



### Contents Sheet

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1	1	08/1623/OL	LAND AT BROWNHILLS BUSINESS PARK AND VEOLIA ENVIRONMENTAL SERVICES LINDON ROAD AND WICKSONS TRAVEL, COPPICE LANE, BROWNHILLS, WS8 7BW	Outline application for proposed phased redevelopment of land at Lindon Road, Brownhills to provide residential units. Phase 1 - Brownhills Business Park: Demolition of existing structures and redevelopment to provide approximately 89 residential units. Means of access and layout to be considered at this stage. Phase 2 – Wicksons Travel & Phase 3 – Veolia: Demolition of existing structures and redevelopment to provide residential units, with all matters reserved for subsequent approval.	Grant Permission Subject to Conditions and a Planning Obligation
2	40	08/1725/OL	BROWNHILLS BUSINESS PARK, LINDON ROAD, WALSALL, WS8 7BW	Resubmission of 08/0726/OL: Outline application for proposed redevelopment of existing site to provide 89 residential units, with access and layout to be considered.	Grant Permission Subject to Conditions and a Planning Obligation
3	66	08/1849/FL	LAND BETWEEN WOLVERHAMPTON STREET AND THE CANAL ARM, WALSALL, WS2 8LS	120 bed hotel and restaurant within the Urban Splash Waterfront development.	Grant Subject to conditions
4	85	08/1803/FL	GOSCOTE HOSPITAL, GOSCOTE LANE, WALSALL, WS3 1SJ	Deletion of condition 18 of planning approval 07/2085/FL/E11 which requires closure of the southern access and re-opening the central access to the site.	Grant

5	89	08/1897/FL	73 COLLINGWOOD DRIVE,WALSALL,B43 7JW	Variation of condition 2 attached to planning approval 08/1438/FL. to allow opening hours 11:00 - 22:00 hours Monday to Saturday and 17:00 - 21:00 hours Sunday.	Grant
6	94	08/1423/FL	4 REDBOURN ROAD,BLOXWICH,WALSALL,WS3 3XT	Conservatory to rear.	Refuse
7	99	08/1885/TR	44 PARK ROAD,WALSALL,WS5 3JU	Fell 13 Trees in front garden & crown raise one Beech. Fell 23 trees in rear garden.	Part approve/refuse



To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009

**REASON FOR BRINGING TO COMMITTEE: Major application and called in by  
Councillor Sears**

**Application Number:** 08/1623/OL  
**Application Type:** Outline Application  
**Applicant:** Ashtenne Industrial Fund LP  
**Proposal:** Outline application for proposed  
phased redevelopment of land at Lindon  
Road, Brownhills to provide residential units.  
Phase 1 - Brownhills Business Park:  
Demolition of existing structures and  
redevelopment to provide approximately 89  
residential units. Means of access and  
layout to be considered at this stage.  
Phase 2 – Wicksons Travel & Phase 3 –  
Veolia: Demolition of existing structures and  
redevelopment to provide residential units,  
with all matters reserved for subsequent  
approval.

**Ward:** Aldridge North and Walsall Wood

**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652420

**Agent:** Mr Edward Barrett

**Location:** Land at Brownhills  
Business Park and Veolia  
Environmental Services Lindon Road  
and Wicksons Travel, Coppice Lane,  
Brownhills, WS8 7BW

**Expired:** 16/02/2009

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



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### **Current Status**

The application has been called in by Councillor Sears on the basis of traffic capacity and overdevelopment, but is required to be determined by the committee under the constitution if planning permission is recommended.

### **Application and Site Details**

A second report on the agenda relates to the central part of the larger site now considered by this application. This application aims to address the issue of securing comprehensive development by inclusion of the additional land within the application site. The dual approach has been followed to enable development of the smaller site should the larger one not be deliverable.

This outline application follows the refusal of an outline scheme for 90 residential units in June 2008 on land at Brownhills Business Park. This application proposes a three phased redevelopment of land at Lindon Road. Phase 1 – Brownhills Business Park is for the demolition of the existing buildings and structures and redevelopment for residential purposes, to provide 89 residential units (73 houses and 16 apartments), associated access arrangements, parking and landscaping. Access and layout are to be considered now and all other matters are reserved. Phase 2 and 3, Wicksons Travel immediately to the south of Brownhills Business Park and Veolia Environmental Services immediately to the north of Brownhills Business Park are for the demolition of existing structures and redevelopment to provide residential units. All matters are reserved for consideration under a later application

The site is situated on the western side of Lindon Road and Coppice Road and comprises 3.777 hectares of industrial land and buildings. Brownhills Business Park (2.3 hectares) is owned by the applicants and houses a variety of industrial buildings and yard area, with one central access in the centre of the Lindon Road frontage. There are substantial trees and landscaping to Lindon Road, screening the business park from the road. Wicksons Travel (0.3 hectares) is on Coppice Road, also with a single access. The site includes a workshop building, booking office and open yard for parking of coaches and is not within the ownership of the applicant. Veolia Environmental Services (1.1 hectares) contains two large buildings used for offices and associated storage and a depot used for the emergency operation of a fleet of industrial cleansing vehicles, this site is also outside the ownership of the applicants. It has its main access from Maybrook Road, but there is a redundant access point onto Lindon Road.

Immediately to the west of the site is Maybrook industrial estate, defined within the UDP as a Core Employment Area, containing general industry and storage and distribution uses. Abutting the southern part of the Maybrook industrial estate is Barrow Close, a 2004 residential development of a former industrial site. To the north of the application boundary is a vacant unit, which under the terms of its most recent planning approval has permission to be used as a manufacturing unit, further north is a large building used for a children's indoor play area. To the east of the site on the opposite side of Lindon Road are two storey semi detached houses, set back from the road with front gardens/driveways.

The site is approx 1300m to the south of Brownhills District Centre and approx 600m to the northwest of Streets Corner local centre.

The proposed layout of phase 1 includes one main vehicle access point off Lindon Road, utilising the existing site access, with two further pedestrian access routes onto Lindon Road to the north and south ends of the site. The layout proposes a perimeter block of residential units with an access road forming a loop around the site, with an additional shared surface route through the centre to create two street blocks in the centre of the site. The layout shows 73 houses (28 x 3 bed and 45 x 4 bed) and 16 one and two bed apartments within two blocks, providing a total of 89, 1, 2, 3 and 4 bed units. The site area of 2.3 hectares would provide a density of 39 dwellings per hectare and provide 210 parking spaces.

The phase 1 layout makes the following design changes from the refused application:

- North-west corner arrangement altered and dwellings moved from potential noise source with car park as buffer
- Dwellings on western boundary moved at least 1m further away from boundary to industry and enhanced landscape buffer
- Acoustic fence increased in height to 3m on western boundary including corners and 2.5m elsewhere
- Layout revised to provide future link to the north
- More space for landscaping on frontages
- Revised highway layout to include additional speed tables, and measures for partially sighted within the shared surface within the centre of the site
- 'Bridge; units at entrance to provide focal point

Phases 2 and 3 seek approval only to the principle of residential development and therefore no details of the design and layout are for presented for consideration at this stage.

The concurrent application (08/1725/OL to be considered elsewhere on the agenda) has the same layout as phase 1 of this application.

### **Relevant Planning History**

#### **Land at Brownhills Business Park**

08/0735/ND, request for screening opinion for provision of 90 residential units, EIA not required 16-05-08.

08/0726/OL - Outline application for the redevelopment of existing site to provide 90 residential units, associated access and parking. Access and layout only for consideration. Refused for the following summarised reasons on 30/6/2008. An appeal has been submitted to the Planning Inspectorate.

1. Failed to make best and most efficient use of the site and may jeopardise a more comprehensive development of this and adjoining industrial land because of the incompatibility of the two uses.
2. The proximity of the proposed residential properties to the existing adjoining industrial premises may prejudice the future commercial viability of the adjoining industrial premises and core employment area by placing restrictions on the future uses of the sites.

3. Failed to provide sufficient detail in terms of noise mitigation measures in order to demonstrate that there would be no undue impact from the existing adjoining employment uses on the proposed residential development.

4. The proposed layout does not achieve a high quality level of design and would create an unsatisfactory residential environment that would be detrimental to the character and visual amenity of the area and amenity of future occupiers due to the following reasons:

- poor relationship between the proposed residential properties and the existing industrial/employment uses to the north, south and west of the site.
- dominance of hardstanding and parking and lack of landscaping opportunities
- poor view into the site from Lindon Road

5. The submitted Surface Water Risk Assessment was inadequate to accurately assess the proposals in terms of the surface water run off and potential flood risks and insufficient detail was provided to determine the impact of pollution on controlled waters.

6. The proposed layout provides insufficient sight stopping distance, inadequate vehicle and pedestrian visibility, insufficient aisle width along the shared surface to allow vehicles to reverse, no access for the delivery of refuse to the adopted highway and some conflict in parking provision and is therefore likely to compromise the safe movement of traffic and the safe use of the road by others.

7. The proposed development would, in the absence of appropriate financial contributions or other arrangements, result in unacceptable demand on limited educational capacity, accessible community healthcare facilities, public art and public open space provision in the locality and would also fail to meet important affordable housing requirements.

08/1725/OL - Resubmission of 08/0726/OL: Outline application for proposed redevelopment of existing site to provide 89 residential units, with access and layout to be considered. Reported elsewhere on this agenda.

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

### **Unitary Development Plan (UDP)**

Policy 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement.

GP1: The Sustainable Location of Development

(a) Locating facilities where they are accessible to everyone and minimise the need to travel.

(c) development proposals should not prejudice the beneficial use of any adjoining land or buildings.

GP2: Environmental Protection and Policy 3.6, requires new development to contribute to the improvement of the environment.



II the creation or the susceptibility to pollution of any kind.

Policy 3.16 considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

Policy 3.17 and 3.18 development proposals must take account of the need to reduce the consumption of energy and water.

Policy 3.114 good design can discourage crime and increase safety and design can achieve more sustainable environment by reducing energy consumption through orientation of buildings.

Policy 3.115 landscape design can have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

GP3: Planning Obligations, used to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety, proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

6.3, in identifying opportunities for new housing emphasis will be on a sequential approach which maximises the re-use of previously developed land and buildings within the urban area before the use of Greenfield land.

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved.

H4: Affordable Housing, 25% of total dwellings shall be affordable homes.

H9: Minimum Densities, indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

H10: Layout, Design and Dwelling Mix, requires a high quality living environment to be created, well integrated with surrounding land uses and local character.

ENV10: Pollution, development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

3.45, PPS23: Planning and Pollution Control seeks to ensure that land uses and development are not affected by major existing or potential sources of pollution.

3.46, The Council will take account of National guidance on air quality

3.47, PPG24, noise sensitive developments are located away from existing or planned sources of significant noise.

3.48 susceptible uses will be protected from the effects of pollution.

ENV14: Development of Derelict and Previously-Developed Land and Policy 3.9

The Council will encourage the reclamation and development of derelict and previously developed land.

ENV18: Existing Woodlands, Trees and Hedgerows, seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

ENV26: Where development proposals affect buildings or sites of industrial archaeology interest that do not merit retention, the Council will make positive recommendations for the recording and preservation of artefacts and features.

ENV32: Design and Development Proposals and Policy 3.16, considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV33: Landscape Design, good landscape design is an integral part of urban design.

ENV34: Public Art, the Council requires the provision of public art to enhance the quality and individuality of buildings.

ENV39: The Council will encourage proposals for the development of renewable sources and for the efficient use of energy.

ENV40: The Council will take account of flood risk according to the principles set out in PPG25 "Development and Flood Risk".

LC1(d): Urban Open Space, residential developments will be required to make a financial contribution to enable the provision of new or improved urban open spaces. Policy 8.8 indicates that residential developments will only be permitted where adequate school capacity exists or can be provided. The Council will require developers to make a contribution to the costs of providing these facilities.

Policy 8.9 indicates that a contribution towards accessible community healthcare provision will be required on residential developments of 30 units or more.

4.4 core employment uses are identified as industry and distribution in Classes B1b, B1c, B2 and B8 of the Use Classes Order.

4.7 to boost jobs and prosperity in the Borough by providing enough land of the right quality to meet the full range of employment needs and by promoting the enhancement of existing employment areas.

JP2: Improving the Employment Land Supply, the Council will continue to work with partners and developers to remove constraints to the development of employment land.

JP5: Core Employment, proposals will only be permitted where it can be demonstrated that: A need would be met which could not be satisfied elsewhere; the range and quality of employment opportunities would be significantly increased; when windfall sites come forward for reuse or redevelopment they would normally be safeguarded for core employment uses.

JP7: Use of Land & Buildings in Other Employment Areas

(c) residential development will not normally be permitted except where a purely local need is demonstrated.

(d) when windfall sites come forward for reuse or redevelopment in these areas they will normally be safeguarded for appropriate employment uses. It is recognised that in exceptional circumstances it may be appropriate to consider other uses, such as housing, due to the relationship of the site to surrounding land uses or because the site is not well located to meet the needs of modern industry. Any alternative uses must satisfy other relevant policies of the UDP and not have the potential to constrain the operation of neighbouring businesses or appropriate future commercial investment.

T7 – Car Parking, all development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

Policy 7.59 requires reserved parking for disabled people.

### **Urban Open Space (SPD) (April 2006)**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.



**Affordable Housing (SPD) (April 2008)**

Requires the provision of 25% of the total dwellings to be affordable homes on residential developments of 1 hectare or 15 dwellings or more 100% affordable rent.

**Healthcare (SPD) (January 2007)**

Requires a contribution to provide for the need for healthcare facilities arising from new residential development on sites of 1 hectare or 30 dwellings or more.

**Education (SPD) (February 2007)**

Requires a contribution towards local primary and secondary education facilities where required according to capacity with a threshold of 10 residential units and above.

**Designing Walsall (SPD) (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2 – all new development must contribute to creating places that feel safe.

DW3 – all new development must be designed to respect and enhance local identity

DW4- Well defined streets with a continuity of built form are important.

DW5 – ease of movement, connections to existing routes.

DW6 – new development should contribute to creating a place that has a clear identity

DW7 – contribute to creating living places that offer a mix of activities to the widest range of possible users.

DW9 - new development must seek to ensure it creates places with attractive environmental quality

DW9(a)- (d) – qualifying development for Public Art S106 Contributions, the scale of contributions and use of contributions.

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Public Art Guidelines, provides more detail on the provision of public art.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

**Regional Policy**

The Regional Spatial Strategy (RSS) for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance. The RSS is part of the development plan. Policy

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UR1B of the RSS requires Black Country Authorities, in their Joint Core Strategy and LDDs, to identify and protect a portfolio of employment land, whilst also ensuring, through the transfer of employment land where necessary, that the housing requirements in policy CF3 are met. The Draft RSS Phase 2 Revision Preferred Option Policy PA6B states that employment land should ensure a continuing supply of readily available and attractive sites.

In considering development proposals that involve the loss of business premises, local planning authorities should ensure there is an adequate range of premises to meet the needs of business in their area.

The emerging Joint Core Strategy for the Black Country (March 2008) is at the preferred Options Stage. Core Spatial Policy 4 – Phasing and Delivery of Housing on Employment Land proposes 150-250 housing units with locally retained land in this area, with some land being retained for employment use. Policy 4 deals with the phasing and delivery of housing on employment land, and states that there is a need to avoid the premature loss of employment land to housing.

### **National Policy**

**PPS1:** Delivering Sustainable Development, emphasis is given to the need to reject poor design and the need for sustainable development.

**PPS 3:** Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

**PPG4:** Industrial and Commercial Development & Small Firms, seeks to take account of the locational demands of business. Careful consideration needs to be made where proposals for new development may be incompatible with existing industrial and commercial activities.

**PPG13:** Transport promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility to jobs, services and transport choices and to reduce travel especially by car.

**PPG23:** Planning and Pollution Control, sets out the principles and approaches relevant to consideration of planning and pollution control, to ensure that land, particularly previously developed land, is used in a sustainable and beneficial way.

**PPG24:** Planning & Noise, outlines the considerations to be taken into account in determining planning applications, both for noise sensitive developments and for those activities which will generate noise.

**PPS25:** Development and Flood Risk - Aims to ensure that flood risk is taken into account to avoid inappropriate development in areas at risk from flooding.

Other relevant policy guidance includes, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention; and the 2004 Employment Land Review Guidance Note. Manual for Streets (2007).

### **Consultations**

**Strategic Policy** – No objection. Policy JP5 allows for industry to be used for housing in exceptional circumstances. In the long term the emerging Joint Core Strategy identifies this area as supplying 150-250 housing units and this application could help supply these. The previous application had not made any attempt to

develop a comprehensive approach but in this case a comprehensive approach has been attempted and an indicative plan showing the phasing of the Wickson site and Veolia. However both neighbouring occupiers do not wish to move in the near future. In the present economic situation the existing employment sites should remain on these sites until there is a need for their operators to vacate. It is therefore agreed that the overall approach of providing an application that takes account of the three sites, consulting with the major interests on all 3 sites and showing a phased approach for the two sites that the applicant does not own is acceptable. Housing is acceptable in principle on this site in the interest of amenity in the long term.

**Transportation** – no objection subject to the use of recommended conditions.

**Pollution Control (Scientific Team)** – No objection subject to safeguarding conditions.

**Pollution Control (Contaminated Land)** – No objection subject to safeguarding conditions.

**Economic Regeneration** – raises concern. In terms of employment, the impact of the loss of around 100 jobs is a key concern, especially given the current economic downturn. Several significant job losses have occurred in the area including Amtrak (circa 400 jobs) and Wagon (circa 385 jobs). Job Seekers Claimant data (unemployment) in Brownhills has risen to 4.6% from 4.1% since October 2008. This compares with 2.8% nationally. Alternative sites may be available for existing users of Brownhills Business Park, but the cost of facilitating such relocations can often be significant and forced relocations can precipitate business closure and loss of jobs, especially given the current economic climate where many businesses are already struggling.

Notwithstanding the advice of technical officers, we still have reservations on the impact of residential development on the neighbouring Maybrook Industrial Estate, which is one of Walsall's better quality employment sites. Residential development in such close proximity to businesses can often lead to areas for disagreement and complaint from residents and can exacerbate pressures on local employers. This could be to the longer term detriment of this Core Employment area which could be rendered unattractive to future inward investment.

**Urban Design** – No objection.

**Landscape** – No objection.

**Environment Agency** – Object. Insufficient information on surface water assessment has been provided to be satisfied that the development would not pose a risk to flooding.

**Education Walsall** – No objections. A contribution of £223, 955.10 is required towards secondary school provision.

**Drainage** – No objection.

**Green Space Services** – no objection. Full contribution towards Urban Open Space is required.

**Environmental Health** – no objection.

**Police** – No objections in principle. The accesses to the court yard parking should be gated with access control measures with self closing mechanisms. The access path to the south should be free from planting, railing and seating. The dense foliage needs to be well back from the access in order to improve natural surveillance and reduce concealment. The apartments will need video monitor access control systems to be in place. The access points should be well lit. Rear access pathways should be gated. The gates should be key operated.

**Centro** – No objections. The closest bus shelters are located on Lindon Road and Coppice Road. Centro welcomes all three pedestrian access points into the site and the inclusion of a Residential Travel Plan.

**Natural England** – No objection.

**Natural Environment** – no objection. The significant tree belt to the site frontage are used by foraging bats, therefore it is essential that the tree belt is retained and properly managed.

**Severn Trent** – No objection subject to the use of a recommended condition.

**Tree Officer** – No objection subject to the tree protection details as recommended in the arboricultural report being adhered to and details of replacement tree planting being submitted with any full application.

**Conservation and Built Environment** – in general no objection in principle. The site is not within a Conservation Area nor does it contain any listed or locally listed buildings, however it does contain former colliery buildings which may be of historic interest. A condition is recommended to record the buildings for their industrial archaeology value. Number 122 Lindon Road (phase 3) has some local architectural and historical interest and in the absence of a structural engineers report should be reasonable for conversion and retention. Would object to its removal unless it can be demonstrated that the building is unsound.

**Access and Disability** – No objection.

**Housing Strategy** – No objection. 25% of the total units will need to be provided as social rented units. These will need to be a mixture of the 3 and 4 beds, no flats required.

**Fire Services** – No objection.

**Building Control** – No objection. Note for applicant.

**Archaeological Officer** – No objections.

**National Grid** – No objection.

### **Public Participation Responses**

**Councillor Harris** objects to the application on the grounds that the site employs many people vital to the local economy and is an industrial area requiring protection from further housing development. The proposal will increase traffic levels to an already congested road that Lindon Road cannot sustain. This increases pollution and higher accident risks. Access to the site is on a corner with poor visibility.

Four letters, one from the refinishers business within the site and three from adjacent neighbours object on the following grounds:

- Indicative plans still fail to address the need to develop this area holistically
- Acoustic fence to boundary is hardly conducive to integration of two phases.
- Illustrative block of flats for the Wickons site would be intrusive inappropriate high density development.
- Master plan shows Wickson and Brownhills Business Park to be completely isolated from each other, reducing community coherence and passive observation.
- Unsatisfactory that permission should be given when the total number of dwellings over the three phases is not specified
- 89 dwellings on Brownhills Business Park represents too great a density.
- Impact upon education, health services and local infrastructure.
- Rear alleyways would be hidden from general passive observation, providing natural venues for anti-social behaviour.
- Does not represent best practice in reducing crime through the design of the built environment.
- Pressure on traffic flow at adjacent junctions which are already congested.
- Significant number of vehicles attempting to access the network by a right hand turn against the flow of traffic.
- Design statement does not adequately reflect signature buildings in the local area.
- Design statement does not adequately reflect the importance of the site to the history of the local area. Development should attempt to retain as much of the fabric of the former colliery buildings as practical.
- Loss of two existing residential units within the bounds of the development area.
- Will result in loss of trees.
- It is a thriving business park, with only one vacant unit.
- Over 100 jobs would suffer if the business park were to close.
- The site is the former Walsall Wood Colliery with two capped mine shafts within the site and chemicals have been poured down the shafts. A potential health and safety issue.
- Houses would be in proximity to 24 hour work on Maybrook Industrial Estate.
- Due to relocation costs, refinishers business would have to close if permission granted, employing up to 30 people at busy times.
- Noise factors contravene the Development Plan.

