it as a sales office, initially. Subsequent uses include shops, offices and leisure uses.

Architecturally, what is proposed is to change a simple brick structure (with chimneys) into a simpler (chimney less) structure. The end walls become entirely window. This is an interesting and dramatic change. The visual gains are sufficient to outweigh the loss of mock-conservation character (the loss of the chimneys and the changes to the character of the building).

### **Service, parking access, and Fire Service access**

There are two service routes, which also serve as Fire Service access.

The northern route enters the site at the western end, from Wolverhampton Street, turns and runs along the southern side of the Parking Hedge Building emerging onto Wolverhampton Street again, close to Woolworths. It is simple (avoiding the need for large vehicles to reverse in an area shared with pedestrians), and effective.

If the Wharf Bar is to be retained (as set out elsewhere) the service route needs to be modified. This is possible, but requires a condition, to secure a revised route.

The southern route is from Upper Navigation Street, approximately along the line of Marsh Lane, into Marsh Street adjacent to the Gallery.

In addition, Marsh Lane is to be left as unadopted public highway, but is shown re-surfaced to match the general landscaping of the scheme. The works will require the approval of frontagers / landowners, but this is a matter for the developer.

Access to the Parking Hedge is at the western end. A right turn lane is provided in the street, and a parking access lane is proposed on the street front. The latter allows cars to be diverted back onto the street if they are not entitled to enter the car park. It also provides stacking space for vehicles to use an entrance barrier. The disadvantage of this access lane is that it requires the front wall of the ground floor of the building (in effect under a colonnade) to be set back. It may also impose limits on the glazing or other treatment of this part of the frontage.

## **Energy efficiency**

Part of the application submission is a consultant's study of energy use. It envisages seeking to reduce carbon emissions overall by a series of measures which will include good practice design, energy efficiency and an aspiration to incorporate renewable technologies. The carbon saving strategy will be structured as follows:

1. Optimised passive design where possible (by natural ventilation, controlled solar gains, good day-lighting levels)
2. Energy efficient mechanical equipment (heat recovery, condensing boilers etc)
3. Review of the potential, future integration of renewable technologies and / or combined heat and power systems (CHP).

The applicants have added

The development will comply (and seek to exceed) Part L 2006 performance (of the Building Regulations), which is a significant carbon reduction on the previous building regulations, resulting in a significant overall reduction in carbon emissions of 25-28% per annum.

The potential community heating system and CHP would make a significant reduction in the overall site wide carbon emissions. It is suggested as part of the Energy White Paper that the infrastructure and resiliency are also considered to provide more decentralised energy generation, which community heating and CHP would provide. This also would provide the future flexibility to link in with a centralised biomass boiler once the fuel supply is established.

Wind turbines are not considered appropriate on the other buildings as the noise levels generated would probably prohibit naturally ventilating the buildings, particularly for and adjacent to the residential. Since passive measures will generally save more carbon than the application of renewable technologies and in a more cost effective manner, the energy hierarchy is always to save energy by passive means before looking at renewables, hence prioritising natural ventilation over wind turbines.

The scope for onsite renewable energy is limited due to the following reasons:

- Wind - The external noise levels may prohibit natural ventilation (and increase façade costs) so it is unlikely to be financially viable.
- Solar collectors are most suitable for residential applications or buildings where there is a high hot water usage. However, the residential Oyster have a roof area which is curved, and access for maintenance would be difficult.



- Photovoltaics - Photovoltaics have a high capital cost, are expensive, and probably unaffordable unless grant funding can be obtained.
- Geothermal - The ground conditions need to be established before geothermal can be committed to, which are currently unknown.
- Biomass - Biomass is the most carbon saving technology for cost efficiency. The supply chain is unknown but will be investigated at the next stage in the design. A large biomass store and high flues and a large woodchip store would also be required, which may be impractical to include within the scheme.

Further investigation will be undertaken during the scheme design to establish whether these technologies are technically and financially appropriate.

A condition is recommended to secure such issues.

## Noise

The site borders a well used road and there are industrial and other commercial uses near and around the site.

The applicants have submitted a report with the application, which identifies noise attenuation in the glazing of the proposed uses (notably the flats), trickle ventilation in the windows, and well fitting (though openable) windows as being sufficient for the development.

