



## Planning Committee

Report of Head of Planning and Building Control on 8 February 2024

Plans List Item Number: 1

### Reason for bringing to committee

Departure from the Unitary Development Plan

### Application Details

**Location:** BESCOT TRIANGLE, BESCOT ROAD, WALSALL.

**Proposal:** OUTLINE APPLICATION FOR PROPOSED ERECTION OF A B2 INDUSTRIAL UNIT, THE CREATION OF AN OPEN STORAGE AREA AND ASSOCIATED OFFICE (B8) AND ASSOCIATED INFRASTRUCTURE (ACCESS ONLY TO BE CONSIDERED). (AFFECTS PROW WAL107).

**Application Number:** 22/1548

**Case Officer:** Stephanie Hollands

**Applicant:** Corbally Group (Bescot) Limited

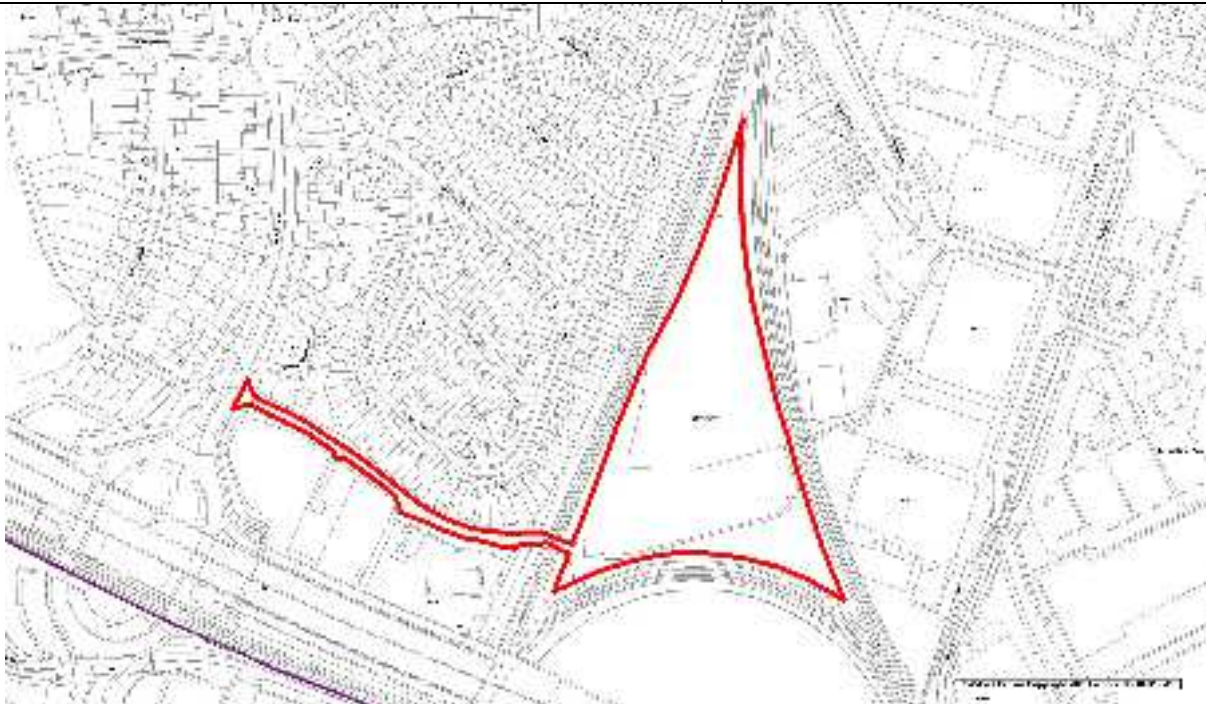
**Ward:** Pleck, Palfrey

**Agent:** Cerda Planning Limited

**Expired Date:** 14-Feb-2023

**Application Type:** Outline Permission: Major Application

**Time Extension Expiry:** 09-Feb-2024



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## Recommendation:

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Proposal

Outline application for proposed erection of a B2 industrial unit, the creation of an open storage area and associated office (B8) and associated infrastructure (access only to be considered). (Affects PROW Wal107).

On land off Bescot Road in Walsall, the application seeks outline planning consent for the Erection of an B2 industrial unit (465sqm's gross internal floor space), the creation of an open storage area (9616sqm's gross floorspace), and an associated office (B8) (93sqms gross internal floorspace), as well as associated infrastructure. The existing site access is to be retained with a small new section of estate road within the site boundary. To provide the most optimal layout for the open storage area, the proposed buildings have been placed in the south-west corner of the site, closest to the site entry. This also allows for larger vehicles to have a direct route to the open storage area. The proposal provides 15 no. car parking spaces with additional overspill surface car parking denoted within the open storage area.

Access into the application site will be via the private unnamed road off the main road network as per the existing site configuration. The movement of vehicles, visitors and personnel within the site will be managed by site personnel.

The proposed B2 Industrial Unit and the Associated Office (B8) buildings will typically feature metal profiled cladding to the walls and roof profiles with associated metal flashing details. The proposed materials will reflect the features of typical surrounding industrial units but with a contemporary colour palette and design. Any new openings and glazed areas will be identified in the detailed design.

The following documents have been submitted in support of the application:

- Transport Statement
- Planning Statement, Addendum and Addendum 2
- Ecological Appraisal
- Arboricultural Statement and Tree Condition Survey
- Design and Access Statement
- Flood Risk Assessment
- Interpretative Desk Study
- Air Quality Assessment
- Site Investigation Interpretative Report
- BNG Calculation
- Ecology Technical Note – BNG Calculations and Ecology Technical Note – Additional Ecological Information
- Biodiversity Metric

## Site and Surroundings

The red line application area consists of approximately 2.82 hectares (6.97 acres) of land. The site is located within Land off Bescot Road.