Veolia Environmental Services in their letter confirm that their operations include being a depot for industrial cleansing vehicles operating on a 24 hours basis and a large office content providing administration and payroll services. Veolia no longer state an objection to the application as they did on the last application, but raise the following observations:

- Concern how the car park courtyard will act as a noise barrier to Veolia's continuing operations from the Industrial Services Division building.  
Recommends the erection of pitched roof garages rather than allocated parking

spaces as this would provide a physical barriers that would assist in noise attenuation.

- Vehicles pass within 5m of the northern boundary. Therefore it is recommended that a brick wall is provided by way of a planning condition to run along the northern boundary. This would provide the necessary noise attenuation and security and with the appropriate materials and design could enhance the setting of the proposed dwellings.
- Shared courtyards to plots 81 and 86 are not necessary as the orientation of the buildings means that plots 83 and 86 will still be about 8m from the boundary with the site and internal access road. With the phased sites having separate points of access do not see the need for this possible link. By bringing the dwellings on to the frontage they would better replicate plots 7, 8, 9 and 10 on the opposite side of the road and move them away from the northern boundary.

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

### **Determining Issues**

- Comprehensive development of this and adjoining industrial land
- Future commercial viability of the adjoining industrial premises
- The need to protect employment provision
- High quality design and satisfactory residential environment
- Risk of flooding
- Highway safety
- Landscape and community safety
- Urban Open Space, Healthcare, Education, affordable housing and public Art provision
- Other matters raised from representations received

### **Observations**

#### **Comprehensive development of this and adjoining industrial land**

The previously refused application (on the centre part of the current site) considered that redevelopment of that site in isolation would constrain the existing industrial users immediately to the north and south of that site and may jeopardise a more comprehensive development of this and adjoining industrial land. This application which now includes the industrial users immediately to the north and south of the site has been submitted to overcome reason 1 of the refusal.

Whilst the application site is not situated within a core employment area, it is currently occupied by employment/industrial users. The site is bounded to the north, south and west by other industrial/commercial uses with the premises to the west and southwest (Maybrook Industrial Estate) designated as a core employment area.

Policy JP7 sets out the guidelines for use of land and buildings in non core employment areas. JP7(c) indicates that residential development will not normally be permitted and (d) indicates that when sites come forward for redevelopment they will normally be safeguarded for appropriate employment uses. It is however recognised that in exceptional circumstances it may be appropriate to consider other uses such as residential.



The applicants argue there are exceptional circumstances for the development of the unallocated Brownhills Business Park stating that the site does not have the potential to provide an office or industrial development due to its general location and condition. This has been confirmed by the lack of any significant long term interest in the site following various marketing initiatives since it was obtained by the current owners in 2002. The current owners state that the existing buildings are in poor condition, there is an over supply of industrial premises in the area demonstrated by high vacancy levels, the site would not support a financially viable industrial redevelopment and the site is not located in a prestige location for office development and would not provide an environment to compete with existing out of centre office schemes. The applicants state that the units have been marketed below their estimated rental value which failed to significantly increase lettings, a symptom of the general down turn in national manufacturing.

Strategic Policy no longer object to the application. In the long term the emerging Joint Core Strategy identifies the Lindon Road area as supplying 150-250 housing units and this application could help supply these. Strategic Policy consider housing is acceptable in principle on this site in the interest of amenity in the long term.

Unlike the previous application, this proposal is comprehensive. The application site is no longer isolated within the middle of industrial uses. The application is specifically phased to take a comprehensive approach. While there are no detailed layouts provided at this time for phase 2 and 3, the illustrative masterplan shows that it would be possible that the layout for consideration as part of phase 1 would integrate with residential developments of the other two phases and importantly unlike the previous application, the layout of phase 1 would not jeopardise future development of these sites. The applicants state that due to the operational requirements of Wicksons Travel and Veolia Environmental Services these sites are unlikely to be redeveloped at the same time as Brownhills Business Park. Consequently a detailed layout is not provided at this time. Logically Phase 1 would be redeveloped first. For Phase 2, Wicksons Travel is still operational, although the owner has indicated that once operations are ceased, the residential redevelopment of the site will be progressed, though there are no likely timeframes at this stage. For Phase 3 the site is still operational and Veolia indicate that they have aspirations for redevelopment of the site, however these are not likely to be considered for a period of 2-3 years.

In the present economic situation the existing employment sites should remain on these sites until there is a need for their operators to vacate. It is therefore agreed that the overall approach of providing an application that takes account of the three sites, consulting with the major interests on all three sites and showing a phased approach for the two sites that the applicant does not own is acceptable

The application therefore demonstrates that a comprehensive approach is possible, but only through phasing the development. The layout for phase 1 has been designed so that it can stand alone prior to the use of the other sites ceasing, but also demonstrates that it does not prejudice future development (by orientating plots on the northern and southern boundaries so that any future development of these sites would not be compromised, but would be complemented by the proposal). The layout has been designed so that a link to the northern site could be available should this site be developed in the future, enhancing the flexibility of the layout.

### **Future commercial viability of the adjoining industrial premises**

The previous application was refused due to the proximity of the proposed residential properties to the existing adjoining industrial premises, which could have prejudiced the future commercial viability of the adjoining industrial premises and Core Employment Area by creating restrictions on the future uses of these sites.

Economic Development remain concerned about residential development in such close proximity to businesses can often lead to areas for disagreement and complaint from residents and can exacerbate pressures on local employers. This could be to the longer term detriment of this Core Employment Area which could be rendered unattractive to future inward investment.

The application has been supported by a noise assessment which provides a technical means to assess whether or not complaints from future residents regarding surrounding industry are likely. The assessment demonstrates that there are no significant issues with regard to noise but there are intermittent noise sources from neighbouring land. This indicates that complaints from residents regarding the surrounding industry are unlikely. Consequently it recommends that an acoustic fence be erected around the north, south and west boundaries; this is in conjunction with sound attenuating trickle ventilators or acoustic bricks which allow ventilation of rooms without the need for opening windows. Further to this the application site is higher than the core employment area of Maybrook Road by approximately 2 metres and the majority of the proposed dwellings on the detailed layout are 13-15 metres from the boundary with the industry.

Changes to the layout also assist in overcoming the refusal reason by setting plots along the boundary with Maybrook Industrial Estate a further metre away and revising plots in the northwest corner to be apartments with courtyard parking adjacent to the 24 hour used industrial cleansing depot rather than abutting housing to the boundary.

Pollution Control Scientific Team do not object to the application as the application proposes a 3m acoustic barrier to the boundary with the core employment area and until phases 2 and 3 get developed a 2.5m acoustic barrier to these shared boundaries. However safeguarding conditions are recommended so that further survey work is undertaken to establish the exact level of noise mitigating measures required to individual plots to ensure that the proposal does not compromise adjacent industrial uses and provide a satisfactory residential environment for future occupiers.

An air quality assessment has also been carried out which concludes that there are no air quality issues affecting the site. Elevated dust levels and odour from paint spraying was found on the site itself which would be removed should residential development take place thereby improving local air quality.

While no details for phases 2 and 3 have been provided at this time, their design would be required to have an appropriate relationship with the neighbouring core employment and industrial uses to ensure that their development would not prejudice industrial viability.

### **The need to protect employment provision**

The proposed use of the site for residential would hopefully result in the relocation of existing businesses and as stated by current occupiers, up to 100 jobs for phase 1, 25 jobs for phase 2 and 165 jobs for phase 3. The applicants have provided a letter detailing the number of employees across all the units and yard areas for phase 1 to be an approximate total of 41, with four units and one compound, as of January 2009, being unoccupied. The Council's Economic Regeneration Officers would be able to assist in the relocation of any affected businesses on site to appropriate alternative sites but would have concerns over the ability of these businesses to finance such relocations so could result in closure and job losses. One of the tenants, a refinishers business, in his letter says that the business would have to close if permission granted, at a cost of 30 local jobs. While this is a specialist company, its operations could in theory be accommodated within other employment sites in the borough.

This is clearly a sensitive matter and raises a new issue in the light of the current economic climate and substantial job losses in the Brownhills and Aldridge area since the refusal of the previous application. This includes but is not exclusive to the closure of local companies Amtrak and Wagon which by themselves account for 785 job losses. UDP policy 4.7 is relevant here which refers to boosting jobs and prosperity in the Borough by providing enough land of the right quality to meet the full range of employment needs.

Potential job losses calls for a carefully balanced judgement weighed against the housing supply aims and the current satisfactory employment land provision.

### **High quality design and satisfactory residential environment**

Only Phase 1 includes a detailed layout at this stage, the other phases would be subject to further applications and assessment. The previous application was refused as it did not achieve a high quality level of design and would have created an unsatisfactory residential environment because of a poor relationship between the proposed dwellings and the existing industrial/employment uses, a dominance of hardstanding and parking, a lack of landscaping opportunities and a poor view into the site from Lindon Road.

The amended application has moved the plots along the boundary of the Core Employment Area a further metre from the boundary with the provision of dense landscaping. The proposed houses would be between 13m and 14m from the boundary, with the apartments 10.5m from the boundary. Coupled with units along Maybrook Road having ground levels approximately 2 metres lower than the application site and a 3m high acoustic fence at this boundary it is considered that the core employment area would not be generally visible from the proposed residential properties. With the implementation of noise mitigation measures, it is considered that the proposed scheme would provide a satisfactory residential relationship at the interface with the Core Employment Area.

The previous application proposed two houses 1m from the boundary, with one house abutting an industrial shed used 24 hours a day for industrial clean up purposes. The proposed scheme has addressed this by siting courtyard parking to this corner for a block of apartments which would be 15.5m from the boundary. The majority of the other plots to the northern boundary would be 13m from the Veolia site, with a 2.5 m high acoustic barrier on the boundary, with the side elevation of

plots 82 and 85 8.5m from the acoustic barrier and dense landscaping. Plots to the south boundary with Wicksons Travel would be between 11m and 12.5m from the proposed 2.5m high acoustic barrier with dense landscaping. Consequently it is considered the proposal creates a satisfactory outlook, with a similar relationship with the core employment and other employment as shown by Barrow Close, 200m south of the application site.

The conclusions of the technical noise assessment determines that an acoustic fence and other noise mitigation measures previously referred to would ensure that operations from Veolia would be unlikely to generate a living environment that would cause residents to make complaints.

The revised layout no longer has a dominance of hard-surfacing with greater landscaping provided to frontages. The layout now includes 'Bridge' units to the plots at the only vehicle access point from Lindon Road providing a better focal view. This creates a positive and inviting view of the development from the main road.

Overall the layout provides good surveillance of public areas from the fronts of houses with a common building line with different ratios of building height to width to provide an enhanced quality of the public realm and a varied townscape whilst providing legibility. The layout provides pedestrian access into and around the site with a street design to minimise vehicle speeds and opportunities to link to neighbouring land to the north if it comes forward for development. While scale is reserved for later consideration, the applicants state that the proposed building heights would range between 2-3 storeys, between 9.5m and 12.5m in heights, offering a domestic feel and character appropriate to its context.

Each of the houses would have their own private amenity space with garden lengths between 8m and 15m, with areas between 57m<sup>2</sup> and 151m<sup>2</sup>, reflecting the surrounding pattern of development where a mix of garden sizes exists. There are six houses which have their garden length and area below the Council's design guidelines, however with the proximity of the public open space of Oak Park it is considered in this instance that overall the garden sizes are acceptable. The two apartment blocks would have shared amenity for each of the dwellings at an average of 33m<sup>2</sup> per unit which is above the Council's minimum requirement of 20m<sup>2</sup>.

Veolia comments on the masterplan about the need for a link road are noted. However it is considered that a satisfactory residential environment would be created and the orientation to provide a link between possible future developments is key to an integrated comprehensive development of this area.

The proposed density meets the requirement of UDP policy H9 and PPS3, which is entirely consistent with the locality and given its sustainable location makes efficient use of the land with a layout that has the potential to offer a high quality living environment with generous gardens and attractive streets and public realm.

An objection received that the illustrative block of flats for the Wicksons site would be intrusive inappropriate high density development cannot be considered as no formal details for the site are under assessment at this stage.

One objection letter comments that the acoustic fence to the boundary is not conducive to integration of two phases. While an acoustic fence would be provided

to the north boundary of phase 1 while Veolia continue to operate in the interest of residential amenity, should this site become redeveloped, the acoustic fence at the link between phase 1 and 3 would be removed to ensure connectivity. The same letter considers it unsatisfactory that permission should be given when the total number of dwellings over the three phases is not specified. While the number of units for phases 2 and 3 are not specified at this time, this application would only establish the principle of residential development on these phases. A detailed layout would need to be fully assessed to establish what design would be acceptable. The lack of this information is not a reason to resist the present application.

### **Risk of flooding**

The Environment Agency object to the application as insufficient information on surface water assessment has been provided for phases 2 and 3 for the Agency to be satisfied that the development would not pose a risk to flooding. The applicants indicate that they are in discussions with the Environment Agency with a view of overcoming this objection. Progress on this will be reported at the committee.

### **Highway safety**

The previous application was refused on highway grounds as set out in reason for refusal point 6 as detailed above. Transportation raise no objection to the application subject to the use of recommended conditions, and consider that for the layout of phase 1, previous concerns have been addressed. In consideration of phases 2 and 3 the principle of residential development on these site would be acceptable, however full details would be assessed at the time of the reserved matters applications.

The vehicle and pedestrian access is taken via the existing access on Lindon Road. The transport assessment submitted with the application indicates that the access is the most suitable for the proposed number of dwellings. A vehicle tracking exercise also demonstrates that a refuse vehicle of the type used in Walsall can safely negotiate the adoptable areas of the site. Bin collection points are provided for the apartments which ensure refuse can be collected from the public highway.

Main bus routes run past the site along Lindon Road (four services to Walsall, Lichfield and Cannock) in addition there is a main bus corridor on Lichfield Road 550m from the centre of the application site. The local centre, schools, community facilities and open space are all within 400-800m of the site, or 5-10 minutes walk away.

One letter of objection suggests the use of a road traffic island at the junction of Lindon Road, Brownhills Road and Coppice Lane. However the proposed access for phase 1 is considered acceptable to accommodate the level of vehicles that would be associated with the development. Full details of the impact of phase 2 and 3 could only be established at the time of a reserved matters application and revised Transport Statement(s).

Objections are also stated on the pressure on traffic flow at adjacent junctions which are already congested. Transportation in considering the predicted traffic flows as demonstrated in the Transport Assessment submitted with the application do not consider that this impact should be a reason to refuse the planning application.



### **Landscape and community safety**

There is little in the way of landscaping within the site due to its industrial nature, though on the eastern boundary there is a strong existing line of mature trees which provide an attractive edge to the road frontage. The western boundary has some smaller trees and shrubs on the neighbouring industrial land.

Landscaping is a reserved matter, but in response to reason 4 of the refusal at Brownhills Business Park, the proposal would look to follow the character of the area with soft landscaping and greenery by including tree planting in the site and hedge planting to boundaries and also turf and shrubs to front gardens and communal areas where space allows. Additional screening will be provided in rear gardens for the units that share a boundary with the industrial estate.

Trees are confined to the eastern boundary of the site; species present include silver birch, goat willow and lombardy poplar. One objector feels that the removal of these trees would signal a major and negative change to the atmosphere and character of the area to the detriment of the sense of place. The arboricultural assessment submitted with the application states that there are no high value trees present, and that the type of species are not particularly suitable for a residential area. However the trees do provide local amenity value and the majority are proposed to be retained. The Lombardy poplars are proposed to be removed and any gaps replanted with a more suitable species. This would be explored as a reserved matter. Natural Environment comment on the importance of these trees for bat foraging. The Council's Arboriculturalist raises no objection to the application subject to tree protection details as recommended in the arboricultural report being adhered to and details of replacement tree planting being submitted with any full application.

The Police raise concerns of additional pedestrian access points having security issues. It is desirable to include these links for legibility and ease of movement. The link to the south of the application site provides ease of access towards Streets Corner Local Centre and Oak Park public open space and thus encourages future occupiers to walk to the local shops and amenities. Concerns about keeping the pathway clear of foliage and rails and seating can be dealt with by the landscape reserved matters application. The Police requirement of self closing gates to the parking courts and video monitor access control systems to the apartments can be secured by condition.

One letter of objection is concerned with the use of alleyways providing rear access to plots, providing venues for various forms of anti-social behaviour. While alleyways by their nature lack natural surveillance, their requirement for access, particularly in the event of a fire would not be a reason to refuse the planning application. An objection has also been raised saying the proposal does not represent best practice in reducing crime through the design of the built environment. There is no objection from the Police and the design seeks to maximise the surveillance of public space.

Objections have also been raised that the proposed masterplan shows Wicksons and Brownhills Business Park to be completely isolated from each other, reducing community coherence and passive observation. While unlike the relationship between phases 1 and 3, no direct link would be provided between phases 1 and 2, the design of the future development should integrate into the pattern of development in the area and community cohesion would be available through use of the local amenities. The development of Wicksons would need to have good surveillance of



public areas and clear definition of private space, as demonstrated by the layout of phase 1.

Issues of landscape and community safety for phases 2 and 3 would fully be assessed at the time of the relevant reserved matters application submission.

### **Education, Urban Open Space, Healthcare, Public Art and Affordable Housing provision**

The following financial contributions would be required for phase 1. Contributions are likely to be required for phases 2 and 3; these can only be established at the time of a detailed application, appropriate conditions are recommended. The figures in the following paragraphs only related to the phase 1 area.

#### **Education**

The level of surplus places in secondary schools are below 10% therefore a contribution of £223,955.10 is required secondary school provision within the local area, in line with Policy 8.8 of the UDP.

#### **Urban Open Space**

An Urban Open Space contribution of £241,344.00 is required to comply with the Urban Open Space SPD policy.

#### **Healthcare**

A Healthcare contribution of £110,678.40 is required to comply with Policy 8.9 of the UDP and Healthcare SPD.

#### **Public Art**

A Public Art contribution of £31,150 is required to comply with Policy ENV34 of the UDP and Policy DW9 of Designing Walsall SPD.

#### **Affordable Housing**

25% of the total units will need to be provided as social rented units. These will need to be a mixture of the 3 and 4 bedroom houses, none of the apartments are required to have an affordable element in accordance with Policy H4 of the UDP and the Affordable Housing SPD

The applicants have provided heads of terms with the planning application and confirm they will make full contributions.

A letter received from a Planning Consultant on behalf of West Midlands Police, requests a S106 contribution towards policing in the area based on the increase in the number of dwellings. They consider that this would equate to a contribution of £195.68 per household created, equating to a total sum of £28,764.84. There is no planning policy basis for requiring any such contribution therefore this is not being pursued.

### **Other matters raised from representations received**

An objection has been received that the design and access statement does not adequately reflect signature buildings in the local area or the importance of the site to the history of the local area and development should attempt to retain as much of the fabric of the former colliery buildings as practical. The layout of the site is considered to be acceptable in principle with the guidance given in the UDP, PPS1 and PPS3.

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The site is not within a Conservation Area nor are any of the buildings statutory listed. While their historical standing is important, the buildings are not required to be retained. The Conservation and Built Environment Team do not object to the application but request a condition that ensures the recording of the buildings are taken prior to demolition.

Comment has also been made that the site is the former Walsall Wood Colliery with two capped mine shafts within the site and chemicals have been poured down the shafts. A phase 1 environmental assessment has been submitted with the application and Pollution Control Contaminated Land Team raise no objection to the application subject to the use of recommended conditions. The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining related hazards to stability in their proposals and permission should be sought from the Coal Authority before undertaking any development at the site.

### **Summary of reasons for Granting Planning Permission**

The proposal demonstrates a comprehensive development of the site by a three phased development. The application demonstrates that a phased development would not compromise any future development of the adjoining sites and could integrate into future adjoining developments of the area.

The proposed dwellings close to the boundary with the core employment area of Maybrook Industrial Estate have acoustic fencing to the neighbouring boundaries. The noise assessment demonstrates that there are no significant issues from noise and appropriate mitigation measures including the acoustic fence will ensure a satisfactory living environment for future occupiers and consequently it is unlikely residents will make complaints regarding noise from neighbouring industrial uses and therefore would not restrict the future users of the core employment and other employment sites.

The proposed layout is sufficient in terms of its relationship with neighbouring industrial land in terms of its separation distance and screening, the hardstanding to frontages on major views is acceptable in its visual effect and an appropriate focal point is provided at the Lindon Road access point. There are no objections on surface water and the layout is appropriate under highway safety. It is anticipated that the employment provision would be relocated and that there would be no undue loss of jobs.

The former colliery buildings are not required to be retained, but a historical recording survey is required by condition. The retention of 122 Lindon Road is desirable as part of the development of phase 3. The Section 106 agreement secures provisions for Urban Open Space, Education, Healthcare, Affordable Housing and Public Art.