In addition, it will be necessary to address noise emissions from the uses in the development (ventilation plant etc) and the submitted report sets out target emission levels.

The report has made worst-case-assumptions in assessing the situation.

Pollution Control see the approach in the report as acceptable, though they seek a more comprehensive approach to the issue, and this is embodied in the recommended conditions.

## Air Quality

The applicants have submitted a study of this subject. It concludes there are no significant issues.

Since that report was prepared, Kirkpatrick's have identified emissions from their operation as a potential source of problems for the development. The developers have been in contact with Pollution Control over the issue.

The developer's response has been:-

- a) it has been agreed there is no need for further air quality modelling.
- b) '*smoke, fume and dust*' (the concerns identified by Kirkpatrick's) can refer to the risk of nuisance to residents due to visible plumes, dust deposition and odours

- c) a statutory nuisance exists if dust, steam, smell or other effluvia arise in industrial, trade or business premises so as to be prejudicial to health or a nuisance.
- d) We understand that no complaints of odour, smoke or dust have been received from the new Crown Lofts development which is located close to the Kirkpatrick's process.
- e) Residents of the proposed development would be closer to the Kirkpatrick's process than residents of Crown Lofts, but there is no evidence which suggests that the process is likely to cause a nuisance at the new development
- f) Consultants for applicant did not detect significant adverse odours or observe any plume from Kirkpatrick's during site visits
- g) If a nuisance were to occur, the duty would lie on the process operator to take steps to abate nuisance, and prevent its recurrence.
- h) In view of these considerations, emissions from Kirkpatrick's process do not pose a significant threat to air quality or amenity at the proposed development site.

Pollution Control agree that emissions from Kirkpatrick's Ltd do not materially affect air quality at the proposed development site. However, they go on to point to the issue of amenity which is more complex. The foundry process is permitted under the Pollution Prevention and Control Act 1999 and the permit specifies emission limits. It does not preclude fugitive emissions or even specify zero emissions. Therefore emissions can occur occasionally to a certain extent. On balance, they reach the conclusion that it is unlikely that emissions of smoke, fume or dust from this process will cause a loss of amenity to occupiers of the proposed development.

## **Lighting**

Good lighting in public spaces is necessary for safety (from crime and accident). Good lighting can also make a contribution to good design.

The scheme illustrates a proposal intended to integrate landscaping, lighting and buildings in an effective way. A number of the choices made will require care in detailing, but the Council's lighting experts accept the potential for the scheme to achieve satisfactory functional lighting. The degree to which it is now, and will be when submitted, a satisfactory design is more judgemental, but the scheme is supported) with conditions to secure detailed submissions to be judged).

## **Security**

Consultees have identified the need for good security.

The Council, and the WRC, are committed to the implementation of Secured by Design initiatives.

The applicants have advised that the design is considered to be in broad alignment with UDP policy GP7 although issues like surveillance strategies will be answered within the landscape reserved matter. The proposals are not yet set out to be 'Secured by Design' compliant. The Police are reviewing the scheme, and the applicants will review their comments. They would not wish any consent to be conditioned to be 'Secure by Design' compliant.

It is clear that all parties agree security is important. A condition on CCTV installations is recommended. A condition on security measures is also recommended, though the degree to which it is to be Secured by Design compliant can be determined as the design develops.

### **Structural stability / ground conditions**

The Council's Structures team have identified detailed issues about the ability of the ground to support the development. The site is in a former limestone consideration zone. This is an area of land where limestone caverns exist, at considerable depth. Such areas have been problematic for development, as the ability of the ground to support the surface is in question. Infilling has been done, in this area, but Structures identify that it was to a standard to support a maximum of four storeys.

The applicants and their consultants have explored this. Further work is identified as being necessary to define the position, and the Structures team have identified the implications in terms of costs.

Foundation design and related matters are subject to control under the Building Regulations. However, part of the testing process in a planning application, is to establish whether the site is suitable for the proposed development, at all. Building Regulations then controls the manner in which the scheme is implemented in that respect.

The recommendation includes a condition requiring future ground investigation to be carried out and the results submitted for approval. The applicants have accepted that there is a risk that the scheme could not proceed if there is a damning report, even if the proposal had been granted planning permission.

The task for the local planning authority is to decide if the site is suitable for the development, using the best available information at the time of the decision. In the case of ground conditions, a consultants report identifies a reasonable prospect of the scheme proceeding safely. With the safeguard of a condition it is reasonable for the Council to support the application, in the prevailing situation.

### **Section 106 obligations**

As has been set out by consultees, there is no need for a contribution for open space, as such a contribution is met by proposed on-site works. Equally, healthcare contributions are not called for (the SPD for such measure sin not yet confirmed by Cabinet). Affordable homes are not called for, as the abnormal costs of the site amount to a legitimate exemption.

The only contribution needed is for secondary school education needs. A series of payments have been agreed. These will be embodied in a section 106 agreement.

## **Conclusion**

The proposed development complies with the Council's intent for this area as embodied in Policy WA12 of the UDP. This outline application delivers a high quality contemporary design for the buildings and the quality of public space, on both sides of the canal arm.

The application also addresses the aim to create leisure uses by providing almost 30% of the relevant floorspace for this purpose. In addition, the requirement for leisure applies equally to the whole area covered by the Policy, and by the Supplementary Planning Document.

The outline application also includes details for approval of a number of buildings. The Oysters are a keynote of the application. These large and dramatic buildings frame the Gallery from views along the canal arm. They are, without doubt, consistent with the design objective of the UDP policy.

The other buildings maintain this standard of design, though in a range of styles and techniques. They will create a varied and visually interesting group, set in a canal side landscape. The changes to the Wharfingers Cottage better suit it to its intended setting, and to its uses.

Landscaping is reserved for future approval. However, the illustrative material submitted is elaborate, and sets out a scheme which would be a fitting setting for the buildings. It raises issues of how it handles ecological matters, but in this highly urban location, visual issues and the functional needs of pedestrians and users of the space should over-ride the ecological issues (should that ultimately prove necessary).

Residential is a large proportion of the content of the buildings, but this is consistent with the overall character of the scheme, and not so obviously dominant that it is at odds with the UDP policy. Issues of amenity are raised as a relevant test, in that policy. The proposal is meeting the standards of amenity that are consistent with this town centre location, and which have been approved on nearby sites already. Some concerns are raised about air quality, but the applicant's consultant, and the Council's Pollution Control officers, are satisfied on this issue.

Parking in town centres is always a complex issue, set against the backdrop of policy objectives to control the use of the car, especially by commuters. For the immediate future, Walsall's attractiveness as a destination for this sort of investment will be low (though the developments being envisaged here and elsewhere in the town will improve this situation). This inevitably calls for compromises to be made. In this case, a large number of parking spaces are dedicated to supporting the commercial uses, and this requires the exclusion of the public. If the development is to be viable, that is inevitable.

The loss of the Wharf Bar has attracted a little criticism. The scheme will work with the retention of the Wharf Bar. It will work better with the removal of the Wharf Bar and the creation of the East Hedge Building (which is a better component in the design of the scheme than the Wharf Bar). Approval of the East Hedge Building is recommended, but the final decision on the future of the Wharf Bar is a matter for the developer and the leaseholder.

The section 106 in the recommendation is to address the need for investment in the secondary school system.

There are a number of safeguards necessary, and these are embodied in the conditions recommended as part of the approval.

Overall, the proposal meets the aims of the Council, and its partners such as the Regeneration Company. It is an exciting scheme which is transformational in scale and design and which will make a major contribution to the regeneration of the Borough.

**Recommendation: Grant Permission Subject to Conditions and a Planning Obligation**

1. Application for approval of the Reserved Matters shall be made not later than the expiration of 5 years beginning with the date of this permission.

*Reason:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

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:* Pursuant to the requirements of Section 92 of the Town and Country Planning Act 1990.

3. a) This development shall not be commenced until details of the following Reserved Matter has been submitted to and approved in writing by the Local Planning Authority:-

landscaping

b) Phase 2 of this development shall not be commenced until details of the following Reserved Matters have been submitted to and approved in writing by the Local Planning Authority:-

appearance

scale

layout

access

landscaping

*Reason* Pursuant to the requirements of section 92 of the Town and Country Planning Act 1990.