The proposal accords with the aims and objectives of the Unitary Development Plan policies 2.1, 2.2, GP1, GP2, 3.6, 3.16, 3.17, 3.18, 3.114, 3.115, GP3, GP7, H3, H4, H9, ENV10, 3.45, 3.47, ENV14, ENV18, ENV26, ENV32, ENV33, ENV34, ENV39, ENV40, LC1, 8.8, 8.9, JP7, T7, T13, Supplementary Planning Documents: Designing Walsall, Education, Healthcare, Affordable Housing and Urban Open Space and Planning Policy Statement 1: Delivering Sustainable Development and 3: Housing.

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

**For the avoidance of doubt, and to assist in interpreting the document, the following schedules are applied to the Decision Notice:**

Schedule A - Conditions relating to Phase 1, land at Brownhills Business Park, Lindon Road.

Schedule B – Conditions relating to Phase 2, land at Wicksons Travel, Coppice Road.

Schedule C – Conditions relating to Phase 3, land at Veolia Environmental Services, Lindon Road.

**Schedule A - Conditions relating to Phase 1, land at Brownhills Business Park, Lindon Road.**

A1. Application for approval of the Reserved Matters for Phase 1 shall be made not later than the expiration of 3 years beginning with the date of this permission and 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.

A2. The development of Phase 1 shall not commence until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The scale of the buildings
- b) The appearance of the buildings
- c) The landscaping of the site

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995.

A3. No dwelling shall be occupied until the drive to that dwelling has been either hard surfaced in porous materials or provision has been made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. Each parking area shall be implemented in accordance with the approved details and shall be retained thereafter.

*Reason:* To ensure the satisfactory provision of parking, appropriately drained, for each approved dwelling.

A4. The development of Phase 1 shall not be carried out until full details of the proposed boundary treatment of the site and internal divisions have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained unless agreed in writing by the Local Planning Authority. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 or succeeding Orders, no fences, gates or walls other than those

approved shall be erected without the prior submission and approval of a planning application.

*Reason:* In the interests of community safety, visual amenity and to safeguard the amenity of occupants of adjoining premises.

A5. The landscaping scheme approved under Reserved Matter 2c) shall be implemented within 12 months of any part of the Phase 1 development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

A6. 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 any tree(s), shrubs 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 same species as that originally required to be planted.

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

A7. The development of Phase 1 shall not be carried out until samples of all facing, roofing and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

A8. The development of Phase 1 shall not be carried out until full details of the proposed levels of the site, roads, access routes and floor levels for the proposed dwellings in relation to land adjoining the site has been submitted to and 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 and any drainage or other works necessary to facilitate this development. Floor levels should be set at least 150mm above the final finished ground levels or highway levels on the site, whichever is the greater. The Phase 1 development shall be carried out and retained in accordance with these approved details.

*Reason:* In the interests of the amenity of the area, to ensure satisfactory development of the site and to protect the development from flooding.

A9. Nothing shall be planted, erected or allowed to grow in excess of a height of 600mm within the visibility splay at the access point with Lindon Road.

*Reason:* In the interests of highway safety.

A10. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995, or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of an existing garage or drive or parking area as approved and first constructed, except with the express permission of the Local Planning Authority.

*Reason:* To ensure the satisfactory provision of off-street parking.

A11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

A12. The Phase 1 development shall be constructed in accordance with the Code of Sustainable Homes '3 stars' or Eco Homes 'good' standard relating to energy efficiency / CO2, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

*Reason:* In order to provide high performance sustainable homes and protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and Designing Walsall SPD.

A13. No construction or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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.

***Note for Applicant***

*(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).*

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

A14. The development of Phase 1 shall not be carried out until a historical building survey to be undertaken prior to demolition has been completed to the satisfaction of the Local Planning Authority. The buildings subject to the survey shall be agreed in writing by the Local Planning Authority prior to its undertaking.

*Reason:* To ensure that above ground historical remains are recorded.

A15. The development of Phase 1 shall not be carried out until noise survey work has been undertaken to the written satisfaction of the Local Planning Authority. The results of these surveys, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the Local Planning Authority within 2 months of completion.

*Reason:* To safeguard the amenities of the adjacent occupiers.

A16. No occupation of the dwellings of Phase 1 shall take place until suitable noise mitigation measures to protect internal and external areas have been agreed in writing with the Local Planning Authority as set out in Hyder Consulting, noise assessment, reference 0003-NH51200-NHR-02, dated 30<sup>th</sup> July 2008 and layout plan SP1 rev: F dated 8<sup>th</sup> October 2008, and the development shall not be occupied until such measures have been fully implemented and maintained thereafter.

*Reason:* To safeguard the amenities of the adjacent occupiers.

A17. Following demolition and prior to built development commencing on Phase 1 a site investigation, ground contamination survey and assessment of ground 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 ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

A18. The development of Phase 1 shall not be carried out until details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

A19. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. 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 safeguard the amenities of the users and neighbours to the application site.

A20. The development of Phase 1 shall not be carried out until full drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

*Reason:* To ensure that the new development does not increase the risk of flooding to the site itself or adjacent existing development.

A21. The development of Phase 1 shall not be carried out until a Residential Travel Plan that promotes sustainable methods of travel for trips to and from

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the site has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved Travel Plan.

*Reason:* To promote sustainable travel.

A22. The development of Phase 1 shall not be carried out until details of secure gates to the parking courts of the apartments with access control measures including self closing mechanisms and key operated gates to the rear access ways of the houses have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to first occupation of the dwellings and retained thereafter.

*Reason:* In the interests of community safety.

A23. The development of Phase 1 shall not be carried out until details for lighting to the car parking courts for apartments in accordance with BS5489 has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the first occupation of the apartments and retained thereafter.

*Reason:* In the interests of community safety.

A24. The development of Phase 1 shall not be carried out until details for a video monitored access control system to the apartments hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the first occupation of the apartments and retained thereafter.

*Reason:* In the interests of community safety.

A25. No development shall commence until a drawing has been submitted to and approved in writing by the Local Planning Authority showing a minimum carriageway width at the entrance of Lindon Road to be 7.3m, a revised plan to overcome isolated binstore to serve plots 45 – 51, and 67 – 74, and a revised plan clearly showing that all bins to serve plots 52 – 66 can be delivered to the limits of the adopted highway. The development shall be implemented and retained thereafter in accordance with the approved details.

*Reason:* In the interests of highway safety.

A26. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained, and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interests of highway safety.

### Notes for applicant

a) As your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the building act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Help line number 01922 652408.

b) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(8 \text{ hours})}$ , of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(16 \text{ hour})}$ , of 45 dB between the hours 07.00 to 23.00;

Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 ' Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;  
Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005

British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;

British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use

British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.

British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas

Calculation of Road Traffic Noise, 1988

Calculation of Railway Noise, 1995

This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

c) 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"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

d) 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 UK) model 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.

e) Drainage arrangements for the layout shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

#### Schedule B – Conditions relating to Phase 2, land at Wicksons Travel, Coppice Road.

B1. Application for approval of the Reserved Matters for Phase 2 shall be made not later than the expiration of 3 years beginning with the date of this permission and 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

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the last Reserved Matters approval.

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

B2. The development of Phase 2 shall not commence until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The layout of the development
- b) The scale of the buildings
- c) The appearance of the buildings
- d) The site access
- e) The landscaping of the site

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995.

B3. The layout scheme for Phase 2 as shown under Reserved Matter 2a) shall be accompanied by a Transport Statement detailing the traffic impact of all phases 1, 2 and 3, with capacity assessments of the Lindon Road/Chester Road and Brownhills Road/ Lichfield Road/Salters Road, and Brownhills Road/Coppice Road junctions being tested and justified. Comparison of peak times shall be made for residential and Industrial at the same time of 0800 – 0900am, and 1700 – 1800pm.

*Reason:* In the interests of highway safety

B4. This permission does not permit the layout of this part of the site.

*Reason:* The permission is outline only.

B5. No dwelling shall be occupied until the drive to that dwelling has been either hard surfaced in porous materials or provision has been made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. Each parking area shall be implemented in accordance with the approved details and shall be retained thereafter.

*Reason:* To ensure the satisfactory provision of parking, appropriately drained, for the approved dwelling.

B6. The development of Phase 2 shall not be carried out until full details of the proposed boundary treatment of the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

B7. The landscaping scheme for Phase 2 as shown under Reserved Matter 2e) shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

B8. 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 Phase 2 scheme. Within this period any tree(s), shrubs 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 same species as that originally required to be planted.

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

B9. The development of Phase 2 shall not be carried out until samples of all facing, roofing and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

B10. The development of Phase 2 shall not be carried out until full details of the proposed levels of the site, roads, access routes and floor levels for the proposed dwellings in relation to land adjoining the site has been submitted to and 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 and any drainage or other works necessary to facilitate this development. Floor levels should be set at least 150mm above the final finished ground levels or highway levels on the site, whichever is the greater. The Phase 2 development shall be carried out and retained in accordance with these approved details.

*Reason:* In the interests of the amenity of the area, to ensure satisfactory development of the site and to protect the development from flooding.

B11. No construction or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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.

***Note for Applicant***

*(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).*

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

B12. The development of Phase 2 shall not be carried out until noise survey work has been undertaken to the written satisfaction of the Local Planning Authority. The results of these surveys, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the Local Planning Authority within 2 months of completion.

*Reason:* To safeguard the amenities of the adjacent occupiers.

B13. No occupation of the Phase 2 development shall take place until suitable noise mitigation measures to protect internal and external areas have been agreed in writing with the Local Planning Authority, and the development shall not be occupied until such measures have been fully implemented.

*Reason:* To safeguard the amenities of the adjacent occupiers.

B14. Following demolition and prior to Phase 2 development commencing a site investigation, ground contamination survey and assessment of ground 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 ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

B15. The development of Phase 2 shall not be carried out until details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

B16. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. 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 Phase 2 development being brought into use.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

B17. The development of Phase 2 shall not be carried out until full drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure that the new development does not increase the risk of flooding to the site itself or adjacent existing development.

B18. Unless otherwise demonstrated as part of the Reserved Matters submission there shall be no more than 15 dwellings built on the Phase 2 application site, unless the applicant has demonstrated that there would be adequate provision of affordable



housing and public art in accordance with Policies GP3, ENV34 and H4 of Unitary Development Plan, the Council's adopted Affordable Housing and Designing Walsall Supplementary Planning Documents and the Council's Housing Needs Study and Public Art Strategy.

*Reason:* To ensure that the housing needs of the potential occupiers of a large development on the site are met and to ensure the delivery of appropriate public art in the area.

B19. Unless otherwise demonstrated as part of the Reserved Matters submission there shall be no more than 30 dwellings built on the Phase 2 application site, unless the applicant has demonstrated that the development would not place undue demands on health facilities in the area in accordance with Policies GP3 and 8.9 of Unitary Development Plan and Healthcare Supplementary Planning Document.

*Reason:* To ensure that the health needs of the potential occupiers of a large development on the site are met.

B20. Unless otherwise demonstrated as part of the Reserved Matters submission there shall be no more than 10 dwellings built on the Phase 2 application site, unless the applicant has demonstrated that the development would not place undue demands on urban open space provision and education facilities in the area in accordance with Policies GP3, LC1 and paragraph 8.8 of the Unitary Development Plan, and the Council's Adopted Education and Urban Open Space Supplementary Planning Documents.

*Reason:* To ensure adequate open space provision and education facilities for the potential occupiers of the development.

#### Notes for applicant

a) As your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the building act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Help line number 01922 652408.

b) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(8 \text{ hours})}$ , of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(16 \text{ hour})}$ , of 45 dB between the hours 07.00 to 23.00;

Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 ' Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

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Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005  
British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".  
British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;  
British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use  
British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.  
British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas  
Calculation of Road Traffic Noise, 1988  
Calculation of Railway Noise, 1995  
This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

c) 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

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contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings(Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

d) 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 UK) model 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.

e) The reserved matters layout would need to provide:

- Incorporation of a parking schedule to demonstrate meeting UDP parking standards.
- Visibility splay of 2.4m x 90m to be shown on a plan.
- Binstores and hardstanding shown on a plan as part of a Waste Management Strategy, to demonstrate meeting Walsall Waste managements criteria, and there is sufficient facilities to meet the developments needs.
- Cycle Storage to be shown, to be secure, covered, illuminated for any apartments, and any garages shown with dimensions of 3m x 6m, to allow for the storage of a cycle.
- No bin storage, and hardstanding shall not impede any visibility splay for vehicle or pedestrian splay.
- Pedestrian links to be provided to meet natural desire lines, be attractive, safe, and inclusive in design.

#### Schedule C – Conditions relating to Phase 3, land at Veolia Environmental Services, Lindon Road.

C1. Application for approval of the Reserved Matters for Phase 3 shall be made not later than the expiration of 3 years beginning with the date of this permission and 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.

C2. The development of Phase 3 shall not commence until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The layout of the development
- b) The scale of the buildings
- c) The appearance of the buildings
- d) The site access

e) The landscaping of the site

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995.

C3. The layout scheme for Phase 3 as shown under Reserved Matter 2a) shall be accompanied by a Transport Statement detailing the traffic impact of all phases 1, 2 and 3, with capacity assessments of the Lindon Road/Chester Road and Brownhills Road/ Lichfield Road/Salters Road, and Brownhills Road/Coppice Road junctions being tested and justified. Comparison of peak times shall be made for residential and Industrial at the same time of 0800 – 0900am, and 1700 – 1800pm.

*Reason:* In the interests of highway safety

C4. This permission does not permit the layout of this part of the site.

*Reason:* The permission is outline only.

C5. No dwelling shall be occupied until the drive to that dwelling has been either hard surfaced in porous materials or provision has been made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. Each parking area shall be implemented in accordance with the approved details and shall be retained thereafter.

*Reason:* To ensure the satisfactory provision of parking, appropriately drained, for the approved dwelling.

C6. The development of Phase 3 shall not be carried out until full details of the proposed boundary treatment of the site has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

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

C7. The landscaping scheme for Phase 3 as shown under Reserved Matter 2e) shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

C8. 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 Phase 3 scheme. Within this period any tree(s), shrubs 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 same species as that originally required to be planted.

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

C9. The development of Phase 3 shall not be carried out until samples of all facing, roofing and surfacing materials have been submitted to and approved in writing by

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the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

C10. The development of Phase 3 shall not be carried out until full details of the proposed levels of the site, roads, access routes and floor levels for the proposed dwellings in relation to land adjoining the site has been submitted to and 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 and any drainage or other works necessary to facilitate this development. Floor levels should be set at least 150mm above the final finished ground levels or highway levels on the site, whichever is the greater. The Phase 2 development shall be carried out and retained in accordance with these approved details.

*Reason:* In the interests of the amenity of the area, to ensure satisfactory development of the site and to protect the development from flooding.

C11. No construction or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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.

***Note for Applicant***

*(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).*

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

C12. The development of Phase 3 shall not be carried out until noise survey work has been undertaken to the written satisfaction of the Local Planning Authority. The results of these surveys, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the Local Planning Authority within 2 months of completion.

*Reason:* To safeguard the amenities of the adjacent occupiers.

C13. No occupation of the Phase 3 development shall take place until suitable noise mitigation measures to protect internal and external areas have been agreed in writing with the Local Planning Authority, and the development shall not be occupied until such measures have been fully implemented.

*Reason:* To safeguard the amenities of the adjacent occupiers.

C14. Following demolition and prior to Phase 3 development commencing a site investigation, ground contamination survey and assessment of ground 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 ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

C15. The development of Phase 3 shall not be carried out until details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

C16. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. 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 Phase 3 development being brought into use.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

C17. The development of Phase 3 shall not be carried out until full drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved in writing by the Local Planning Authority.

*Reason:* To ensure that the new development does not increase the risk of flooding to the site itself or adjacent existing development.

C18. Unless otherwise demonstrated as part of the Reserved Matters submission there shall be no more than 15 dwellings built on the Phase 2 application site, unless the applicant has demonstrated that there would be adequate provision of affordable housing and public art in accordance with Policies GP3, ENV34 and H4 of Unitary Development Plan, the Council's adopted Affordable Housing and Designing Walsall Supplementary Planning Documents and the Council's Housing Needs Study and Public Art Strategy.

*Reason:* To ensure that the housing needs of the potential occupiers of a large development on the site are met and to ensure the delivery of appropriate public art in the area.

C19. Unless otherwise demonstrated as part of the Reserved Matters submission there shall be no more than 30 dwellings built on the Phase 2 application site, unless the applicant has demonstrated that the development would not place undue



demands on health facilities in the area in accordance with Policies GP3 and 8.9 of Unitary Development Plan and Healthcare Supplementary Planning Document.

*Reason:* To ensure that the health needs of the potential occupiers of a large development on the site are met.

C20. Unless otherwise demonstrated as part of the Reserved Matters submission there shall be no more than 10 dwellings built on the Phase 2 application site, unless the applicant has demonstrated that the development would not place undue demands on urban open space provision and education facilities in the area in accordance with Policies GP3, LC1 and paragraph 8.8 of the Unitary Development Plan, and the Council's Adopted Education and Urban Open Space Supplementary Planning Documents.

*Reason:* To ensure adequate open space provision and education facilities for the potential occupiers of the development.

#### Notes for applicant

a) As your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the building act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Help line number 01922 652408.

b) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(8 \text{ hours})}$ , of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;

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Regeneration and Performance, Planning and Building Control, Civic Centre, Darwall Street, Walsall, WS1 1DG

Website: [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning), Email [planningservices@walsall.gov.uk](mailto:planningservices@walsall.gov.uk), Telephone (01922) 652452, Textphone 0845 111 2910, Translation Line (01922) 652426, Fax (01922) 623234

Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005

British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".

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British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.

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This is not an exhaustive list.

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c) 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"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

d) 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 UK) model or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be

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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.

e) The reserved matters layout would need to provide:

- Incorporation of a parking schedule to demonstrate meeting UDP parking standards.
  - Visibility splay of 2.4m x 90m to be shown on a plan.
  - Binstores and hardstanding shown on a plan as part of a Waste Management Strategy, to demonstrate meeting Walsall Waste managements criteria, and there is sufficient facilities to meet the developments needs.
  - Cycle Storage to be shown, to be secure, covered, illuminated for any apartments, and any garages shown with dimensions of 3m x 6m, to allow for the storage of a cycle.
  - No bin storage, and hardstanding shall not impede any visibility splay for vehicle or pedestrian splay.
  - Pedestrian links to be provided to meet natural desire lines, be attractive, safe, and inclusive in design.
-



To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009

**REASON FOR BRINGING TO COMMITTEE: Major application and called in by  
Councillor Sears**

**Application Number:** 08/1725/OL

**Application Type:** Outline Application

**Applicant:** Ashtenne Industrial Fund LP

**Proposal:** Resubmission of 08/0726/OL:  
Outline application for proposed  
redevelopment of existing site to provide 89  
residential units, with access and layout to  
be considered.

**Ward:** Aldridge North and Walsall Wood

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

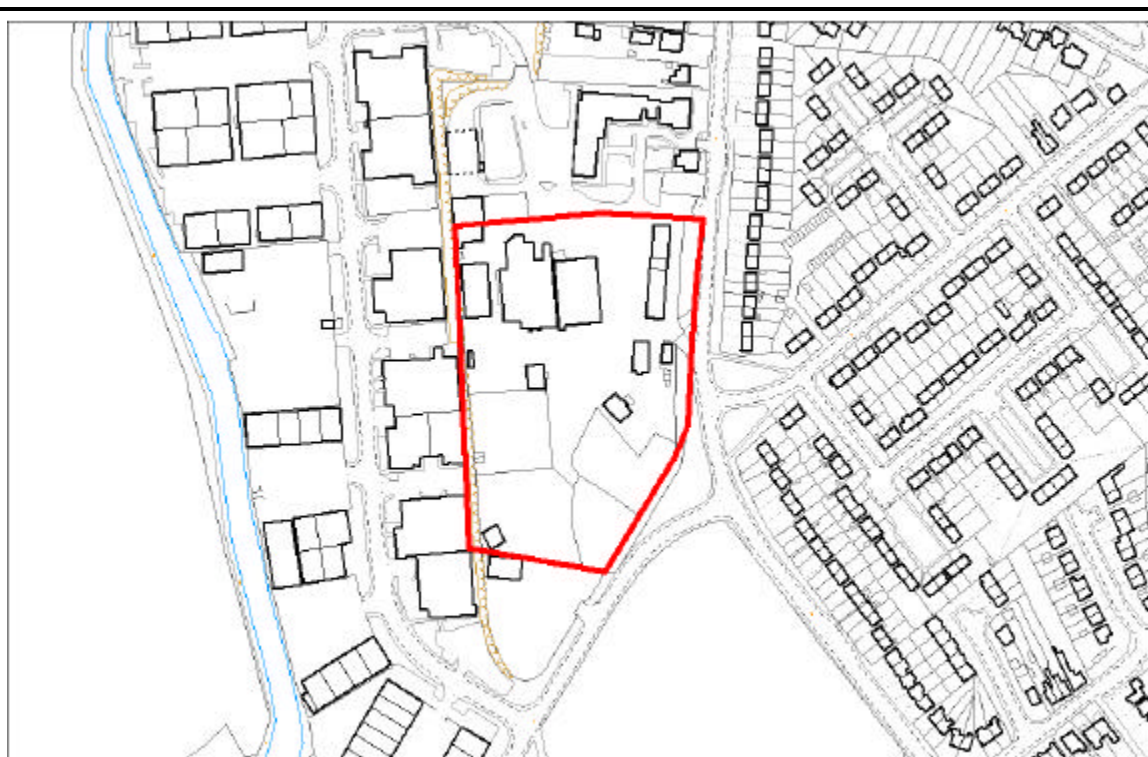
**Case Officer:** Paul Hinton

**Telephone Number:** 01922 652420

**Agent:** DTZ

**Location:** BROWNHILLS BUSINESS  
PARK, LINDON ROAD, WALSALL, WS8  
7BW

**Expired:** 30/01/2009



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## **Current Status**

The application has been called in by Councillor Sears on the basis of traffic capacity, overdevelopment and loss of jobs, but is required to be determined by the committee under the constitution if planning permission is recommended.