4. a) This permission approves the detailed design of the service and delivery arrangements, the Wharfinger's Cottage, the North and South Oysters, the Raised Office Building, the Shedkm office, the Parking Hedge Building, and the East Hedge Building, applied for as Reserved Matters in this application.

b) This permission does not permit the layout of the site or the details of any building shown on this application, other than as specified in part (a) of this condition.

c) This permission approves the following uses in each of those building

Wharfinger's Cottage

A1, A2, A3, A4, B1a, D2

North and South Oysters (two buildings)

A1, A2, A3, A4, B1a, D2 (ground floor)  
 Flats above.  
 Raised office  
 B1a  
 Shedkm office  
 A2, A3, A4, D2 (ground floor)  
 B1a (upper floors)  
 Parking Hedge  
 A2, A3, A4, D2, B1a (ground floor)  
 Parking (upper floors)  
 East Hedge building  
 A2, A3, A4, B1a, C1, D2

- d) At no time shall the total amount of floorspace in A1 use in the buildings hereby approved in detail exceed 1,500 sq.m.
- e) Food retail in the buildings hereby approved in detail shall be a maximum of 300 sq.m. at any time, unless otherwise agreed in writing by the Local Planning Authority.
- f) At no time shall the amount of floorspace in A2 use in the buildings hereby approved in detail exceed 2,679 sq.m.
- g) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 no use in the buildings hereby approved in detail shall be converted from another use to an A1 use.
- h) The maximum floorspace allowed in the Phase 2 development of the site shall be 1,920 sq.m. unless surplus parking in Phase 1, and / or new car parking spaces in the Phase 2 area, are identified as part of the Reserved Matters application(s) for those buildings.

*Reasons:*

- a, b, c, and f) To define the permission.
- d, e, f, and g) To control the nature of retailing and town centre uses on the site.
- h) To ensure adequate parking for the Phase 2 floorspace.

- 5. a) No retail unit on the site shall be brought into use until the Local Planning Authority have approved the particular retail use, location and size of the proposed unit.
- b) Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995, there shall be no change of the particular retail use approved under part (a) of this condition to any other particular retail use, unless that change has been approved in writing by the Local Planning Authority.

*Reason:* To control the nature of retailing on the site, to secure retailing which is either complementary to the other uses on the site, or of a character which adds interest to the site and the town centre, in order to achieve a high quality scheme which supports both the development of the site and the quality of the town centre.

- 6. This development shall not be carried out other than in conformity with the approved plans and documents, except as may be required by other conditions of this permission or by any subsequent approved amendment/permission.

*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).

7. The proximity to the boundary of the site of any windows in Phase 2 shall reflect the standards of amenity embodied in the detailed building designs approved as part of this permission (i.e. 11.25 metres from habitable room windows in adjoining developments, over a short span of the boundary, as exemplified by the curved surface of the Oysters which moves windows away, and faces them in different directions).

*Reason:* To define the permission, and to secure an acceptable relationship to other developments on adjoining land.

8. Unless otherwise agreed in writing by the Local Planning Authority, before work commences on site, the following shall be given the opportunity of making internal and external inspections for the purposes of making a record and identifying any artifacts or documentation meriting preservation:

- \* Walsall Local History Centre, Essex Street, Walsall, WS2 7AS (telephone Walsall 721305);

- \* Community History Officer, Leisure Services Department, Walsall MBC, Civic Centre: Darwall Street, Walsall, WS1 1TR (telephone Walsall 630805).

- \* Mike Shaw, Black Country Archaeologist, Planning Division, Civic Centre, St Peter's Square, Wolverhampton, WV1 1RP (telephone 01922 555493).

*Reason:* To secure an adequate record of the site's archaeology.

9. Before work commences on site details of measures to control water run off from the site during construction (including details of the timing of construction of the proposed measures, and of their removal) shall have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in accordance with the approval, unless otherwise agreed by the Local Planning Authority.

*Reason:* To protect the water environment.

10. For the duration of the reclamation of the site, and the construction period, the accesses to the site shall include wheel washing equipment in accordance with details previously agreed in writing by the Local Planning Authority.