## **Application and Site Details**

This outline application is a re-submission following a delegated refusal of an outline scheme for 90 dwellings in June 2008.

The current outline application proposes the demolition of the existing buildings and structures and re-development, to provide 73 houses and 16 apartments. Access and layout are to be considered now. The scale, appearance of the development and landscape matters are reserved for consideration under a later detailed application.

The site is situated on the western side of Lindon Road and comprises 2.3 hectares of industrial land and buildings, known as Brownhills Business Park. The existing site access is situated in the centre of the Lindon Road frontage, with substantial trees and landscaping to Lindon Road, screening the site from the road.

Immediately to the west of the site is Maybrook industrial estate, defined within the UDP as a Core Employment Area. To the north is a further industrial site operated by Veolia Environmental Services, a 24 hour industrial cleaning business and regional administration offices; to the south is Wickson's Travel yard where the company operate 12 coaches on a 24 hour basis. Abutting the southern part of Maybrook industrial estate is Barrow Close, a 2004 residential development of a former industrial site.

To the east of the site on the opposite side of Lindon Road are two storey semi detached houses, set back from the road with front gardens/driveways.

The site is approx 1300m to the south of Brownhills District Centre and approx 600m to the northwest of Streets Corner local centre.

The proposed layout includes one main vehicle access point off Lindon Road, utilising the existing site access, with two further pedestrian access routes on to Lindon Road at the north and south ends of the site.

The layout proposes a perimeter block of residential units with an access road forming a loop around the site, with an additional shared surface route through the centre to create two street blocks in the centre of the site.

The layout shows 28 x 3 bed and 45 x 4 bed houses and 16 one and two bed apartments within two blocks, providing a total of eighty nine, 1, 2, 3 and 4 bed units. The site area of 2.3 hectares provides a density of 39 dwellings per hectare.

The application makes the following design changes from the refused application:

- North-west corner altered with dwellings moved from potential neighbouring noise source with proposed car park as buffer,
- Dwellings on western boundary moved at least 1m further away from industry and enhanced landscape buffer



- Acoustic fence increased in height to 3m on western boundary including corners and 2.5m elsewhere
- Layout revised to provide future link to the north
- More space for landscaping on frontages
- Revised highway layout to include additional speed tables and measures for partially sighted within the shared surface within the centre of the site
- 'Bridge' units at entrance to provide focal point

Committee are advised of a similar concurrent application (08/1623/OL) also on the agenda. This affects a larger parcel of land, including land outside the applicant's ownership (Veolia Environmental Services and Wicksons Travel). The applicants explain that concurrent applications have been submitted as there may be legal and administrative difficulties in expanding the red line boundary onto third party land.

### **Relevant Planning History**

#### **Land at Brownhills Business Park**

08/0735/ND, request for screening opinion for provision of 90 residential units. EIA not required 16/05/08.

08/0726/OL - Outline application for the redevelopment of existing site to provide 90 residential units, associated access and parking. Access and layout only for consideration. Refused for the following (summarised) reasons on 30/6/2008. An appeal has been submitted to the Planning Inspectorate.

1. Failed to make best and most efficient use of the site and may jeopardise a more comprehensive development of this and adjoining industrial land because of the incompatibility of the two uses.
2. The proximity of the proposed residential properties to the existing adjoining industrial premises may prejudice the future commercial viability of the adjoining industrial premises and core employment area by placing restrictions on the future uses of the sites.
3. Failed to provide sufficient detail in terms of noise mitigation measures in order to demonstrate that there would be no undue impact from the existing adjoining employment uses on the proposed residential development.
4. The proposed layout does not achieve a high quality level of design and would create an unsatisfactory residential environment that would be detrimental to the character and visual amenity of the area and amenity of future occupiers due to the following reasons:
  - poor relationship between the proposed residential properties and the existing industrial/employment uses to the north, south and west of the site.
  - dominance of hardstanding and parking and lack of landscaping opportunities
  - poor view into the site from Lindon Road
5. The submitted Surface Water Risk Assessment was inadequate to accurately assess the proposals in terms of the surface water run off and



potential flood risks and insufficient detail was provided to determine the impact of pollution on controlled waters.

6. The proposed layout provides insufficient sight stopping distance, inadequate vehicle and pedestrian visibility, insufficient aisle width along the shared surface to allow vehicles to reverse, no access for the delivery of refuse to the adopted highway and some conflict in parking provision and is therefore likely to compromise the safe movement of traffic and the safe use of the road by others.

7. The proposed development would, in the absence of appropriate financial contributions or other arrangements, result in unacceptable demand on limited educational capacity, accessible community healthcare facilities, public art and public open space provision in the locality and would also fail to meet important affordable housing requirements.

#### Land at Brownhills Business Park, Wicksons Travel and Veolia Environmental Services

08/1623/OL - Outline application for proposed phased redevelopment of land at Lindon Road, Brownhills to provide residential units. Phase 1 - Brownhills Business Park: Demolition of existing structures and redevelopment to provide approximately 89 residential units. Means of access and layout to be considered at this stage. Phase 2 – Wicksons Travel & Phase 3 – Veolia: Demolition of existing structures and redevelopment to provide residential units, with all matters reserved for subsequent approval. Reported elsewhere on this agenda.

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

#### **Unitary Development Plan (UDP)**

Policy 2.1 and 2.2 state that the aims of the Plan include sustainable development, urban regeneration and environmental improvement.

GP1: The Sustainable Location of Development

(b) Locating facilities where they are accessible to everyone and minimise the need to travel.

(c) development proposals should not prejudice the beneficial use of any adjoining land or buildings.

GP2: Environmental Protection and Policy 3.6, requires new development to contribute to the improvement of the environment.

II. the creation or the susceptibility to pollution of any kind.

Policy 3.16 considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

Policy 3.17 and 3.18 development proposals must take account of the need to reduce the consumption of energy and water.

Policy 3.114 good design can discourage crime and increase safety and design can achieve more sustainable environment by reducing energy consumption through orientation of buildings.

Policy 3.115 landscape design can have a major role to play in the creation of an environment which is distinctive and creates a sense of place.

GP3: Planning Obligations, used to secure the provision of any on or off-site infrastructure, facilities, services or mitigating measures made necessary by the development.

GP7: Community Safety, proposals would be expected to have regard for the objectives of 'designing out crime' which include maximising the surveillance of public areas from the living areas of homes and from other buildings.

6.3, in identifying opportunities for new housing emphasis will be on a sequential approach which maximises the re-use of previously developed land and buildings within the urban area before the use of Greenfield land.

H3: Windfall Sites on Previously Developed Land and Conversion of Existing Buildings.

Encourages provision of additional housing through windfall sites provided that a satisfactory residential environment can be achieved.

H4: Affordable Housing, 25% of total dwellings shall be affordable homes.

H9: Minimum Densities, indicates that housing densities in the range of 30 -50 dwellings per hectare are likely to be suitable on most sites.

H10: Layout, Design and Dwelling Mix, requires a high quality living environment to be created, well integrated with surrounding land uses and local character.

ENV10: Pollution, development will not be permitted if the health, safety or amenity of its occupants or users would be unacceptably affected by pollution.

3.45, PPS23: Planning and Pollution Control seeks to ensure that land uses and development are not affected by major existing or potential sources of pollution.

3.46, The Council will take account of National guidance on air quality

3.47, PPG24, noise sensitive developments are located away from existing or planned sources of significant noise.

3.48 susceptible uses will be protected from the effects of pollution.

ENV14: Development of Derelict and Previously-Developed Land and Policy 3.9 The Council will encourage the reclamation and development of derelict and previously developed land.

ENV18: Existing Woodlands, Trees and Hedgerows, seeks to protect, manage and enhance existing trees and where developments are permitted which involve the loss of trees developers will be required to minimise the loss and to provide appropriate planting of commensurate value.

ENV26: Where development proposals affect buildings or sites of industrial archaeology interest that do not merit retention, the Council will make positive recommendations for the recording and preservation of artefacts and features.

ENV32: Design and Development Proposals and Policy 3.16, considers development in relation to its setting with reference to the character and quality of the existing local environment, and will require a high quality of built and landscape design.

ENV33: Landscape Design, good landscape design is an integral part of urban design.

ENV34: Public Art, the Council requires the provision of public art to enhance the quality and individuality of buildings.

ENV39: The Council will encourage proposals for the development of renewable sources and for the efficient use of energy.

ENV40: The Council will take account of flood risk according to the principles set out in PPG25 "Development and Flood Risk".

LC1(d): Urban Open Space, residential developments will be required to make a financial contribution to enable the provision of new or improved urban open spaces. Policy 8.8 indicates that residential developments will only be permitted where adequate school capacity exists or can be provided. The Council will require developers to make a contribution to the costs of providing these facilities.

Policy 8.9 indicates that a contribution towards accessible community healthcare provision will be required on residential developments of 30 units or more.

4.4 core employment uses are identified as industry and distribution in Classes B1b, B1c, B2 and B8 of the Use Classes Order.

4.7 to boost jobs and prosperity in the Borough by providing enough land of the right quality to meet the full range of employment needs and by promoting the enhancement of existing employment areas.

JP2: Improving the Employment Land Supply, the Council will continue to work with partners and developers to remove constraints to the development of employment land.

JP5: Core Employment, proposals will only be permitted where it can be demonstrated that: A need would be met which could not be satisfied elsewhere; the range and quality of employment opportunities would be significantly increased; when windfall sites come forward for reuse or redevelopment they would normally be safeguarded for core employment uses.

JP7: Use of Land & Buildings in Other Employment Areas

(c) residential development will not normally be permitted except where a purely local need is demonstrated.

(d) when windfall sites come forward for reuse or redevelopment in these areas they will normally be safeguarded for appropriate employment uses. It is recognised that in exceptional circumstances it may be appropriate to consider other uses, such as housing, due to the relationship of the site to surrounding land uses or because the site is not well located to meet the needs of modern industry. Any alternative uses must satisfy other relevant policies of the UDP and not have the potential to constrain the operation of neighbouring businesses or appropriate future commercial investment.

T7 – Car Parking, all development should satisfy the car parking standards set out in Policy T13.

T13: Parking Provision

Flats with communal parking 1.5 spaces per unit

1, 2 and 3 bedroom houses 2 spaces per unit

4 bedroom houses and above 3 spaces per unit

Policy 7.59 requires reserved parking for disabled people.

### **Urban Open Space (SPD) (April 2006)**

Requires a contribution towards improvements to or provision of urban open space within the proximity of the application site on residential developments of 10 units or above, based on the number of bedrooms provided and the ward.

### **Affordable Housing (SPD) (April 2008)**

Requires the provision of 25% of the total dwellings to be affordable homes on residential developments of 1 hectare or 15 dwellings or more 100% affordable rent.

### **Healthcare (SPD) (January 2007)**

Requires a contribution to provide for the need for healthcare facilities arising from new residential development on sites of 1 hectare or 30 dwellings or more.

### **Education (SPD) (February 2007)**

Requires a contribution towards local primary and secondary education facilities where required according to capacity with a threshold of 10 residential units and above.

## **Designing Walsall (SPD) (Feb 2008)**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies. The following are the relevant policies;

DW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DW2 – all new development must contribute to creating places that feel safe.

DW3 – all new development must be designed to respect and enhance local identity

DW4 - Well defined streets with a continuity of built form are important.

DW5 – ease of movement, connections to existing routes.

DW6 – new development should contribute to creating a place that has a clear identity

DW7 – contribute to creating living places that offer a mix of activities to the widest range of possible users.

DW9 - new development must seek to ensure it creates places with attractive environmental quality

DW9(a)- (d) – qualifying development for Public Art S106 Contributions, the scale of contributions and use of contributions.

DW 10 – new development should make a positive contribution to creating a sustainable environment.

Annexe D: Public Art Guidelines, provides more detail on the provision of public art.

Annexe E: Numerical Guidelines for Residential Development ... identifies privacy and aspect distances between dwellings including 24m separation between habitable windows for two storeys and above, 13m separation between habitable room windows and blank walls exceeding 3 metres in height, 45° code, garden dimensions of 12m in length and 68m<sup>2</sup> for housing and 20m<sup>2</sup> per dwelling where communal provision is made, set backs to avoid terracing and provision of boundary walls. Although failure to comply with these guidelines may not by itself be a reason for refusal of an application, it will be a factor to be used in determining whether a proposal would be compatible with the wider character of the area or the existing dwelling or the amenity of neighbours.

## **Regional Policy**

The Regional Spatial Strategy (RSS) for the West Midlands promotes the regeneration of the metropolitan area and sustainable development in accordance with national government guidance. The RSS is part of the development plan. Policy UR1B of the RSS requires Black Country Authorities, in their Joint Core Strategy and LDDs, to identify and protect a portfolio of employment land, whilst also ensuring, through the transfer of employment land where necessary, that the housing requirements in policy CF3 are met. The Draft RSS Phase 2 Revision Preferred Option Policy PA6B states that employment land, should ensure a continuing supply of readily available and attractive sites. In considering development proposals that involve the loss of business premises, local planning authorities should ensure there is an adequate range of premises to meet the needs of business in their area.

The emerging Joint Core Strategy for the Black Country (March 2008) is at the preferred Options Stage. Core Spatial Policy 4 – Phasing and Delivery of Housing on Employment Land proposes 150-250 housing units with locally retained land in this area, with some land being retained for employment use. Policy 4 deals with the

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phasing and delivery of housing on employment land, and states that there is a need to avoid the premature loss of employment land to housing.

### **National Policy**

**PPS1:** Delivering Sustainable Development, emphasis is given to the need to reject poor design and the need for sustainable development.

**PPS 3:** Housing, the objective of the revised guidance is to:

- Support further increased housing needed across the country
- Bring additional brownfield land back into use
- Increase the design and environment standards of new homes and neighbourhoods in order to move towards zero carbon development

**PPG4:** Industrial and Commercial Development & Small Firms, seeks to take account of the locational demands of business. Careful consideration needs to be made where proposals for new development may be incompatible with existing industrial and commercial activities.

**PPG13:** Transport promotes more sustainable patterns of development for housing development and encourages assessment of the location and accessibility to jobs, services and transport choices and to reduce travel especially by car.

**PPG23:** Planning and Pollution Control, sets out the principles and approaches relevant to consideration of planning and pollution control, to ensure that land, particularly previously developed land, is used in a sustainable and beneficial way.

**PPG24:** Planning & Noise, outlines the considerations to be taken into account in determining planning applications, both for noise sensitive developments and for those activities which will generate noise.

**PPS25:** Development and Flood Risk - Aims to ensure that flood risk is taken into account to avoid inappropriate development in areas at risk from flooding.

Other relevant policy guidance includes, 'By Design' companion to PPG's, Urban Design Compendium, Safer Places- The Planning System & Crime Prevention; and the 2004 Employment Land Review Guidance Note. Manual for Streets (2007).

### **Consultations**

**Strategic Policy** – no objection. Policy JP5 allows for industry to be used for housing in exceptional circumstances. In the long term the emerging Joint Core Strategy identifies this area as supplying 150-250 housing units and this application could help supply these. As with the previous application, this proposal is not comprehensive. The previous application had not made any attempt to develop a comprehensive approach but in this case the application states that it has consulted both neighbouring occupiers and they do not wish to move in the near future. It would be unreasonable to refuse the development purely for lacking a comprehensive approach. Housing is acceptable in principle on this site in the interest of amenity in the long term.

**Transportation** – no objection subject to the use of recommended conditions.

**Pollution Control (Scientific Team)** – no objection subject to safeguarding conditions.

**Pollution Control (Contaminated Land)** – no objection subject to safeguarding conditions.



**Economic Regeneration** – raises concern. In terms of employment, the impact of the loss of around 100 jobs is a key concern, especially given the current economic downturn. Several significant job losses have occurred in the area including Amtrak (circa 400 jobs) and Wagon (circa 385 jobs). Job Seekers Claimant data (unemployment) in Brownhills has risen to 4.6% from 4.1% since October 2008. This compares with 2.8% nationally. Alternative sites may be available for existing users of Brownhills Business Park, but the cost of facilitating such relocations can often be significant and forced relocations can precipitate business closure and loss of jobs, especially given the current economic climate where many businesses are already struggling.

Notwithstanding the advice of technical officers, we still have reservations on the impact of residential development on the neighbouring Maybrook Industrial Estate, which is one of Walsall's better quality employment sites. Residential development in such close proximity to businesses can often lead to areas for disagreement and complaint from residents and can exacerbate pressures on local employers. This could be to the longer term detriment of this Core Employment area which could be rendered unattractive to future inward investment.

**Urban Design** - no objection.

**Landscape** – no objection.

**Environment Agency** – no objection subject to the use of a recommended drainage condition.

**Education Walsall** – No objections. A contribution of £223, 955.10 is required towards secondary school provision.

**Drainage** – no objection.

**Green Space Services** – no objection. Full contribution towards Urban Open Space is required.

**Environmental Health** – no objection.

**Police** – no objections in principle. The accesses to the court yard parking should be gated with access control measures with self closing mechanisms. The access path to the south should be free from planting, railing and seating. The dense foliage needs to be well back from the access in order to improve natural surveillance and reduce concealment. The apartments will need video monitor access control systems to be in place. The access points should be well lit. Rear access pathways should be gated. The gates should be key operated.

**Centro** – no objections. The closest bus shelters are located on Lindon Road and Coppice Road. Centro welcomes all three pedestrian access points into the site and the inclusion of a Residential Travel Plan.

**Natural England** – no objection.



**Natural Environment** – no objection. The significant tree belt to the site frontage are used by foraging bats, therefore it is essential that the tree belt is retained and properly managed.

**Tree Officer** – no objection subject to the tree protection details as recommended in the arboricultural report being adhered to and details of replacement tree planting being submitted with any full application.

**Conservation and Built Environment** – no objection. The site is not within a Conservation Area or does it contain any listed or locally listed buildings, however it does contain former colliery buildings which may be of historic interest. A condition is recommended to record the buildings for their industrial archaeology value.

**Access and Disability** – no objection.

**Housing Strategy** – no objection. 25% of the total units will need to be provided as social rented units. These will need to be a mixture of the 3 and 4 beds, no flats required.

**Fire Services** – no objection.

**Building Control** – no objection. Note for applicant.

**Archaeological Officer** – no objections.

**National Grid** – no objection.

### **Public Participation Responses**

Three letters, two from businesses within the site and one from an adjacent neighbour object on the following grounds:

- Inappropriate piecemeal development.
- Too high density.
- Master plan shows Wicksons and Brownhills Business Park to be completely isolated from each other, reducing community coherence and passive observation.
- Does not represent best practice in reducing crime through the design of the built environment.
- Pressure on traffic flow at adjacent junctions which are already congested.
- Impact upon education, health services and local infrastructure.
- Design statement does not adequately reflect signature buildings in the local area.
- Design statement does not adequately reflect the importance of the site to the history of the local area. Development should attempt to retain as much of the fabric of the former colliery buildings as practical.
- Will result in loss of trees.
- It is a thriving business park, with only one vacant unit.
- Over 100 jobs would suffer if the business park were to close.
- The site is the former Walsall Wood Colliery with two capped mine shafts within the site and chemicals have been poured down the shafts.
- Houses would be in proximity to 24 hour work on Maybrook Industrial Estate.

- Due to relocation costs, refinishers business would have to close if permission granted, employing up to 30 people at busy times.
- Noise factors contravene the Development Plan.

**Veolia Environmental Services** have also written in confirming that their operations include being a depot for industrial cleansing vehicles operating on a 24 hours basis and a large office content providing administration and payroll services. Veolia no longer state an objection to the application as they did on the last application, but raise the following observations:

- Concern how the car park courtyard will act as a noise barrier to Veolia's continuing operations from the Industrial Services Division building. Recommends the erection of pitched roof garages rather than allocated parking spaces as this would provide a physical barriers that would assist in noise attenuation.
- Vehicles pass within 5m of the northern boundary. Therefore it is recommended that a brick wall is provided by way of a planning condition to run along the northern boundary. This would provide the necessary noise attenuation and security and with the appropriate materials and design could enhance the setting of the proposed dwellings.
- Shared courtyards to plots 81 and 86 are not necessary as the orientation of the buildings means that plots 83 and 86 will still be about 8m from the boundary with the site and internal access road. With the phased sites having separate points of access do not see the need for this possible link. By bringing the dwellings on to the frontage they would better replicate plots 7, 8, 9 and 10 on the opposite side of the road and move them away from the northern boundary.