*Reason:* To prevent mud being deposited on the public highway.

11. Site clearance will only take place outside the bird breeding season, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To protect breeding birds.

12. 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 only take place between the hours of 07.00 to 18.00 weekdays and 08.00 to 13.00 Saturdays unless otherwise permitted in writing by the Local Planning Authority. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

*Reason:* In the interests of the amenity of adjacent occupiers.

13. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from service vehicle areas and hardstandings shall be passed through an oil interceptor, designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.

*Reason:* To protect the water environment.

14. No development shall be carried out until details of proposed refuse and waste recycling facilities for the proposed buildings have been approved in writing by the Local Planning Authority. The approved scheme for any individual building shall be implemented before that building is brought into use, and shall be thereafter retained.

*Reason:* To ensure the satisfactory appearance and functioning of the development, and to promote recycling.

15. No development shall be carried out until details of the proposed road design in the vicinity of the East Hedge Building, and any consequential amendments to the buildings along Wolverhampton Street, to demonstrate mechanisms to minimise the risk of vehicles hitting the East Hedge Building, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and completed before construction of the East Hedge Building begins, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To secure the road improvements, ensure the safety of users of the highway, and of the East Hedge Building.

16. No development shall be carried out until details of existing and proposed levels of the site, accessway and floor levels have been approved in writing by the Local Planning Authority. The submitted details shall include full details of any retaining structures required to ensure the stability of the site or adjoining land, and any drainage or other works necessary to facilitate this development.

*Reason:* To ensure the satisfactory appearance and functioning of the development.

17. No built development will be commenced until-

- a) A site investigation, ground contamination survey and assessment of landfill gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken. A copy of the findings of the site investigation, ground contamination survey and landfill gas assessment, together with an assessment of the hazards arising from any land contamination and/or landfill gas shall be forwarded to the Local Planning Authority as soon as they become available.

*Note for applicant*

*Ground investigation surveys should have regard to current 'Best Practice' and the advice and guidance contained in Planning Policy Statement 23 - Planning and Pollution Control; British Standard BS10175: 2001 'Investigation of potentially contaminated sites - Code of Practice'; British Standard BS5930: 1999 'Code of practice for site investigations'; Waste Management Paper No. 27 'Landfill Gas'; 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.*

- b) Details of remedial measures to deal with the identified and potential hazards of any land contamination and/or landfill gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Note for applicant*

*When making assessments of any contaminants identified as being present upon the land and their potential to affect the proposed use regard should be had to the advice given in Contaminated Land Reports, R&D Publications, CLR 7 to CLR 11 and The Contaminated Land Exposure Assessment (CLEA) model 2002 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.*

The agreed remedial measures shall be implemented in accordance with the agreed timetable and 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.

*Reason:* To secure safe development and occupation of the site, and to prevent pollution of the water environment, and to prevent the possibility of surface and/or groundwater pollution

18. No development shall be carried out until drainage details, incorporating:-

- a) sustainable drainage principles
- b) an assessment of the hydrological and hydrogeological context of the development
- c) the provision and implementation of a surface water run-off limitation and on site attenuation as appropriate, and a programme for implementation and completion

have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented and completed in accordance with the approved details.

*Reason:* To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution

#### NOTE FOR APPLICANT

For the avoidance of doubt, no water should be discharged into the canal without first obtaining written consent from British Waterways.

19. No development shall be carried out until the applicant has secured the implementation of a programme of archaeological work in accordance with a brief written by the council's archaeologist, and a written scheme of investigation which has been submitted by the applicant and approved in writing by the Local Planning Authority. The approved programme shall include the submission of one copy of all results to the Local Planning Authority.

*Reason:* To investigate and record the archaeological significance of the site.

20. a) No development shall be carried out until details of
- i. the proposed lighting for the development

- ii. a CCTV scheme for the development have been submitted to and approved in writing by the Local Planning Authority.
- b) The approved lighting and CCTV details in any given area shall be implemented and completed before the public or users of the building are allowed to use that area. The approved details shall be thereafter retained.
- c) Subsequently, no other additional or replacement external lighting shall be installed on the site until details have been submitted to and approved in writing by the Local Planning Authority and the lights shall be installed in accordance with the approved details

*Reason:* To safeguard the amenities of the occupiers of adjoining premises, in the interests of highway safety, and to ensure a safe and attractive environment on the site.