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

### **Determining Issues**

- Whether the scheme overcomes previous reasons for refusal in respect of:
  - comprehensive development of this and adjoining industrial land
  - future commercial viability of the adjoining industrial premises
  - high quality design and satisfactory residential environment
  - impact of pollution on controlled waters.
  - highway safety
  - Urban Open Space, Healthcare, Education, Affordable Housing and Public Art provision
- Landscape and community safety
- The need to protect employment provision

### **Observations**

#### **Comprehensive development of this and adjoining industrial land**

The previously refused application considered that redevelopment of the site in isolation would constrain the existing industrial users immediately to the north and south of the site and may jeopardise a more comprehensive development of this and adjoining industrial land.

Whilst the site is not situated within a core employment area, it is currently occupied by employment/industrial users. The site is bounded to the north, south and west by other industrial/commercial uses with the premises to the west (Maybrook Industrial Estate) designated as a core employment area.

Policy JP7 sets out the guidelines for use of land and buildings in non core employment areas. JP7(c) indicates that residential development will not normally be permitted and (d) indicates that when sites come forward for redevelopment they will normally be safeguarded for appropriate employment uses. It is recognised that in exceptional circumstances it may be appropriate to consider other uses such as residential.

The applicant's exceptional circumstances for the redevelopment of this unallocated business park state that the site does not have the potential to provide an office or industrial development due to its general location and the condition of the site. This has been confirmed by the lack of any significant long term interest in the site following various marketing initiatives since it was obtained by the current owners in 2002. The current owners state that the existing buildings are in poor condition, there is an over supply of industrial premises in the area demonstrated by high vacancy levels, the site would not support a financially viable industrial redevelopment and the site is not located in a prestige location for office development and would not provide an environment to compete with existing out of centre office schemes. The applicants state that the units have been marketed below their estimated rental value which failed to significantly increase lettings, a symptom of the general down turn in national manufacturing.

Strategic Policy do not object to the application, stating that in the long term the emerging Joint Core Strategy identifies the Lindon Road area as supplying 150-250 housing units and this application could help supply these. Strategic Policy considers housing is acceptable in principle on this site in the interest of amenity in the long term.

As with the previous application, this proposal is not comprehensive as it has not included further land assembly. The applicants have, however, provided an illustrative masterplan including Veolia Environmental Services immediately to the north of the application site and Wicksons Travel to the south showing how both of these sites could be developed for residential in the future. Furthermore, the applicants state that discussions with Veolia have revealed that although there are long-term aspirations for the development of their site, currently their industrial use is viable and fully operational and will not be considered in conjunction with Brownhills Business Park at this time. The Wicksons Travel site is an active coach depot. Given the suitability of the site for its current use the landowner has stated that potential redevelopment will not be progressed in the immediate future. These discussions indicate that redevelopment of the three sites for housing is likely to occur in individual phases. The previous application had not demonstrated a will to seek a comprehensive approach but in this case the applicant states they have consulted both neighbouring occupiers and they do not wish to move in the near future.

The layout has been designed so that it can stand alone, without prejudicing future development of these adjoining sites by orientating plots on the northern and southern boundaries so that any future development of these sites would not be compromised, but complemented by the proposal. The layout has been designed so

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that a link to the northern site would be available should this site be developed in the future, enhancing the flexibility of the layout. Whilst the application boundary has not been altered, it is considered that reason one of the refusal has just been overcome. The re-submission makes best and most efficient use of the site without compromising future redevelopment of the adjacent northern and southern sites. In addition, it is considered that the applicants in demonstrating they have had a constructive dialogue with the owners of the neighbouring sites and propose a layout that could form part of a wider phased development it would be unreasonable to refuse the development for lack of a comprehensive approach in this instance.

### **Future commercial viability of the adjoining industrial premises**

The previous application was refused due to the proximity of the proposed residential properties to the existing adjoining industrial premises, which could have prejudiced the future commercial viability of the adjoining Wicksons and Veolia industrial premises and core employment area because of potential complaints of noise, dust and general disturbance from the new residential neighbours.

Economic Development remain concerned about residential development in such close proximity to businesses can often lead to areas for disagreement and complaint from residents and can exacerbate pressures on local employers. This could be to the longer term detriment of this Core Employment Area which could be rendered unattractive to future inward investment. Pollution Control Scientific Team are, however, able to support the application

The application has been supported by a noise assessment which provides a technical means to assess whether or not complaints from future residents regarding surrounding industry are likely. The assessment demonstrates that there are no significant issues with regard to noise but there are intermittent noise sources from neighbouring land. This report indicates that complaints from residents regarding the surrounding industry are unlikely. In order to mitigate any potential noise nuisance from adjacent industrial users, the noise assessment recommends an acoustic fence be erected around the north, south and west boundaries; this is in conjunction with sound attenuating trickle ventilators or acoustic bricks which allow ventilation of rooms without the need for opening windows. Further to this the application site is higher than the Core Employment Area of Maybrook Road by approximately 2 metres and the majority of the proposed dwellings are 13-15 metres from the boundary with the core employment industry.

Changes to the layout also assist in overcoming the refusal reason by setting plots along the boundary with Maybrook Industrial Estate a further metre away and revising plots in the northwest corner to be apartments, with courtyard parking adjacent to the 24 hour used industrial cleansing depot rather than abutting housing to the boundary.

Pollution Control Scientific Team support the application in principle because of the noise survey work and the height of acoustic barrier which has been raised since the refused application. Safeguarding conditions are also recommended so that further survey work is undertaken to be clear on the exact level of noise mitigating measures required to individual plots to ensure that the proposal does not compromise adjacent industrial uses and provide a satisfactory residential environment for future occupiers.

An air quality assessment has also been carried out which concludes that there are no air quality issues affecting the site. Elevated dust levels and odour from paint spraying was found on the site itself which would be removed should residential development take place thereby improving local air quality.

### **High quality design and satisfactory residential environment**

The previous application was refused as it did not achieve a high quality design and would have created an unsatisfactory residential environment because of a poor relationship between the proposed dwellings and the existing industrial/employment uses, a dominance of hard-standing and parking, lack of landscaping opportunities and a poor view into the site from Lindon Road.

The amended application has moved the residential plots adjacent the boundary of the core employment area a further metre from the boundary with the provision of dense landscaping. The proposed houses would be between 13m and 14m from the boundary, with the apartments 10.5m from the boundary. Coupled with units along Maybrook Road having ground levels approximately 2 metres lower than the application site and a 3m high acoustic fence at this boundary it is considered that the core employment area would not be generally visible from the proposed residential properties. With the implementation of noise mitigation measures, it is considered that the re-submission would provide a satisfactory residential relationship at the interface with the Core Employment Area.

The previous application proposed two houses 1m from the northern boundary, with one house abutting an industrial shed used 24 hours a day for industrial clean up purposes. The re-submission has addressed this by siting courtyard parking to this corner for a block of apartments which would be 15.5m from the boundary. The majority of the other plots to the northern boundary would be 13m from the Veolia site, with a 2.5 m high acoustic barrier on the boundary, with the side elevation of plots 82 and 85 8.5m from the acoustic barrier and dense landscaping. Plots to the south boundary with Wicksons Travel would be between 11m and 12.5m from the proposed 2.5m high acoustic barrier with dense landscaping. Consequently it is considered the proposal creates a satisfactory outlook, with a similar relationship with the core employment and other employment as shown by Barrow Close, 200m south of the application site.

The conclusions of the technical noise assessment determines that an acoustic fence and other noise mitigation measures previously referred to would ensure that operations from Veolia would be unlikely to generate a living environment that would cause residents to make complaints.

The revised layout no longer has a dominance of hardsurfacing with greater landscaping provided to frontages. The layout now includes 'Bridge' units to the plots at the only vehicle access point from Lindon Road providing a better focal view. This creates a positive and inviting view of the development from the main road.

Overall the layout provides good surveillance of public areas from the fronts of houses with a common building line with different ratios of building height to width to provide an enhanced quality of the public realm and a varied townscape whilst providing legibility. The layout provides pedestrian access into and around the site with a street design to minimise vehicle speeds and opportunities to link to neighbouring land to the north if it comes forward for development. While scale is

reserved for later consideration, the applicants state that the proposed building heights would range between 2-3 storeys, between 9.5m and 12.5m in heights, offering a domestic feel and character appropriate to its context.

Each of the houses would have their own private amenity space with garden lengths between 8m and 15m, with areas between 57m<sup>2</sup> and 151m<sup>2</sup>, reflecting the surrounding pattern of development where a mix of garden sizes exists. There are six houses which have their garden length and area below the Council's design guidelines, however with the proximity of the public open space of Oak Park it is considered in this instance that overall the garden sizes are acceptable. The two apartment blocks would have shared amenity for each of the dwellings at an average of 33m<sup>2</sup> per unit which is above the Council's minimum requirement of 20m<sup>2</sup>.

Veolia comments on the masterplan about the need for a link road are noted. However it is considered that a satisfactory residential environment would be created and the orientation to provide a link between possible future developments is key to an integrated comprehensive development of this area.

The proposed density meets the requirement of UDP policy H9 and PPS3, which is entirely consistent with the locality and given its sustainable location makes efficient use of the land with a layout that has the potential to offer a high quality living environment with generous gardens and attractive streets and public realm.

#### **Impact of pollution on controlled waters**

A Surface Water Assessment has been provided which enables the Environment Agency to withdraw their previous objection.

#### **Highway safety**

The previous application was refused on highway grounds as set out in reason for refusal point 6 as detailed above. Transportation raise no objection to the application subject to the use of recommended conditions, and consider that previous concerns have been addressed.

The vehicle and pedestrian access is taken via the existing access on Lindon Road. The transport assessment submitted with the application indicates that the access is the most suitable for the proposed number of dwellings. A vehicle tracking exercise also demonstrates that a refuse vehicle of the type used in Walsall can safely negotiate the adoptable areas of the site. Bin collection points are provided for the apartments which ensure refuse can be collected from the public highway.

Main bus routes run past the site along Lindon Road (four services to Walsall, Lichfield and Cannock) in addition there is a main bus corridor on Lichfield Road 550m from the centre of the application site. The local centre, schools, community facilities and open space are all within 400-800m of the site, or 5-10 minutes walk away.

One letter of objection suggests the use of a road traffic island at the junction of Lindon Road, Brownhills Road and Coppice Lane. The proposed access is considered acceptable to accommodate the level of vehicles that would be associated with the development.



Objections are also stated on the pressure on traffic flow at adjacent junctions which are already congested. Transportation in considering the predicted traffic flows as demonstrated in the Transport Assessment submitted with the application do not consider that this impact should be a reason to refuse the planning application.

### **Education, Urban Open Space, Healthcare, Public Art and Affordable Housing provision**

#### **Education**

The level of surplus places in secondary schools are below 10% therefore a contribution of £223, 955.10 is required secondary school provision within the local area, in line with Policy 8.8 of the UDP.

#### **Urban Open Space**

An Urban Open Space contribution of £241,344.00 is required to comply with the Urban Open Space SPD policy.

#### **Healthcare**

A Healthcare contribution of £110,678.40 is required to comply with Policy 8.9 of the UDP and Healthcare SPD.

#### **Public Art**

A Public Art contribution of £31,150 is required to comply with Policy ENV34 of the UDP and Policy DW9 of Designing Walsall SPD.

#### **Affordable Housing**

25% of the total units will need to be provided as social rented units. These will need to be a mixture of the 3 and 4 bedroom houses, none of the apartments are required to have an affordable element in accordance with Policy H4 of the UDP and the Affordable Housing SPD

The applicants have provided draft heads of terms with the planning application and confirm they will make full contributions.

A letter received from a Planning Consultant on behalf of West Midlands Police, requests a S106 contribution towards policing in the area based on the increase in the number of dwellings. They consider that this would equate to a contribution of £195.68 per household created, equating to a total sum of £17, 415.45. There is no planning policy basis for requiring any such contribution therefore this is not being pursued.

### **Landscape and community safety**

There is little in the way of landscaping within the site due to its industrial nature, though on the eastern boundary there is a strong existing line of mature trees which provide an attractive edge to the road frontage. The western boundary has some smaller trees and shrubs on the neighbouring industrial land.

Landscaping is reserved for later consideration under a detailed submission, but in response to reason 4 of the refusal, the proposal would look to follow the character of the area with soft landscaping and greenery by including tree planting in the site and hedge planting to boundaries and also turf and shrubs to front gardens and

communal areas where space allows. Additional screening will be provided in rear gardens for the units that share a boundary to the industrial estate.

Trees are confined to the eastern boundary of the site; species present include silver birch, goat willow and lombardy poplar. One objector feels that the removal of these trees would signal a major and negative change to the atmosphere and character of the area to the detriment of the sense of place. The arboricultural assessment submitted with the application states that there are no high value trees present and that the type of species are not particularly suitable for a residential area. However the trees do provide local amenity value and the majority are proposed to be retained. The Lombardy poplars are proposed to be removed and any gaps replanted with a more suitable species. This would be explored as a reserved matter. Natural Environment comment on the importance of these trees for bat foraging. The Council's Arboriculturalist raises no objection to the application subject to tree protection details as recommended in the arboricultural report being adhered to and details of replacement tree planting being submitted with any full application.

The Police raise concerns of additional pedestrian access points having security issues. It is desirable to include these links for legibility and ease of movement. The link to the south of the application site provides ease of access towards Streets Corner Local Centre and Oak Park public open space and thus encourages future occupiers to walk to the local shops and amenities. Concerns about keeping the pathway clear of foliage and rails and seating can be dealt with by the landscape reserved matters application. The Police requirement of self closing gates to the parking courts and video monitor access control systems to the apartments can be secured by condition.

One letter of objection is concerned with the use of alleyways providing rear access to plots, providing venues for various forms of anti-social behaviour. While alleyways by their nature lack natural surveillance, their requirement for access, particularly in the event of a fire would not be a reason to refuse the planning application. An objection has also been raised saying the proposal does not represent best practice in reducing crime through the design of the built environment. There is no principle objection from the Police and the design seeks to maximise the surveillance of public space.

Objections have also been raised that the proposed masterplan shows Wicksons and Brownhills Business Park to be completely isolated from each other, reducing community coherence and passive observation. While unlike the relationship between this application and the possible redevelopment of the Veolia site, no direct link would be provided between the application site and the possible redevelopment of the Wicksons site, the design of the future development should integrate into the pattern of development in the area and community cohesion would be available through use of the local amenities. The development of Wicksons would need to have good surveillance of public areas and clear definition of private space, as demonstrated by the layout under consideration of this application.

### **The need to protect employment provision**

The proposed use of the site for residential would hopefully result in the relocation of existing businesses and as stated by current occupiers, up to 100 jobs for phase 1, 25 jobs for phase 2 and 165 jobs for phase 3. The applicants have provided a letter detailing the number of employees across all the units and yard areas for phase 1 to

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be an approximate total of 41, with four units and one compound, as of January 2009, being unoccupied. The Council's Economic Regeneration Officers would be able to assist in the relocation of any affected businesses on site to appropriate alternative sites but would have concerns over the ability of these businesses to finance such relocations so could result in closure and job losses. One of the tenants, a refinishers business, in his letter says that the business would have to close if permission granted, at a cost of 30 local jobs. While this is a specialist company, its operations could in theory be accommodated within other employment sites in the borough.

This is clearly a sensitive matter and raises a new issue in the light of the current economic climate and substantial job losses in the Brownhills and Aldridge area since the refusal of the previous application. This includes but is not exclusive to the closure of local companies Amtrak and Wagon which by themselves account for 785 job losses. UDP policy 4.7 is relevant here which refers to boosting jobs and prosperity in the Borough by providing enough land of the right quality to meet the full range of employment needs.

Potential job losses calls for a carefully balanced judgement weighed against the housing supply aims and the current satisfactory employment land provision.

#### **Other matters raised from representations received**

An objection has been received that the design and access statement does not adequately reflect signature buildings in the local area or the importance of the site to the history of the local area and development should attempt to retain as much of the fabric of the former colliery buildings as practical. The layout of the site is considered to be acceptable in principle with the guidance given in Walsall's UDP, PPS1 and PPS3. The site is not within a Conservation Area nor are any of the buildings statutory listed. While their historical standing is important, the buildings are not required to be retained. The Conservation and Built Environment Team do not object to the application but request a condition that ensures the recording of the buildings prior to demolition.

Comment has also been made that the site is the former Walsall Wood Colliery with two capped mine shafts within the site and chemicals have been poured down the shafts. A phase 1 environmental assessment has been submitted with the application and Pollution Control Contaminated Land Team raise no objection to the application subject to the use of recommended conditions. The proposed development lies within a coal mining area. In the circumstances applicants should take account of any coal mining related hazards to stability in their proposals and permission should be sought from the Coal Authority before undertaking any development at the site.

#### **Summary of reasons for Granting Planning Permission**

The proposal demonstrates that it is not feasible at this time to propose a comprehensive development of the site by the acquisition of additional land outside the ownership of the applicant. However, the application demonstrates that this proposal would not compromise any future development of the adjoining sites and could integrate into a future phased development of the area. It is also considered that the proposal would not compromise the availability of industrial land within the Borough.

The proposed dwellings close to the boundary with the core employment area of Maybrook Industrial Estate have acoustic fencing to the neighbouring boundaries. The noise assessment demonstrates that there are no significant issues from noise and appropriate mitigation measures including the acoustic fence will ensure a satisfactory living environment for future occupiers and consequently reduces the likelihood of residents making complaints regarding noise from neighbouring industrial uses and therefore would not restrict the future users of the core employment and other employment sites.

The proposed layout is sufficient in terms of its relationship with neighbouring industrial land in terms of its separation distance and screening, hardstanding to frontages on major views is acceptable in its visual effect and an appropriate focal point is provided at the Lindon Road access point. There are no objections on surface water and the layout is now appropriate and has addressed officers concern regarding highway safety. It is anticipated that the employment provision within the application site could be relocated within the locality, especially as there are currently vacant units within the core employment of the Maybrook Industrial Estate and that there would be no undue loss of jobs.

The former colliery buildings are not required to be retained, but a historical recording survey is required by condition. The Section 106 agreement secures provisions for Urban Open Space, Education, Healthcare, Affordable Housing and Public Art.

The proposal accords with the aims and objectives of the Unitary Development Plan policies 2.1, 2.2, GP1, GP2, 3.6, 3.16, 3.17, 3.18, 3.114, 3.115, GP3, GP7, H3, H4, H9, ENV10, 3.45, 3.47, ENV14, ENV18, ENV26, ENV32, ENV33, ENV34, ENV39, ENV40, LC1, 8.8, 8.9, JP7, T7, T13, Supplementary Planning Documents: Designing Walsall, Education, Healthcare, Affordable Housing and Urban Open Space and Planning Policy Statement 1: Delivering Sustainable Development and 3: Housing.

### **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 3 years beginning with the date of this permission and 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.

2. This development shall not commence until details of the following Reserved Matters have been submitted to and approved by the Local Planning Authority:-

- a) The scale of the buildings
- b) The appearance of the buildings
- c) The landscaping of the site

*Reason:* Pursuant to Article 3 (i) of the Town & Country Planning (General Development Procedure) Order 1995.

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3. No dwelling shall be occupied until the drive to that dwelling has been either hard surfaced in porous materials or provision has been made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwellinghouse. Each parking area shall be implemented in accordance with the approved details and shall be retained thereafter.

*Reason:* To ensure the satisfactory provision of parking, appropriately drained, for the approved dwelling.

4. No development shall be carried out until full details of the proposed boundary treatment of the site and internal divisions have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained unless agreed in writing by the Local Planning Authority. Notwithstanding the Town and Country Planning (General Permitted Development) Order 1995 or succeeding Orders, no fences, gates or walls other than those approved shall be erected without the prior submission and approval of a planning application.

*Reason:* In the interests of community safety, visual amenity and to safeguard the amenity of occupants of adjoining premises.

5. The landscaping scheme approved under Reserved Matter 2c) shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

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

6. 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 any tree(s), shrubs 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 same species as that originally required to be planted.

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

7. No built development shall be carried out until samples of all facing, roofing and surfacing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed with the approved details and retained as such.

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

8. No development shall be carried out until full details of the proposed levels of the site, roads, access routes and floor levels for the proposed dwellings in relation to land adjoining the site has been submitted to and 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 and any drainage or other works necessary to facilitate this development. Floor levels should be set at least 150mm above the final finished ground levels or highway levels on the site, whichever is the greater. The

development shall be carried out and retained in accordance with these approved details.

*Reason:* In the interests of the amenity of the area, to ensure satisfactory development of the site and to protect the development from flooding.

9. Nothing shall be planted, erected or allowed to grow in excess of a height of 600mm within the visibility splay at the access point with Lindon Road.

*Reason:* In the interests of highway safety.

10. Notwithstanding the provisions of the Town and Country (General Permitted Development) Order 1995, or succeeding Orders, the dwellings hereby permitted shall not be altered or enlarged to deprive them of an existing garage or drive or parking area as approved and first constructed, except with the express permission of the Local Planning Authority.

*Reason:* To ensure the satisfactory provision of off-street parking.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, no side facing windows or doors, other than as shown on the deposited plans, shall be installed in any part of this development without the prior approval of a planning application.

*Reason:* In the interests of maintaining the amenity of the occupiers of the adjoining dwellings.

12. The development shall be constructed in accordance with the Code of Sustainable Homes '3 stars' or Eco Homes 'good' standard relating to energy efficiency / CO<sub>2</sub>, water efficiency, surface water management, site waste management, household waste management and use of materials, unless otherwise agreed in writing with the local planning authority.

*Reason:* In order to provide high performance sustainable homes and protect the environment in accordance with strategic policy aims 2.1, 2.2, 3.17 and 3.18 and policies GP2 and ENV39 of the Walsall Unitary Development Plan and Designing Walsall SPD.