#### NOTE FOR APPLICANT

The submitted details for the lighting are expected to conform to BS5489 Part 9, as appropriate. CCTV should provide for full facial recognition, and automatic number plate recognition, as appropriate, and evidential standards of quality, storage etc.

21. Unless otherwise agreed in writing by the Local Planning Authority, no development shall be carried out until details of security oriented design measures and physical security measures for all buildings and public spaces have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the safety of the occupiers and users of the development.

#### NOTE FOR APPLICANT

The Council consider the scheme should meet the terms of the Secured by Design concept, and will expect the submissions under this condition to meet that concept, or provide compelling justification for not doing so.

22. No development shall be carried out until details of energy efficient design measures for all buildings, and measures to maximise the on-site generation of energy, have been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented concurrently with the relevant element of the development, and thereafter retained.

*Reason:* To ensure the development is energy efficient.

23. a) No development shall be carried out until details of public realm improvements to Wolverhampton Street, providing for the closure of the street (other than to buses and service traffic), paving and environmental improvements, and including a timetable for implementation, have been submitted to and approved in writing by the Local Planning Authority.
- b) No development shall be carried out until details of the proposed road design for the revisions to the roundabout in Wolverhampton Street have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and completed before construction of the Parking Hedge Building begins, unless otherwise agreed in writing by the Local Planning Authority.
- c) The approved details shall be implemented in accordance with the approved timetable, unless otherwise agreed in writing by the Local Planning Authority.

*Reason:* To improve the street as part of the urban design improvements inherent in the application proposal.

24. a) No development shall be carried out until a detailed landscaping scheme for the site, (including any necessary phasing of implementation), has been approved in writing by the Local Planning Authority. The submitted scheme will include

- a) any necessary phasing
- b) arrangements for temporary servicing of buildings that are brought into use in advance of completion of the servicing access arrangements
- c) mooring rings along the canal arm
- d) green and brown roof ecological impact mitigation measures, bat and bird boxes
- e) surfacing able to handle a 17 tonne high reach Fire Service vehicle
- f) litter collection bins
- g) suitable details for all parts of the site not covered by buildings.
- h) canal side and towpath improvements

b) The landscape scheme shall be submitted on a plan to an appropriate scale and shall include, where applicable, details of:

- i) existing and proposed ground levels
- ii) dimensions of planting beds
- iii) site preparation
- iv) plant species/densities; tree species/ sizes and locations
- v) arrangements to be made for the disposal of surface water
- vi) hard landscaping

c) The approved scheme shall be implemented, in its entirety, in accordance with any agreed phasing or within one year of any part of the development being brought into use or such other period of time as may be agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance and functioning of the site.

NOTE FOR APPLICANT regarding part (a) above

Surfacing towpaths in unduly smooth materials may be hazardous, in particular for boaters.

NOTE FOR APPLICANT regarding part (c) above

Further guidance is available in the Unitary Development Plan, page 171, or from Engineering and Town Planning Services.

25. a) There shall be no vehicular access to the service and delivery areas of the site between the hours of 1000 to 1200 and 1500 to 1700 and overnight between 2000 and 0700, on any day.

b) The Parking Hedge Building and the East Hedge Building shall not be commenced until details of measures to control service access in accordance with part (a) of this condition have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and completed before the service access is brought into use.

*Reason:* To reduce the potential for conflict between vehicles and pedestrians on the shared surface, at times when the largest numbers of pedestrians are likely to be present.

26. No building shall be brought into use until details of the temporary car park, including any phasing relating the provision to individual buildings, and any necessary security arrangements, have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and completed, in accordance with any necessary phasing, before the relevant building is brought into use.

*Reason:* To ensure the satisfactory appearance and functioning of the temporary car park.

27. The Raised Office Building will not be commenced until details of security measures at the base of the access staircase have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented as part of the construction of the building.

*Reason:* To ensure the satisfactory appearance of the building.

28. No individual building shall be commenced until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance of the development.

29. Unless otherwise agreed in writing by the Local Planning Authority:-

- a) construction of neither of the Oysters will start until details of the proposed footbridge and any consequential changes to the Oysters have been submitted to and agreed by the Local Planning Authority
- b) The submitted details will include a timetable for commencement and completion of the bridge.
- c) No part of either Oyster shall be occupied until the bridge is complete and operational.

*Reason:* To ensure the provision of the bridge as a pedestrian link in the development, properly related to the needs of the occupiers, and the general public.

#### NOTES FOR APPLICANT

A) For the avoidance of doubt, the required timetable may be expressed in terms of comparative dates, e.g. one month after event 1, event 2 will take place.)

B) The Local Planning Authority would expect the submitted details to have been discussed with and agreed by British Waterways.

30. If, at any time, any significant part or parts of the planting on the Parking Hedge Building dies, or is removed, and the dead or removed plants are not replaced by plants corresponding to the concept of the planting on the building, then within 6 months of the plants dying or being removed, details of an alternative method of cladding the design, to achieve an appearance consistent with the design of the scheme overall, shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented within 6 months of approval, and thereafter retained.

*Reason:* To ensure that distinguishing feature of the Parking Hedge Building is retained or replaced in a satisfactory manner.

31. No building shall be commenced until design of window cleaning arrangements for the building have been submitted to and approved in writing by the Local Planning Authority. The building will be implemented in accordance with the approved details.

*Reason:* To ensure a satisfactory design for such works, in keeping with the building.

32. Neither of the Oysters shall be commenced until details of noise insulation between the commercial uses on the ground floor and the dwellings on the upper floors have been submitted to and approved in writing by the Local Planning Authority. The use of the ground floor shall not be commenced until the approved details have been implemented and completed. They shall be thereafter retained.

*Reason:* To safeguard the amenity of residents.

**NOTE FOR APPLICANT**

Due to the mix of uses, it may be appropriate to consider raising the standards of party wall and floor sound insulation above those currently required by Building Regulations.

33. Other than as required by the conditions of this permission, noise measures as defined in section 5.5.7 of the application documents shall be implemented and completed before the building they relate to is brought into use.

*Reason:* To safeguard the environment of users of the site.

34. No building shall be brought into use until detailed measures to implement the Framework Travel Plan as identified in section 5.7.8 of the application documents (or such other document as the Local Planning Authority may agree can be substituted) and a timetable for implementation, and mechanisms for securing compliance from future occupiers have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented in accordance with the approved measures.

*Reason:* To promote green travel patterns, and minimise the use of the car.

35. There shall be no use of the Wharfingers Cottage, other than as a marketing suite for the development, until details of refuse storage have been submitted and approved in writing by the Local Planning Authority. The use shall not be commenced until the approved details have been implemented and completed.

*Reason:* To ensure the satisfactory appearance and functioning of the building.

36. a) The Parking Hedge Building shall be used for parking by

- residents on the site and their visitors
- occupiers of office space on the site and their visitors
- occupiers of other commercial space on the site.

It shall not be used for parking by any other members of the public at any time.

b) The Parking Hedge Building shall not be commenced until details of the allocation of car parking space in the building have been submitted to and approved in writing by the Local Planning Authority, based on the following principles:-

- each dwelling shall have 1 car parking space
- each office shall be allocated 1 car space per 40sq.m. of space occupied

Occupation of the site shall accord with the approved details.

*Reason:*

- a) To reflect the organisation of the car park, and the needs of the development.
- b) To ensure that an appropriate amount of car parking is available for all users of the site.

37. At all times, the internal arrangements of the non-residential ground floor uses in the buildings in the development will provide that partitions, internal divisions, bin areas, kitchens, storage areas, rest rooms, and similar works will be at least 2 metres from the glazed outside walls of the building or buildings, such that the active elements of the use define the appearance of that part of the building.

*Reason:* To ensure active frontages and a satisfactory appearance on all faces of the buildings, to ensure a permanently satisfactory urban design solution to the circulation of pedestrians around all faces of the buildings.