13. No construction or engineering works (including land reclamation, stabilisation, preparation, remediation or investigation) shall take place on any Sunday, Bank Holiday or Public Holiday, and such works shall only take place between the hours of 0700 to 1800 weekdays and 0800 to 1400 hours 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.

***Note for Applicant***

*(\* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday).*

*Reason:* To safeguard the amenity of occupiers of premises within the vicinity.

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14. No development shall commence until a historical building survey to be undertaken prior to demolition has been completed to the satisfaction of the Local Planning Authority. The buildings subject to the survey shall be agreed in writing by the Local Planning Authority prior to its undertaking.

*Reason:* To ensure that above ground historical remains are recorded.

15. No development shall commence until noise survey work has been undertaken to the written satisfaction of the Local Planning Authority. The results of these surveys, including details of all instrumentation used, prevailing weather conditions and traceable calibration tests shall be submitted to the Local Planning Authority within 2 months of completion.

*Reason:* To safeguard the amenities of the adjacent occupiers.

16. No occupation of the development shall take place until suitable noise mitigation measures to protect internal and external areas have been agreed in writing with the Local Planning Authority as set out in Hyder Consulting, noise assessment, reference 0003-NH51200-NHR-02, dated 30<sup>th</sup> July 2008 and layout plan SP1 rev: F dated 8<sup>th</sup> October 2008, and the development shall not be occupied until such measures have been fully implemented and maintained thereafter.

*Reason:* To safeguard the amenities of the adjacent occupiers.

17. Following demolition and prior to built development commencing a site investigation, ground contamination survey and assessment of ground 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 ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

18. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing with the Local Planning Authority.

*Reason:* To safeguard the amenities of the users and neighbours to the application site.

19. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. 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 safeguard the amenities of the users and neighbours to the application site.

20. No development shall commence until full drainage details, incorporating sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, have been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details.

*Reason:* To ensure that the new development does not increase the risk of flooding to the site itself or adjacent existing development.

21. No built development shall commence until a Residential Travel Plan that promotes sustainable methods of travel for trips to and from the site has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in accordance with the approved Travel Plan.

*Reason:* To promote sustainable travel.

22. No development shall commence until details of secure gates to the parking courts of the apartments with access control measures including self closing mechanisms and key operated gates to the rear access ways of the houses have been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to first occupation of the dwellings and retained thereafter.

*Reason:* In the interests of community safety.

23. No development shall commence until details for lighting to the car parking courts for apartments in accordance with BS5489 has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the first occupation of the apartments and retained thereafter.

*Reason:* In the interests of community safety.

24. No development shall commence until details for a video monitored access control system to the apartments hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the first occupation of the apartments and retained thereafter.

*Reason:* In the interests of community safety.

25. No development shall commence until a drawing has been submitted to and approved in writing by the Local Planning Authority showing a minimum carriageway width at the entrance of Lindon Road to be 7.3m, a revised plan to overcome isolated binstore to serve plots 45 – 51, and 67 – 74, and a revised plan clearly showing that all bins to serve plots 52 – 66 can be delivered to the limits of the adopted highway. The development shall be implemented and retained thereafter in accordance with the approved details.

*Reason:* In the interests of highway safety.

26. The development hereby permitted shall not be brought into use until the access, turning area and parking facilities shown on the approved plan have been properly consolidated, surfaced, drained, and otherwise constructed in accordance with details to be submitted to and approved in writing by the local planning authority and these areas shall be thereafter be retained and kept available for those uses at all times.

*Reason:* In the interests of highway safety.

27. No development shall commence until a revised Transport Statement has been submitted to and agreed in writing by the Local Planning Authority detailing the traffic impact with capacity assessments of the Lindon Road/Chester Road and Brownhills Road/Lichfield Road/Salters Road junctions being tested and justified.

*Reason:* To supplement the existing Transport Assessment.

#### Notes for applicant

a) As your application includes demolition work, it may be necessary for you to also notify Building Control Services of your intention to demolish (Section 80 of the building act 1984). This should be done as soon as possible but not less than 6 weeks before commencement of the demolition work. Help line number 01922 652408.

b) With regard to suitable noise mitigation measures to protect internal and/or external residential areas, reference should be made to guidance and criteria contained in British Standard BS 8233, 1999 and World Health Organisation Guidelines for Community Noise 2000 and the following are relevant:

a). internal noise levels within bedrooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(8 \text{ hours})}$ , of 35 dB together with a maximum instantaneous level of 45 dB  $L_{AFmax}$ , between the hours 23.00 to 07.00;

b). internal noise levels within living rooms of residential development shall not exceed a Continuous Equivalent Noise Level,  $L_{Aeq(16 \text{ hour})}$ , of 45 dB between the hours 07.00 to 23.00;

Sound level measuring instrumentation shall conform to either 'Type 1' of British Standards BS EN 60651: 1994 'Specification for sound level meters' and/or BS EN 60804: 1994 'Specification for integrating-averaging sound level meters' and/or Class 2 of BS EN 61672: 2003 'Electroacoustics- Sound Level Meters - Part 1: Specifications (or any superseding standards as applicable) which shall have been verified in accordance with British Standard BS 7580 ' Specification for the verification of sound level meters' Part 1: 1996 'Comprehensive procedure' within a preceding 2 year period.

Current guidance, procedures, recommendations and information to assist in the completion of a suitable noise survey may be found in:

Planning Policy Guidance Note PPG 24 'Planning and Noise'. 1994;  
 Minerals Policy Statement 2: Controlling and Mitigating the Environmental Effects of Minerals Extraction in England. 2005  
 British Standard BS 7445: 2003 "Description and Measurement of Environmental Noise".  
 British Standard BS 7445-1: 2003 - Description and measurement of environmental noise - Part 1: Guide to Quantities and Procedures;  
 British Standard BS 7445-2: 1991 - Description and measurement of environmental noise - Part 1: Guide to the acquisition of data pertinent to land use  
 British Standard BS 7445-3: 1991 - Description and measurement of environmental noise - Part 3: Guide to application to noise limits.  
 British Standard BS 4142: 1997 – Method for Rating industrial noise affecting mixed residential and industrial areas  
 Calculation of Road Traffic Noise, 1988  
 Calculation of Railway Noise, 1995  
 This is not an exhaustive list.

Noise surveys should adequately establish the spatial variation of noise across a proposed development site using one or more measurement and/or calculation points, and may also need to take account of changes in noise levels on account of height above ground floor level. Additionally, a noise survey may have to take into consideration changes in a noise climate between normal weekdays and weekends, and require continued monitoring over a 24 hour period or longer. Secondary 'spot check' surveys will be required by the local planning authority in some instances to corroborate a continuous single noise survey.

Submitted noise measurement data must include details of all instrumentation used (microphones, sound level meters, data loggers, acoustic calibrators) inclusive of verification checks pursuant to British Standard BS 7580 Part 1: 1997 Specification for The verification of sound level meters Part 1 Comprehensive procedure conducted within the previous 12 month period, and recordings of prevailing climatic conditions on site of the course of noise measurements incorporating air temperature, wind speeds and direction as a minimum.

c) 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"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

d) 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 UK) model or any relevant

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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.

e) Drainage arrangements for the layout shall be provided to ensure that surface water from the driveway and/or vehicular turning area does not discharge onto the public highway. No drainage from the proposed development shall be allowed to discharge into any highway drain or over any part of the public highway.

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To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009

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

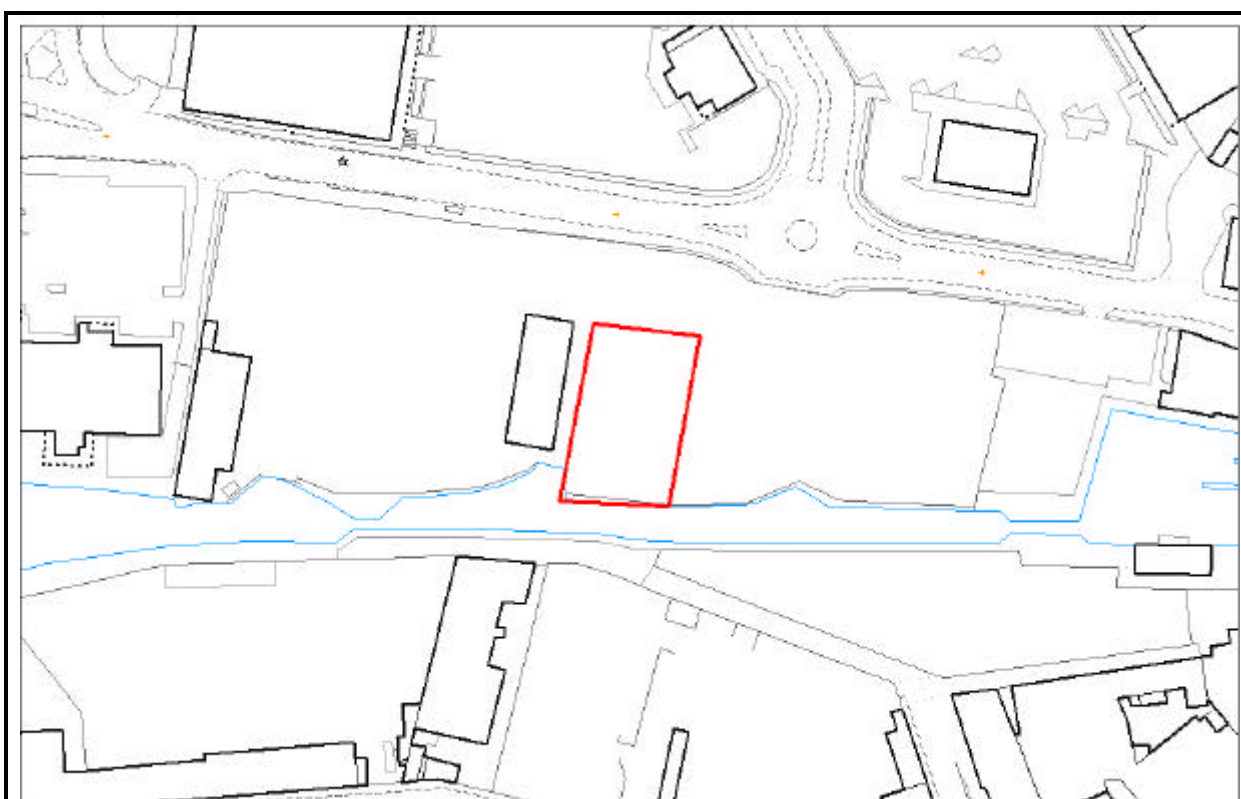
**Application Number:** 08/1849/FL  
**Application Type:** Full application  
**Applicant:** Whitbread Group PLC  
**Proposal:** 120 bed hotel and restaurant  
within the Urban Splash Waterfront  
development

**Case Officer:** Bob Scrivens  
**Telephone Number:** 01922 652488  
**Agent:** ShedKM Architects  
**Location:** LAND BETWEEN  
WOLVERHAMPTON STREET AND  
THE CANAL ARM, WALSALL, WS2  
8LS

**Ward:** St. Matthews

**Expired:** 02/03/2009

**Recommendation Summary:** Grant Subject to conditions



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## **Application and Site Details**

Permission has already been given for the Urban Splash Waterfront site (south of Wolverhampton Street, and mostly north of the canal arm). It was a hybrid (part outline / part detailed). The detailed element gave permission for 7 buildings. One of those buildings was an office building, more or less central to that site.

This application is to replace that office building with a hotel. Urban Splash, and the present applicants, believe that a hotel is a key component in generating interest in the site, and that it will be a critical anchor for the entire scheme. It is hoped to begin construction of the hotel this financial year.

The Urban Splash permission included the development of a hotel on the site, but in another location. It also included the creation of the Parking Hedge building (a multi storey car park, with ground floor commercial space). That car park will underpin the operation of the hotel (it is intended to build both at the same time). Entrance to the hotel is at the northern end, closest to the Parking Hedge Building, and to the most direct route from the rest of the town centre.

The applicants propose a Premier Inn hotel, with a ground floor restaurant (to be used by the wider population of the town, not just the hotel visitors, under the Table-Table branding). There will be 120 bedrooms.

The building is 7 stories tall, comparable to the approved buildings adjoining it. Visually, it comprises four key elements. The designers have made a conscious choice to define the functional elements of the building and develop the design from there. The elements of the building each have a distinct character and are the restaurant, the vertical circulation, the bedrooms, and the servicing / back of house areas.

The restaurant projects out of the ground floor, so that it is partly single storey, making this very public area more visually involved than would otherwise be the case. Entrance to the restaurant is arranged so that people moving through the Urban Splash project, for example under the adjoining Raised Office Building (an area intended to be used to stage outdoor events, etc), will easily see the entrance. There is an outdoor seating area around the restaurant, on the canal bank. It is a largely glazed component of the hotel building.

The bedrooms are in a simple structural block. This part of the building is largely rendered (the application proposes dark grey, through coloured). This simple block is articulated in three marked ways:-

- Each end elevation has a single window running almost the height of the building
- The south elevation rendered end elevation to a high gloss, reflective, coated aluminium rain screen panel system, incorporating corridor windows
- Each bedroom window has a projecting panel or fin, angled out from the face of the building, high gloss black on the outer face, primary colour on the inner face

The design (a frame structure, with cladding) also reflects the necessary foundation structure (which is physically constrained by the poor ground conditions on the site,

especially the limestone caverns which existed under the site, and which still define maximum ground loadings).

The vertical circulation is a stair and lift core on the north-east corner of the building. It stands free of the other components of the building. This element of the scheme uses concrete extensively, coupled with a full height glazed projecting wall, and glazed links at each level from the core to the bedroom areas.

Servicing of the hotel and restaurant is from the service route defined in the Urban Splash scheme (across the northern end of the hotel). All of the hotel functions (kitchens, offices etc) are grouped on the western side of the building, on the ground floor. This part of the building is a single storey projecting element on the opposite side from the restaurant, and has a louvered western wall, defining its visual character.

On the issue of design, the agents conclude *“The pure block forms are proposed as an homogenous background palette of render – rationalising the standard hotel plan into strong forms which sit comfortably within the Masterplan, without competing with adjacent plots – these strong forms are enhanced by the ‘screens’ which add changing visual interest to the overall site as one approaches from different angles”*.

It is the intention to meet the Building Regulations part L standards on energy use and related issues. Green roof techniques will be used, where roof areas are not needed for plant.

Servicing will be via the approved service route through the Waterfront area (between the hotel and the Parking Hedge).

The applicants will arrange use of part of the Parking Hedge to support the hotel, but the details have not yet been finalised. Similarly, arrangements for taxis to drop off customers are under consideration. Urban Splash may allow this to happen in the service road for the Waterfront scheme, or it may be in some other arrangement.

### **Relevant Planning History**

The Waterfront site has had many previous uses on various parts but as those uses have all been cleared, these are not relevant.

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 little relevance.

Remediation under the Urban Splash redevelopment permission has begun.

The key event in this history is the approval of that wider scheme, under reference 06/1450/OL/W1, in December 2006. It was an outline permission 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.

Other developments are now coming forward, such as that approved on the south bank of the canal (Jessups).

**Relevant Planning Policy Summary (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the 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 relevant passages in the policy state (key concepts have been marked in **bold text**):-

Policy WA12: Town Wharf ('Walsall Waterfront')

- (a) .... **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.

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, hotels, offices etc are directed to centres, and this is further supported by policies S1 to S4.

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).

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 adjoins 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.

### **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 Urban Splash 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. 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.

### **Designing Walsall SPD**

Aims to achieve high quality development that reflects the borough's local distinctiveness and character, through eight key design principles and ten policies.

The following are the relevant policies;

DBW1-Sustainability – new development must show that its design maximises energy efficiency in terms of layout, orientation and sustainable use of resources.

DBW3 – all new development must be designed to respect and enhance local identity

DBW4- Well defined streets with a continuity of built form are important.

DBW6 – new development should contribute to creating a place that has a clear identity

DBW9 new development must seek to ensure it creates places with attractive environmental quality

DBW 10 – new development should make a positive contribution to creating a sustainable environment.

## **Walsall Local Development Framework**

### **Core Strategy**

The Black Country Joint Core Strategy (JCS) has completed its Preferred Options Consultation. Whilst not formally part of the Development Plan (as defined by Section 38(6) of the Planning and Compulsory Purchase Act 2004), the JCS is a material consideration. Submission to the Secretary of State is anticipated in late 2009 following further public consultation. The broad principles of the UDP – e.g. the appropriate reuse of previously developed land, need to promote the town and district centres and high quality design are further advanced in the document taking account of recent national and regional planning guidance

### **Regional Spatial Strategy for the West Midlands (RSS11)**

This sets the vision for the West Midlands as an economically successful, outward looking and adaptable Region. Sustainability and climate change are central.

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**

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.

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 Planning Policy**

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

PPS6 on town centres stresses sustainability, and the need to promote inclusive, vital and viable town centres.

PPS9 sets out planning policies on protection of biodiversity and geological conservation through the planning system. This should be read in conjunction with the associated Best Practice Guidance and Circular 06/2005 (Biodiversity and Geological Conservation -statutory obligations and their impact within the planning system) which requires survey work for protected species, if required, to be undertaken before planning permission is granted (paragraph 99).

PPS12 guides on Local Spatial Planning. PPG13 on transportation seeks to minimise the use of the car by the sustainable location of development.

PPG13 on transportation promotes sustainability in the context of a safe, integrated and efficient transport system.

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 promotes renewable energy.

PPS23 and PPS24 consider the requirements of development to take account of pollution, contamination and noise.

PPS25 seeks to ensure that appropriate safeguards from flooding are incorporated into new development. The use of Sustainable Drainage Systems and other methods reduce rainwater runoff are encouraged.

### **Consultations**

**Transportation** – Object on to parking and access:

The request to determine the current application without an agreement to provide dedicated parking provision to serve the proposed development is not considered acceptable and would be likely to cause indiscriminate parking, and increase congestion and disruption for traffic, to the detriment of highway safety.

The approved Masterplan states parking for the hotel will be the Parking Hedge.

The UDP Parking standard for hotels is 1 space per bedroom, the standard would be 120 spaces. The town centre location would warrant a reduction, but to operate the hotel and restaurant without any dedicated parking would encourage visitors to source alternative parking provision. The closest parking facility is the adjacent Crown Wharf car park which suffers from its own problems. Urban Splash record that there are traffic problems associated with Wolverhampton Street, at peak retail times.

There is no provision for access for taxis to serve the development, this would be likely to restrict access for disabled users, and lead to the creation of an informal taxi rank along Wolverhampton Street. This is considered unacceptable in view of the scale of the overall waterfront development, and the potential impact of indiscriminate parking of taxis, visitors and non residential future trips, which would be likely to compromise the safe movement of traffic and the safe use of the highway by others. The Waterfront Masterplan states that taxis will use the service road through the development, and drop off and collection will be from the Events Square.

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## **Conservation / Urban Design**

- Recommendation should be that the determination of this application be deferred until amended plans showing improvements to the southern elevation which may consist of changes in material, provision of scheme for art work or alternative architectural response are provided.
- The principle of the scheme can be supported, but the development overall does not sufficiently meet the aspirations the UDP, Designing Walsall SPD or the Walsall Locks Conservation Area Appraisal and Management Plan, which support the employment of high quality contemporary architecture and design. The southern elevation of the hotel building fronts directly onto Walsall Canal.
- The proposed primary treatment of the hotel building is grey render with glazing to the restaurant at ground floor level and a narrow strip of windows running vertically up the elevation where the circulation corridors will be located. It is considered that this material treatment, particularly when combined with the scale of the building, will lack vibrancy and will create an overbearing and dull built form in this prominent location on the canalside and within the Walsall Locks Conservation Area. It is considered that this development is not acceptable without a detailed scheme showing either an alternative, more interesting architectural response to the southern elevation or an artwork scheme.
- given the high level of air pollution within the Walsall area, there are concerns that the render and concrete will not prove to be a durable material and will be prone to early signs of erosion and decay. .... the precedent examples submitted .... (do not include) ... details of their locations and ages so that a judgement can be made.
- Furthermore, given the high level of air pollution within the Walsall area, there are concerns that the render and concrete will not prove to be a durable material and will be prone to early signs of erosion and decay.
- On a similar basis, these concerns are also replicated for the northern elevation facing the location of the hedge building although the southern elevation is of far greater concern due to its high visibility along the canal and its impact upon the setting and character of the canal.
- In terms of more general issues for consideration, the nature and use of the diners' terrace outside the hotel adjacent to the canal needs careful thought to avoid debris falling into the canal. These concerns have also been raised by British Waterways and in the event that some form of boundary treatment is required to prevent this occurrence, suitable details of boundary treatments will need to be submitted and discussed with the Conservation Officer (in conjunction with British Waterways) in line with the Conservation Area Management Plan.