38. No food preparation, cooking, or catering equipment (other than domestic equipment in a dwelling, or small scale ancillary facilities in offices or similar working areas) shall be installed in any part of the development until details of appropriate ventilation and fume control equipment for that installation have been approved in writing by the Local Planning Authority. The approved details shall be implemented before proposed preparation / catering / cooking equipment is brought into use, and shall be thereafter retained in working order.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises, and to safeguard the amenity of the area.

39. No fences, walls, barriers, gates or other forms of boundary treatment shall be installed or erected on the site until full details have been approved in writing by the Local Planning Authority. Installation or erection, and subsequent retention, shall be in accordance with the approved details.

*Reason:* To ensure the satisfactory appearance and functioning of the development.

40. All planted and grassed areas and associated protective fencing shall be maintained for a period of 5 years from the full completion of the approved scheme. Within this period:

- (a) grassed areas shall be maintained in a tidy condition by regular cutting and any areas that fail to establish shall be reinstated;
- (b) planted areas shall be maintained in a tidy condition by regular weeding and litter collection;
- (c) any tree, shrub or plant which dies, becomes seriously diseased, damaged or is removed 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;
- (d) any damage to protective fences shall be made good.

*Reason:* To ensure the satisfactory appearance of the development.

41. At all times, when construction is not underway, there will be unrestricted pedestrian access to the canal arm, and all of the hard surfaced areas in the landscaping scheme.

*Reason:* To secure public access, in the interests of promoting improvements to the environment of the town centre.

42. No amplification equipment shall be installed in the premises until details of the equipment and any necessary soundproofing have been submitted to and approved in writing by the Local Planning Authority and the soundproofing works shall be carried out before the amplification is brought into use.

*Reason:* To safeguard the amenities of the occupiers of adjoining premises.

43. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, there shall be no vehicular access to the site, other than through the accesses shown on the deposited plans, without the prior approval of a planning application.

*Reason:* To ensure the satisfactory functioning of the development, and in the interests of highway safety.

44. Other than associated with construction on the site, no materials, goods or refuse shall be stored or deposited in the open on any part of the site.

*Reason:* To ensure the satisfactory appearance of the development.

45. At no time shall any commercial use on the site have any display of goods outside the building occupied for that use, nor make any active use of the paved area (e.g. to provide seating), unless details have been submitted to and agreed in writing by the Local Planning Authority.

*Reason:* To ensure the satisfactory appearance and functioning of the site.

**Summary of reasons for granting planning permission and the policies and proposals in the development plan which are relevant to the decision.**

The proposed development is considered to comply with the relevant policies of the development plan, in particular policies WA12, 3.6, ENV32, ENV33, S1, S2, S3, S4 and GP7, and on balance, having taken into account all material planning considerations, the proposal is acceptable.

Further details are available by referring to the officer's report which can be viewed, subject to availability, in Planning Services. As the application was approved by the Development Control Committee, the report can be viewed on the Council's website at [www.walsall.gov.uk](http://www.walsall.gov.uk) <<http://www.walsall.gov.uk>>.

**NOTES FOR APPLICANT**

A) In relation to the conditions on ground conditions, the Environment Agency advise that activities carried out at this site in the past may have caused contamination of soils, subsoils and groundwater. They recommend that the site report includes the following:

- (i) a desk study to identify historical land use with relation to potential ground contamination; and,
- (ii) a limited soils investigation to identify the level of soil contamination on the site and the potential to cause pollution to the aquatic environment. The requirements of this investigation to be based upon previous land use information. In the event that

contamination of this site is confirmed the developer should liaise with the Agency on measures required to protect surface water and groundwater interests.

B) There are a number of large projects in the town centre, each with areas of new public realm. The Council and Walsall Regeneration Company are working on a strategic framework for public realm works and this should be used to guide the landscaping reserved matters.

C) Central Networks and Severn Trent Water Limited have been consulted on the application and copies of their replies are attached for information.

D) Building works may not be undertaken, and a public highway may not be closed in the absence of the appropriate consent, which must be obtained through the Local Highway Authority. Those consents may require a public local inquiry if there are objections.

E) You are advised that although this permission has been granted you must also respect any ownership rights or other legal agreements including rights of way.

F) You are advised to refer to the agreement under Section 106 of the Town and Country Planning Act 1990 which was completed in conjunction with the development.

---