## **British Waterways**

- supportive of the Waterfront project

**BUT**

- the present scheme does not achieve the aspirations of the Masterplan
  - it is anonymous, overbearing and has the potential to detract from Waterfront
  - it does not address the water frontage
  - creates a shadowing / over bearing feature
  - it is a corporate design, not suited to the location
  - stair core adds some articulation
- fenestration of main building is monotonous

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- southern elevation has no windows, missing the opportunity for overlooking
- terrace on water's edge will need care to avoid tables etc entering the canal
- Terrace also likely to be windy and overshadowed by building – a sun and wind model should be prepared to address this
- careful attention to detailed design is needed to avoid damage to canal etc
- invite financial contribution to improvement of canal e.g. nearby locks
- Additional detailed comments are made about construction processes etc., and conditions are offered on these matters. These have been shared with the developer

**Advantage West Midlands** – supports the scheme

- Regeneration schemes are needed, and tourism can support regeneration
- Hotels support tourism
- See this as an important scheme because
  1. Under the present challenging economic conditions, the provision of the hotel creates confidence in the Phase 1 scheme. Drawing upon the successful approach adopted at The Fort, this was a key factor in attracting office occupiers to the scheme
  2. The hotel will generate in the region of 110 new jobs including 50 within the separate ground floor restaurant. These will be new jobs to the Walsall area which is currently under-represented in terms its office market and supporting business infrastructure. The estimated 40 net additional jobs created are in excess of the zero additional jobs generated by the original proposals for the site
  3. The hotel development will add to the critical mass of built development activity within Phase 1 (which includes a large offices building and a residential building on adjacent plots), thereby projecting a positive image of the scheme to the market and potential occupiers

**Highways Agency** – no objection.

**Inland Waterways Association** – no comment as irreparable damage has already been done by the outlandish designs already approved.

**Pollution Control – Contaminated Land** – support proposal subject to ground investigation conditions.

**Natural Environment – Trees** – no objections

**Natural England** – no objection but remind of the need to meet the ecological mitigation and enhancement provisions of the Waterfront scheme.

**Environment Agency** – no objection subject to condition.

**English Heritage** – no comment.

**National Grid** – risk of / to development is negligible.

**Fire Service** – satisfactory provided a fire hydrant is available within 90 metres of the dry riser.

## **Public Participation Responses**

None.

## **Determining Issues**

- Principle of use / Range of uses
- Implications for the Waterfront Supplementary Planning Document (SPD)
- Design
- Servicing / taxi drop off / parking

## **Observations**

### **Principle of use / Range of uses**

The UDP envisages an important development at Waterfront. Policy WA12 defines that in more detail. High standards of design are central to the policy.

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.

A hotel is clearly an important element in such a scheme.

### **Implications for the Waterfront Supplementary Planning Document (SPD)**

The SPD was approved by Cabinet on 8/11/06. It 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.

In the context of views of the New Art Gallery, the Urban Splash application proposed a range of buildings. The present application to change one of those buildings for a different design, does not have any greater impact on the views of the gallery, subject to consideration of design issues.

### **Design**

One edge of the space around the application proposal is defined by the Parking Hedge building which creates a major new frontage to Wolverhampton Street. It is big, but its size is complemented and decorated by the steel frame, and the plants which form a dominant component in views of the exterior. The drums (access ramps) 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 colonnade on both sides adds interest, and provides a functional aid to circulation around the buildings.

The Alsop Office Building (approved in detail, and adjoining the present application site to the east) 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.

Each of the approved buildings in the Urban Splash scheme 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 present proposal takes a different approach. It sets out to contrast itself with the surrounding visual richness, by adopting simple forms, and strong shapes. It embellishes them sufficiently to avoid being bland or unsightly.

The design has evolved, reflecting discussions with officers. The use of grey render and concrete are deliberate choices by the designer, to emphasise the strong shapes. That choice is then enriched by the use of colour and glass detailing, together with a reflective finish to the south (canal front elevation).

Urban Design and Conservation, and British Waterways do not support the scheme. While such views are not to be set aside lightly, the Conservation value of the site is limited to the canal, at this point. The approval of the Urban Splash scheme has set a pattern of modern, striking buildings in this location. The present design is part of that approach. The views of Urban Design are also important, but they are a judgement. Overall, the design is supported.

### **Servicing / taxi drop off / parking**

The servicing arrangements are those envisaged for the building already approved on the site. Continuing that arrangement raises no issues.

On the issue of taxis, Transportation object to the lack of a dedicated arrangement within the Waterfront site.

While the applicant's approach seems unconventional, requiring taxis to pull up on street to deliver customers is the normal way taxis work. It is unrealistic to suggest that this can not be agreed.

The allocation of spaces in the car park is at present not defined. Again, Transportation object, and while not seeking the full standard provision of 120 spaces, do not consider a decision should be made in the absence of any information on the amount of parking to be available to the hotel.

Allocation is required to be agreed under the existing conditions governing the Waterfront development. Urban Splash are preparing a solution to this, which will control all of the needs of the Waterfront site. Assuming that is an acceptable solution, the issue is settled. (A similar condition is proposed in the recommendation on this application.) Conversely, if it is not a satisfactory solution, for some reason, the consideration for this application would be that there could be a shortfall in hotel parking.

Taking that hypothetical situation, the consequences can be assessed, but are not seen as an issue, by planning staff. It is self evident that no one will park on street here (because they would be open to parking penalties). They would park somewhere else, and arguably, the Council does not need to know where, other than that they will use a town centre car park somehow / somewhere. Unusual though it

may be, the absence of specified parking for the hotel is not seen as an issue. The town centre location of the site reinforces that conclusion.

This is not a conclusion shared by Transportation, but overall, the recommendation set out is seen as appropriate.

### **Summary of Reasons for Granting Planning Permission**

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

The principle of a hotel in this location is supported. While recognising the consultation responses that make judgements on the proposed design, the design creates an effective counterpoint to the visual richness already approved around the site, as part of the wider Waterfront scheme. Servicing the site is consistent with the wider scheme. The, as yet, unresolved issues of taxi arrangements and parking do not pose problems for the development, and are controlled by the wider Waterfront scheme. Suitable conditions are proposed to address ground conditions.

Overall, 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>>.

### **Recommendation: Grant Subject to conditions**

1. This development must be begun not later than 3 years after the date of this permission.

*Reason:* Pursuant to the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. Notwithstanding the terms of the Town and Country Planning Use Classes Order 1987, or of the Town and Country planning (General Permitted Development) Order 1995, or succeeding legislation, no part of the building permitted shall be used for retail, other than ancillary retail sales to customers of the hotel, and the sale of food and drink in the restaurant.

*Reason:* To control the provision of retailing on the site.

3. Prior to built development commencing a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice and approved in writing by the Local Planning Authority shall be undertaken.

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A copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority within 1 month of completion.

**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"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings(Revised)" (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

4. Prior to built development commencing details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted to and agreed in writing 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 UK) model 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.

5. Agreed remedial measures shall be implemented to the satisfaction of the Local Planning Authority in accordance with the agreed timetable. 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.

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. Before work commences on the development details of measures to control water run off from that phase 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

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details shall be implemented in accordance with the approval, unless otherwise agreed by the Local Planning Authority.

*Reason:* To protect the water environment.

8. 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.

9. 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 1900 weekdays and 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.

10. 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.

11. Before work commences on any phase of the development, details of existing and proposed levels of the area of that phase, accessway and floor levels shall 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.

12. No built development in any phase 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 has been undertaken for that phase. 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*

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*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 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 in that phase 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

13. Before work commences on any phase of the development 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

shall have been submitted to and approved in writing by the Local Planning Authority. The phase 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.

14. a) No building shall be commenced until details of the proposed lighting for the building (and the area around it which is intended to be used by occupiers of the building or by the public when that building is brought into use) have been submitted to and approved in writing by the Local Planning Authority.
- b) The approved lighting details on that building and in the area approved 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 building or in that area 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.

15. Unless otherwise agreed in writing by the Local Planning Authority, no building shall be commenced until details of security oriented design measures and physical security measures for the building and the public spaces around it, 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. The use of CCTV should be considered in relation to the proposed measures, as it is widely seen as important for such matters.

16. No building shall be commenced until details of energy efficient design measures for the building, 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 development, and thereafter retained.

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

17. a) There shall be no vehicular access to the service and delivery areas of the site between the hours of 1200 to 1400 and 1600 to 1800 and overnight between 2200 and 0700, on any day.

b) The 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.

18. No 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.

19. No building shall be commenced until the design of any permanently installed window cleaning apparatus for the building has 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.

20. Unless otherwise agreed in writing by the Local Planning Authority, the development shall not be brought into use until a Travel Plan, including details of the mechanism to be used for its delivery, monitoring and enforcement, has been submitted to and approved in writing by the Local Planning Authority, in consultation with the Highways Agency. The Travel Plan will include the establishment of targets, arrangements for monitoring and review, details of the penalties that will apply in the event that specified targets are not met and a timetable for implementation and review. It will also detail the mechanisms to be employed for ensuring the compliance of individual owners / occupiers with the terms of the travel plan. The development shall be implemented and thereafter operated in accordance with the measures and timetable indicated in the approved Travel Plan, unless first agreed in writing by the Local Planning Authority.

*Reason:* To enable the M6 motorway to continue to be an effective part of the national system of routes for through traffic, in accordance with Section 10(2) of the Highways Act 1980 and to protect the interest of road safety on the Trunk Road, and in the interests of promoting sustainable transport.

#### NOTE FOR APPLICANT

It is anticipated that the mechanism for the delivery, review and enforcement of the Travel Plan will be through the completion of a s106 legal agreement. The penalties are to be specified in the Framework Travel Plan and enforceable through the s106 agreement. In the event of the failure to achieve agreed targets, the bond will be used by the Local Planning Authority, in consultation with the Highways Agency, for the provision of sustainable transport initiatives in Walsall.

21. The hotel shall not be brought into use until details of the allocation of car parking spaces to support the functioning of the hotel, in the Parking Hedge Building have been submitted to and approved in writing by the Local Planning Authority. Occupation of the hotel shall accord with the approved details.

*Reason:*

To ensure that an appropriate amount of car parking is available for all users of the site.

22. Unless otherwise agreed in writing by the Local Planning Authority, or as shown on the deposited plans, at all times the internal arrangements of the non-residential ground floor uses in the buildings in the development will ensure that no

- non-transparent partitions (other than those positioned at 90 degrees to the external wall)
- storage areas,
- refuse areas
- or toilet facilities

shall be located within 2 metres of any glazed external wall .

*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.

23. Unless otherwise agreed in writing by the Local Planning Authority, before the building is commenced, details of appropriate ventilation and fume control equipment for the cooking facilities on the site shall have been approved in writing by the Local Planning Authority. The approved details shall be implemented before the hotel 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.

24. No fences, walls, barriers, gates or other forms of boundary treatment shall be installed or erected anywhere 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.

25. 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 approved scheme.

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

26. No amplification equipment shall be installed in the premises until details of the equipment (including any noise cut-off devices and any necessary soundproofing) have been submitted to and approved in writing by the Local Planning Authority. Any soundproofing works shall be carried out before the amplification is brought into use and thereafter retained, and the equipment shall be operated in accordance with the approved details, at all times.

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

27. 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 for the wider Waterfront development, without the prior approval of a planning application.

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

28. 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.

29. Other than as shown on the deposited plans, at no time shall there be any display of goods outside the building occupied for that use, nor 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.

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To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009

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

**Application Number:** 08/1803/FL  
**Application Type:** Full application  
**Applicant:** Housing 21  
**Proposal:** Deletion of condition 18 of  
planning approval 07/2085/FL/E11 which  
requires closure of the southern access and  
re-opening the central access to the site.  
**Ward:** Blakenall  
**Recommendation Summary:** Grant

**Case Officer:** Alison Deakin  
**Telephone Number:** 01922 652487  
**Agent:** Miss Sascha Newton  
**Location:** Goscote Hospital,  
Goscote Lane, Walsall, WS3 1SJ

**Expired:** 23/02/2009



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## **Application and Site Details**

Outline planning permission was granted in 2007 for redevelopment of the former hospital site to provide new health and social care buildings to include Dementia and Palliative Care Units. Two further detailed applications followed setting out a two phased approach to the development for the Dementia Care and Palliative Care Units.

Each permission had a condition prohibiting use of the original access to the old hospital at the southern end of the site. Committee has already approved deletion of the condition on outline permission and this application seeks removal of the condition on the detailed permission to bring it into line with the amended outline approval. The net result would be to keep the southern access open for use.

The original permission was for erection of 40 no. Dementia Care Apartments, Communal Facilities, Day Treatment and Day Care Centres, parking and associated landscaping at the former Goscote Hospital site. The permission was granted on 17<sup>th</sup> January 2008 and condition 18 reads as follows: -

*“18. Prior to the commencement of the development the existing southern access to the site off Goscote Lane (adjacent Bottom Lodge) shall be closed to vehicular traffic unless otherwise agreed in writing by the Local Planning Authority, and details shall be submitted to the Local Planning Authority for approval showing measures to be implemented for the re-opening of the central access point shown on plan B/07/0005 001 Rev D. There shall be no other alterations to the proposed accesses and no additional access to the highway and no further extensions or development without prior submission of an accompanying additional traffic related supporting Transport Statement, and revised Travel Plan to be agreed in writing by the Local Planning Authority.”*

## **Relevant Planning History**

07/1694/OL/E11 - Outline: Demolition of existing hospital buildings and redevelopment to provide new health and social care buildings to include Dementia and Palliative Care Units together with access, associated hard and soft landscaping – Granted Subject to Conditions 02/11/07.

07/2085/FL/E11 – 40 no. Dementia Care Apartments, Communal Facilities, Day Treatment and Day Care Centres, Parking and associated landscaping – Granted subject to conditions 17/01/08

08/0020/FL - Section 73 Application to Delete Condition 12 of Planning Approval 07/1694/OL/E11 which requires closure of the southern access and re-opening the central access to the site – Granted 21/02/08

08/1299/FL - New build palliative care centre, accommodation to include 12 inpatient beds, day care centre, therapy and counselling services along with associated ancillary services and staff/admin facilities. External landscaping and provision of 37 no. parking spaces – Granted subject to conditions 19/11/08

**Relevant Planning Policy Summary** (Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).

## **Unitary Development Plan (UDP)**

GP1: Supports the sustainable location of development.

ENV3: Identifies more detailed considerations for proposals in the Green Belt.

3.113, 3.114 & 3.115: Good design should respond positively and imaginatively to the context, in which development takes place and increase safety.

## **Consultations**

**Transportation** – No objections. The extent of the development as a whole is limited to that already approved and covered by Drivers Jonas Transport Assessment which did not highlight any potential highway safety issues with the current access arrangements. Any further major development at the site is unlikely to be supported.

**Pollution Control (Scientific Team)** – No objections.

**Pollution Control (Contaminated Land)** – No objections.

**Arboricultural Officer** – No objections.

**Conservation** – No objections.

**Environment Agency** – No comments.

**Natural England** – No comments.

**British Waterways** – No comments.

## **Public Participation Responses**

None.

## **Determining Issues**

- Implications of varying condition 18 on the phase 1 dementia care permission
- Impact on the Green Belt

## **Observations**

### **Implications of varying condition 18 on the phase 1 dementia care permission**

The application to delete condition 18 is effectively to reflect the removal of condition 12 from the outline permission requiring closure of the southern access to the site.

A Transport Assessment was submitted in support of the original outline permission 07/1694/OL/E11 which concluded that vehicular access to the site would be via two points, the existing northern “in only” and the southern “out only” access onto Goscote Lane as per the existing arrangements as the consultants considered it likely that traffic flows will decrease as a result of the redevelopment proposals at the hospital site.

The Transportation Officer had no objections to the proposals subject to imposition of conditions relating to the access arrangements. However, during debate of the outline proposals at Committee members were concerned that any potential future

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development at the hospital site would increase risks to highway safety by intensification of use of the southern access point, which is immediately adjacent the access for an adult education centre. Committee therefore considered that imposition of condition 12 on the outline permission to require closure of the southern access point and re-opening of the central access point would address any potential highway safety issues from the outset.

The deletion of condition 18 will allow continuity between the outline and full permissions for the site and offers the same justification as that put forward when considering removal of condition 12 on the outline, namely that; re-opening the central access is unnecessary as the Transport Assessment did not highlight any potential highway safety issues and the Transportation Officer considered the proposals for means of access were satisfactory for the level of development proposed under the application. Also, that re-opening the central access point would require alterations and resurfacing that may have a greater impact on the character of this Green Belt site and would be costly.

As Committee have already approved use of the southern access under the amended outline submission, approval of the current application would be entirely consistent with that decision, bringing the detailed permission back in line.

#### **Impact on the Green Belt**

The proposals to retain the existing access arrangements at the site have no adverse impact on the character or openness of the Green Belt. However, if further alterations to the central access point were required, for example to provide improved visibility, this may result in loss of trees that could have an adverse impact on the character of the site within the Green Belt. It is therefore recommended that the access arrangements remain as existing.

#### **Summary of Reasons for Granting Planning Permission**

The principle of the means of vehicular access to the entire site remaining as it is has already been established in granting planning permission 08/0020/FL. This permission approved deletion of the condition on the outline permission requiring closure of the southern access and re-opening the central access to the site. The current proposal seeks deletion of a similar condition imposed on the full permission for the dementia care unit phase of the redevelopment of the hospital site.

The Transportation officer has no objections to the proposal to retain the southern access to the site and is satisfied that there will be no detrimental impact on highway safety. The deletion of the condition is therefore acceptable.

For the above reasons the proposals are considered to comply with policies GP1, 2.2, GP2, 3.3, 3.6, 3.7, 3.16, ENV1, ENV2, ENV3, ENV4, ENV18, ENV23, ENV24, ENV32, T7, T12 & T13 of Walsall Unitary Development Plan.

#### **Recommendation: Grant**





To: DEVELOPMENT CONTROL  
COMMITTEE

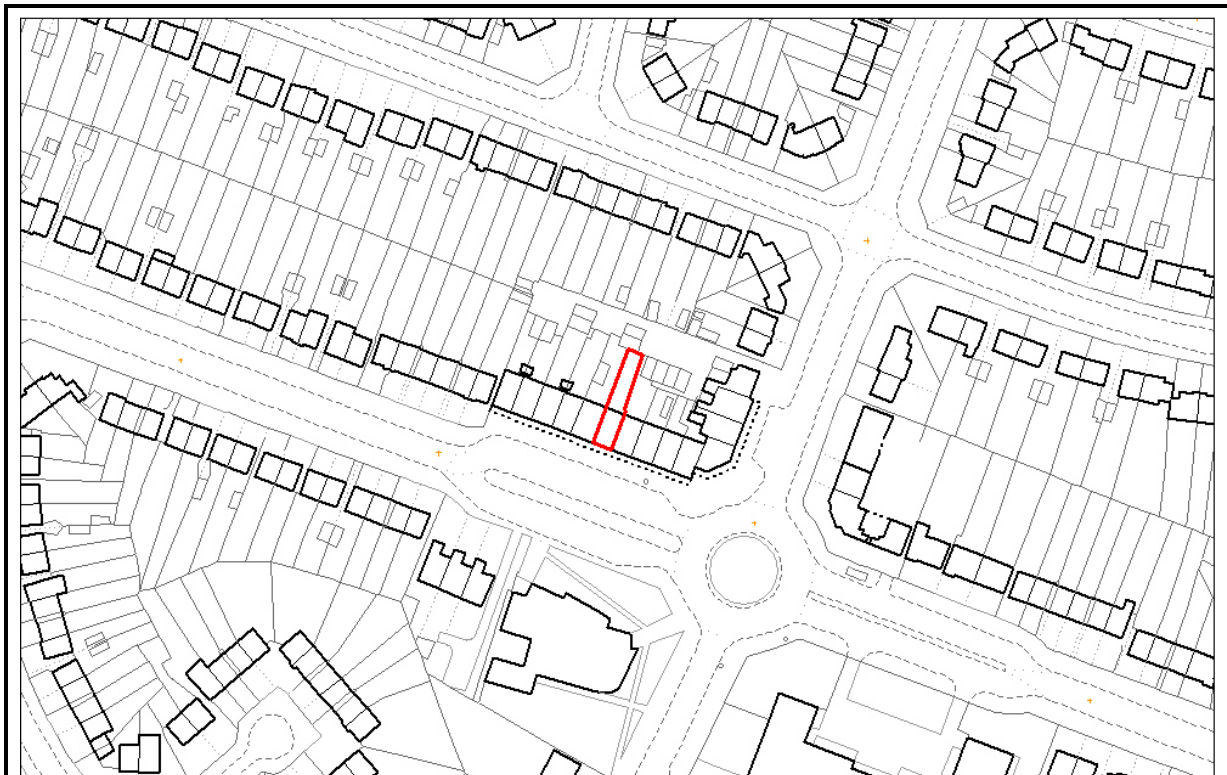
Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009

**REASON FOR BRINGING TO COMMITTEE: Requires delicate judgement**

**Application Number:** 08/1897/FL  
**Application Type:** Full application  
**Applicant:** Mr P Marinou  
**Proposal:** Variation of condition 2  
attached to planning approval 08/1438/FL.  
to allow opening hours 11:00 - 22:00 hours  
Monday to Saturday and 17:00 - 21:00  
hours Sunday  
**Ward:** Pheasey Park Farm  
**Recommendation Summary:** Grant

**Case Officer:** Barbara Toy  
**Telephone Number:** 01922 652429  
**Agent:** Mr T Marinou  
**Location:** 73 COLLINGWOOD  
DRIVE, WALSALL, B43 7JW

**Expired:** 06/02/2009



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## **Application and Site Details**

The site comprises a vacant retail shop at ground floor with two storey residential accommodation above, situated within a block of 10 shops fronting Collingwood Drive and 4 fronting Hillingford Avenue. The site is situated within the Collingwood Drive, Pheasey local centre.

Vehicle and pedestrian access (to the flats above the shops) is provided off Hillingford Avenue to a service area to the rear of the shops. On street chevron parking for customers of the shops is situated on the frontage on Collingwood Drive and Hillingford Avenue.

Residential properties are situated to the rear (north) in Raeburn Road and in Collingwood Drive to the west of the block of shops, with flats and St Chad's Church opposite the site. Further residential properties are situated in Hillingford Avenue.

Collingwood Drive is a bus route and terminus for 6 different bus routes and is a busy main route through the Pheasey estate.

A recent application for change of use of the ground floor premises to a hot food takeaway (08/1438/FL) was approved by your Committee on 7<sup>th</sup> October 2008. Condition 2 attached to the approval restricted the opening hours of the use to 1100 – 2100 hours Mondays to Saturdays and 1700 – 2100 hours on Sundays, in order to safeguard the amenities of the occupiers of adjoining premises.

Following discussions with the applicant the development description has been amended to variation of Condition 2 attached to the previous approval (08/1438/FL) to allow extending opening of the premises from 1100 – 2200 hours Mondays to Saturdays and 1700 – 2100 hours on Sundays.

The premises remain vacant and the use as a hot food takeaway has not yet been implemented. The application has been made as it has proved difficult to lease the unit with the existing opening hours restriction.

## **Relevant Planning History**

08/1438/FL, change of use from A1 retail to A5 hot food takeaway.

## **Relevant Planning Policy Summary**

*(Note the full text version of the UDP is available from the First Stop Shop in the Civic Centre, and on the Planning Services Website [www.walsall.gov.uk/planning](http://www.walsall.gov.uk/planning)).*

### **Walsall's Unitary Development Plan (2005)**

GP2: The Council will expect all developments to make a positive contribution to the quality of the environment and the principles of sustainable development, and will not permit development which would have an unacceptable adverse impact on the environment.

S2: The Hierarchy of Centres

(c) Local Centres, to meet the day to day convenience shopping and local service needs of their community.

S5: The Local Centres



The retention, enhancement and further development of shops, services and other town centre uses will be

#### **S8: Housing in Town Centres**

It is recognised that the particular benefits of living in a centre could mean the acceptable level of residential amenity may not be the same as that expected in suburban locations.

#### **S10: Hot Food Takeaways**

These uses will be appropriate in the Town, District and Local Centres subject to the following considerations:-

- I. The use proposed must not adversely affect the amenities of the existing or proposed dwellings by reason of noise, smell, disturbance or traffic impact. Where there are existing activities which are open during the late evening, the Council will have regard to the cumulative impact on residential amenity.
- II. Where the Council is minded to grant planning permission, the closing time for hot food takeaways will be considered in relation to the amenities of nearby dwellings. In such locations the Council will usually impose a condition requiring the premises to close at 2300 hours Monday to Friday and 2330 hours on Saturdays. Later opening hours and Sunday opening will be considered on their merits.
- III. Permission will not be granted where the absence of adequate off street parking would be likely to lead to on street parking in a hazardous location.
- IV. Permission will only be granted where ventilation and fume extraction equipment can be positioned to avoid potential problems of noise, vibration and/or odour nuisance for nearby occupiers and the equipment would not be detrimental to visual amenity.

#### **T13 Parking Standards**

Hot food takeaways - 4 car park spaces for establishments with a gross floor space up to 50sqm

### **Consultations**

**Transportation** - No objections. The proposed extension of opening hours would have no significant detrimental impact on the surrounding highway network and therefore consider the application acceptable.

**Environmental Health** – no adverse comments.

**West Midlands Police** – no objections, but difficult to say whether extending the opening hours of the hot food takeaway would cause an increase in anti social behaviour or not. A key issues is how the premises is run/operated by the owner. The majority of recent youth disorder and anti social behaviour in the area is before 2100 hours and it is not possible to say whether allowing opening beyond this time would result in any additional anti social behaviour or disorder.

### **Public Participation Responses**

One letter of support and one letter of objection received

Objections:

- Appalling decision to allow yet another hot food takeaway in the locality

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- Already problems with teenagers loitering which has lead to attacks on properties.
- Increase in hours will encourage yet more teenagers to loiter which sets a poor example to younger children.
- More takeaways do not encourage health eating.

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

### **Determining Issues**

- The impact on the amenities of surrounding occupiers
- Other issues and response to representations

### **Observations**

#### **The impact on the amenities of surrounding occupiers.**

Whilst the property is situated within a local centre, there are residential units above the shops. Collingwood Drive, is a busy route through the Pheasey estate with 10 bus routes and a bus terminus for 6 different buses which operate on a regular basis from early morning till almost midnight. The Collingwood Centre is situated diagonally opposite the site which is open for community use in the evenings. The local centre is therefore considered a busy, noisy and active location. Policy S8 recognises that the benefits of living in a centre could mean that the acceptable level of residential amenity may not be the same as that expected in a more suburban location.

The proposals would extend the evening opening hours of the premises by one hour Mondays to Saturdays only from closing at 2100 hours to closing at 2200 hours. Policy S10 considers that in locations with residential properties in close proximity opening hours for such uses should be restricted to 2300 hours to ensure no adverse impact on the amenities of surrounding occupiers. The proposed extension of hours would therefore still comply with policy. The existing off licence at No 83 Collingwood Drive is open till 2230 hours and the video shop at 122 Hillingford Avenue is also open during the evening. No 83 is situated at the end of the block, next to residential properties and late opening of this unit is likely to have far more adverse impact on the neighbouring properties than the proposed use that is situated in the middle of the block.

Parking for the shops is situated on street on the frontage of Collingwood Drive and Hillingford Avenue and use of this parking is unlikely to have any additional adverse impact on the amenities of the residents above the shops through comings and goings. The pedestrian and vehicle access to the flats above the shops is situated to the rear of the building in the service yard. It is considered that residential occupiers are unlikely to be adversely affected by the proposed use in terms of noise, disturbance of traffic or late night opening over and above the existing situation.

### **Other Issues and response to representations**

#### **Anti Social Behaviour**

The objector have expressed concern about the number of youths who already congregate at the shops and bus stops, particularly in the evening, which they

consider would be exacerbated by the proposed use. West Midlands Police have confirmed that there have been a number of reported offences in the area in the past 12 months, but the majority have occurred before 2100 hours and it is not possible to say whether allowing opening beyond this time would result in any additional anti social behaviour or disorder.

Youths may be attracted to the site in the evening currently as the existing solid roller shutters in place when the shops are closed provides no natural surveillance or overlooking. The unit is currently vacant, with solid roller shutters in place 24 hours providing no natural surveillance of the frontage. Use of the premises, especially in the evening may deter further anti social behaviour through natural surveillance and comings and goings of customers.

Successful local centres can accommodate well managed hot food takeaways and can bring a level of activity in the evening that can deter anti social behaviour. This local centre currently presents a wall of solid rollers shuttered shops during the evening which can in itself create a security risk and threat to passers by through lack of surveillance. Introduction of an additional late evening use would increase activity and surveillance of the area without any detrimental impact on the amenities of the surrounding occupiers.

### **Summary of Reasons for Granting Planning Permission**

The premises are situated within a busy and active local centre, with existing uses/premises that are open till 2230 hours. Policy S10 suggests evening opening until 2300 hours for such uses is acceptable within centres where residential properties are in close proximity, therefore the proposals comply with policy. It is therefore considered that the proposed extension of opening hours would have no further adverse impact on the amenities of the surrounding residential occupiers.

There is no evidence to suggest that the proposed extension of opening hours would result in any additional anti social behaviour or disorder.

As such the proposals are considered to accord with the aims and objectives of the development plan, in particular policies GP2, S2, S5, S8 and S10 of Walsall's Unitary Development Plan (2005).

### **Recommendation: Grant**



To: DEVELOPMENT CONTROL  
COMMITTEE

Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009

**REASON FOR BRINGING TO COMMITTEE: Call in by Councillor Harrison**

**Application Number:** 08/1423/FL

**Application Type:** Full application

**Applicant:** Mr Gary Ankritt

**Proposal:** Conservatory to rear

**Case Officer:** Claire Murphy (H2)

**Telephone Number:** 01922 652485

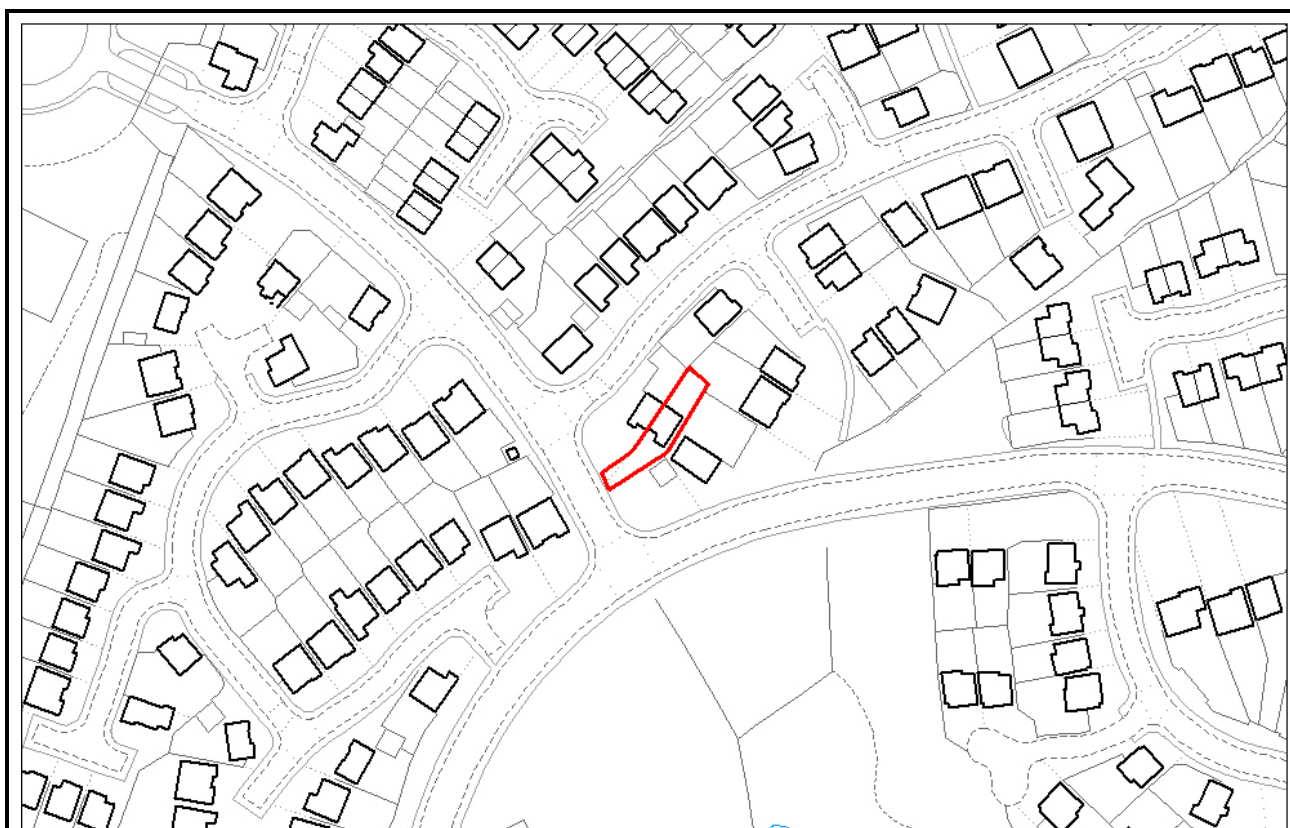
**Agent:**

**Location:** 4 REDBOURN  
ROAD, BLOXWICH, WALSALL, WS3 3XT

**Expired:** 28/01/2009

**Ward:** Bloxwich West

**Recommendation Summary:** Refuse



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## **Background**

This application has been called in by Councillor Harrison who has commented that the size of the conservatory does not impact on the neighbours and that the size of the conservatory would usually be accepted under permitted development rights.

## **Application and Site Details**

This application is for a conservatory to project 3.5 metres by 3.2 metres wide with a hipped roof measuring 3.3 metres high to the ridge to the rear of a modern semi-detached house. The house faces the rear of number 8 Redbourn Road, with a current separation of 22 metres between the two houses. The conservatory would therefore reduce this separation to 18.5 metres.

This application is similar to three previous applications for a conservatory, which have all been refused. The length and width of this application is the same as the previous application, however, the hipped roof proposed above the conservatory would be increased by 0.5 metres.

Plans submitted with the application indicate that the side elevation facing neighbouring property number 6 Redbourn Road would have a brick wall with top light windows with blinds, and to the rear elevation a dwarf wall with windows, with top light windows above with blinds.

## **Relevant Planning History**

The planning permission for the estate removed permitted development rights for extensions so that minimum separation standards between windows and privacy levels could be maintained.

04/0146/FL/H1. Conservatory. Refused March 2004 on the grounds that the limited distance between the conservatory and the first floor windows on the rear of 8 Redbourn Road would allow overlooking between the two properties and a loss of privacy.

04/0794/FL/H1. Resubmission of 04/0146/FL/H1. Refused June 2004 on similar grounds and appeal dismissed January 2005.

The application was identical to the previous one, except that the submitted plans indicated the top lights to be obscure-glazed and vertical blinds were to be installed to maintain privacy levels.

In dismissing the appeal, the inspector noted that obscure glazing of the fanlight would not present significant overlooking, and vertical blinds might not always be retained or used. A condition requiring obscure glazing of the whole conservatory side facing number 8 would be at odds with the intention of the [1995] UDP Appendix 2 section 6(e) [which stated that provision of obscure glazing as a means of overcoming the distance standards will not normally be acceptable]. In addition, such a condition would unreasonably obscure views of the garden.

05/0546/FL/H1. Conservatory. Refused April 2005 as provision of obscure glazing to the rear elevation would unreasonably obscure views of the garden of the application

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property, whilst the provision of clear glass and doors to the side elevation alone would lead to overlooking of the adjoining house and garden at number 2.

### **Relevant Policies**

***(note the full text version of the UDP is available from First Stop Shop in the Civic Centre and on the Council's web site)***

### **Unitary Development Plan Policies**

#### **GP2: Environmental Protection**

The Council will expect all developments to make a positive contribution to the quality of the environment and will not permit development which would have an unacceptable adverse impact on the environment. Considerations to be taken into account in the assessment of development proposals include:

I. Visual appearance.

VI. Overlooking, loss of privacy, and the effect on daylight and sunlight received by nearby property.

#### **ENV32: Design and Development Proposals.**

Poorly designed development or proposals which fail to properly take account of the context or surroundings will not be permitted. Criteria are provided that the Council will use when assessing the quality of design of any development proposal.

#### **H10: Layout, Design and Dwelling Mix.**

(a) The Council will expect the design of residential developments, including residential extensions, to:-

I. Create a high quality living environment, well integrated with surrounding land uses and local character (natural and built) and in accordance with the principles of good design set out in Policy ENV32.

(c) All proposals for residential development will be considered against the detailed standards and guidelines set out in the Council's Supplementary Planning Documents relating to residential design.

### **Supplementary Planning Documents**

#### **DESIGNING WALSALL**

Provides guidance on how to achieve good urban design within Walsall, including a range of key issues that developers must address. For residential developments, Privacy and aspect distances between dwellings must ensure that all occupants have a satisfactory level of amenity, whilst reflecting the existing and emerging character of the area. This will normally mean designing developments that, as a minimum, meet the numerical guidelines contained in Appendix E although distances greater than these guidelines state will be applicable where it is appropriate to the character of the area. It may be possible to achieve shorter distances through creative design or in order to protect an area's character.

Appendix E refers to a 24 metre separation between habitable windows.



## **National Policies**

### **PLANNING POLICY STATEMENT 1**

Encourages good design. Paragraph 34 states that design which is inappropriate in its context should not be accepted.

## **Consultation Replies**

None

## **Public Participation Responses**

None

## **Determining Issues**

Impact on privacy of nearby residents, and whether there have been any material changes in circumstances since the previous applications.

## **Observations**

As with the previous applications, the conservatory would be screened from the adjoining house number 6, the other half of the pair, by the boundary fence. It would lie in the shadow of the existing house and would cause little loss of daylight to this property. The length in relation to number 6 would comply with policy. The house on the opposite side, number 2, lies further forward but the conservatory would lie away from the boundary with this property.

The proposed conservatory would reduce the separation distance between the conservatory and the first floor windows in the rear of 8 Redbourn Road to approximately 18.5 metres. In the absence of any screening, this limited distance would result in an unacceptable loss of privacy both to occupiers of number 8 and the application property. This concern of the Council which led to the refusal of the previous applications has been upheld by the Planning Inspectorate.

At the time of the two applications in 2004, the policy basis for this concern was the 1995 UDP, which referred to a minimum separation of 21.5 metres between facing windows. The numerical guidelines in the 1995 UDP were superseded in 2005 by the Residential Development Standards, which have now been replaced in turn by the Designing Walsall Supplementary Planning Document. The minimum separation between facing windows has now been increased to 24 metres.

This increase in the separation distances between facing windows has therefore made the proposal even less acceptable under policy than previously.

Some screening is currently provided by conifers in the garden of the application property and number 8, and evergreen shrubs in the garden of number 8. These may have grown since the previous applications. However, plants cannot be relied on to provide a screen in the long term. The current or future occupiers of the application property would lose privacy in the event that the occupiers of number 8 chose to remove them. Number 8 lies to the north-east which means that any trees or shrubs at the end of their rear garden will shade this garden.

Councillor Harrison has commented that this size of conservatory would usually be acceptable under permitted development rights. However, this was also the case at the time of the previous applications. The recent changes in national legislation have not affected the need for planning permission in cases such as this where there is a restriction contained in the conditions of the original planning permission for a development.

There has been no material change in circumstances since the previous refusals of permission and the Inspectors dismissal of the appeal which would enable me to change my recommendation, which therefore remains to refuse the application.

### **Summary of Reasons for Granting Planning Permission**

### **Recommendation: Refuse**

1. The limited distance between the conservatory and the first floor windows on the rear of the neighbouring property number 8 Redbourn Road would allow overlooking between the two properties and cause a loss of privacy to both. The proposed development would therefore be contrary to Walsall's Unitary Development Plan, in particular policies GP2, ENV32 and H10, and the Supplementary Planning Document "Designing Walsall".
-



## ITEM NO: 7.

**To: DEVELOPMENT CONTROL  
COMMITTEE**

**Report of Head of Planning and  
Building Control, Regeneration and  
Performance Directorate On 27 Jan  
2009**

### **REASON FOR BRINGING TO COMMITTEE: Public Interest**

**Application Number:** 08/1885/TR

**Application Type:** Application to fell  
protected trees (T)

**Applicant:** Banner Homes

**Proposal:** Fell 13 Trees in front garden &  
crown raise one Beech. Fell 23 trees in  
rear garden.

**Ward:** Paddock

**Recommendation Summary:** Part approve/refuse

**Case Officer:** Simon Phipps (T1)

**Telephone Number:** 01922 652447

**Agent:**

**Location:** 44 PARK  
ROAD, WALSALL, WS5 3JU

**Expired:** 04/02/2009



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## **Summary of Reasons for Granting Planning Permission**

### **Recommendation: Part approve/refuse**

Walsall Metropolitan Borough Council hereby **refuses consent** for the following works as proposed in this application:

(At the front of the site)

- The removal of seven Spruce trees tagged T19, T23, T40, T41, T42, T43 and T44.
- The removal of one Cherry tree tagged T29.
- The removal of four Birch trees tagged T16, T17, T18, and T24.
- The crown raising of one Beech tree tagged T13 to give 5.5m ground clearance.

(At the rear of the site)

- The removal of eleven of the trees contained within group tagged TG10.
- The removal of four Norway Spruce tagged T54, T55, T56 and T57.
- The crown reduction by 30% and crown raising to give 3.5m clearance from ground level to one Weeping Willow tagged T76.

For the following reasons:

- The trees proposed for removal are in a fair to good condition and are an important landscape feature contributing significantly to the amenity and visual diversity of the local area and there is no justification for their removal.
- To crown reduce the Weeping Willow by 30% and crown raise to 3.5m is excessive and would be detrimental to the long term health and amenity value of the tree.
- To crown raise the Beech to 5.5m is unnecessary and would be detrimental to the long term health and amenity value of the tree. (Limited pruning works have already been undertaken to give clearance to vehicles visiting the site.)

Walsall Metropolitan Borough Council hereby **grants consent** for the following works as shown in this application:

- To remove five Fir trees contained within the group TG10, all of which are dead and dying and one which has been windblown and is hung up in an adjacent tree.

- To remove two Spruce tagged T58 and T59 which are closest to and within the crown of the adjacent Willow tagged T53.
- To crown clean one Weeping Willow tagged T76 by the removal of dead, dying or broken branches and to crown raise to give a maximum of 2.5m clearance from ground level.

Subject to the following conditions:

The date of felling shall be notified to the Local Planning Authority within one week of felling. Each tree felled shall be replaced within 12 months of notification with a standard size tree. The species and location of each replacement tree shall be agreed in writing by the Local Planning Authority. All planting shall be carried out in accordance with the agreed details. The Local Planning Authority shall be notified in writing when the replacement trees have been planted.

*Reason:* Pursuant to the requirements of Section 197 of the Town and Country Planning Act 1990.

All tree surgery shall be carried out by a contractor approved by the Head of Regeneration, Development and Delivery, or a person who is appropriately insured and competent in such operations.

*Reason:* To ensure a satisfactory standard of work.

This permission expires 2 years from the date of the decision and any works not undertaken by the date of expiry shall be the subject of a further application.

*Reason:* In order to give the Local Planning Authority an opportunity of reassessing the condition of the trees in the event of the works not being carried out.

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