The existing site levels which will be retained and are generally set lower than the surrounding road levels. Level difference occur from the north woodland area to the south woodland area.

The predominant character of the buildings in the surrounding area comprises of 2 storey residential properties to the west beyond the railway line. To the east railway line are established industrial units providing a variety of use classes. To the south beyond the M6 motor way lies additional established industrial uses.

The application site, a former sewage works, comprises vacant land which has a triangular footprint. The site is heavily enlaced with woodland areas to the north and is bound by railway lines to the east & west. A former additional railway live line now disused and overgrown with trees lies to the south behind a Public Right of Way.

The primary vehicular and pedestrian access is from Bescot Road via a private unnamed road. Site access is under the bridge serving the railway line to the west of the site. This existing access is to be retained.

The site has some established existing trees along the site boundaries which are to be retained. Some trees are to be removed as part of the proposed development due to the low value amenity they are currently offering.

The site is located mostly within Flood Risk Zone 1. Land within Flood Zone 1 has been assessed as having less than 1 in 1,000 annual probability of river or sea flooding (<0.1%). However, the southern part of the site falls within Flood Risk Zone 2 with a medium probability of flooding and Zone 3 with a high probability of flooding.

The land at Bescot Road is enclosed between two active railway lines at the eastern and western boundaries. The southern boundary is enclosed by a disused railway line, by a woodland area, a small parcel of land and then the M6. The site is a short walk from Bescot railway station and Walsall FC Stadium. It is 0.4 miles from Junction 9 of the M6 motorway, providing transport links from Rugby, Birmingham, Stock-on-Trent, Liverpool, Manchester, Preston, Lancaster, and Carlisle.

The site is approximately 1.7 miles from the town of Walsall which offers a variety of shops, restaurants, cafes, and leisure activities.

The wider area comprises a mixture of residential suburban development to the west with industrial and retail units to the east and south.

## **Relevant Planning History**

02/0116/FL/W3 - Erection of security hut and 2.4m fence and 5 parking spaces Grant Permission Subject to Conditions – 25/04/2002.

02/0115/FL/W3 - DSM Demolition, Former Sewerage Works, off Bescot Road, Walsall - Temporary variation of condition 13 of permission BC34476P to extend the hours of operation – Refused permission – 17/01/2002.

## **Relevant Policies**

### **National Planning Policy Framework (NPPF)**

[www.gov.uk/guidance/national-planning-policy-framework](https://www.gov.uk/guidance/national-planning-policy-framework)

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

**Key provisions** of the NPPF relevant in this case:

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

On **planning conditions**, the NPPF (para 56) says:

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

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

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

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

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

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

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

### **Development Plan**

[www.go.walsall.gov.uk/planning\\_policy](http://www.go.walsall.gov.uk/planning_policy)

### **Saved Policies of Walsall Unitary Development Plan**

- 3.6 to 3.8 Environmental Improvement
- 3.9 Derelict Land Reclamation
- 3.11 Forestry and Trees
- GP2: Environmental Protection
- GP5: Equal Opportunities
- GP6: Disabled People
- ENV10: Pollution
- ENV11: Light Pollution
- ENV14: Development of Derelict and Previously Developed Sites
- ENV17: New Planting
- ENV18: Existing Woodlands, Trees and Hedgerows
- ENV23: Nature Conservation and New Development
- ENV24: Wildlife Corridors
- ENV32: Design and Development Proposals
- ENV33: Landscape Design
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- JP8: Bad Neighbour Industrial Uses
- T1 - Helping People to Get Around
- T7 - Car Parking
- T8 – Walking
- T9 – Cycling
- T10: Accessibility Standards – General
- T11: Access for Pedestrians, Cyclists and Wheelchair users
- T12: Access by Public Transport (Bus, Rail, Metro and Ring and Ride)
- T13: Parking Provision for Cars, Cycles and Taxis

### **Black Country Core Strategy**

- Vision, Sustainability Principles and Spatial Objectives

- CSP1: The Growth Network
- CSP2: Development Outside the Growth Network
- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High-Quality Employment Areas
- EMP4: Maintaining a Supply of Readily Available Employment Land
- EMP5: Improving Access to the Labour Market
- TRAN1: Priorities for the Development of the Transport Network
- TRAN2: Managing Transport Impacts of New Development
- TRAN3: The Efficient Movement of Freight
- TRAN4: Creating Coherent Networks for Cycling and for Walking
- TRAN5: Influencing the Demand for Travel and Travel Choices
- ENV1: Nature Conservation
- ENV2: Historic Character and Local Distinctiveness
- ENV3: Design Quality
- ENV5: Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV7: Renewable Energy
- ENV8: Air Quality

## **Walsall Site Allocation Document 2019**

- IND3: Retained Local Quality Industry
- OS1: Open Space, Sport and Recreation
- M1: Safeguarding of Minerals Resources
- RC1: Inside a Regeneration Corridor
- RC1: Outside Regeneration Corridor
- EN3: Flood Risk - Flood Zone 3
- EN3: Flood Risk - Flood Zone 2

## **Supplementary Planning Document**

### **Conserving Walsall's Natural Environment**

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands, and hedgerows

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

## Designing Walsall

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

## Air Quality SPD

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

## Consultation Replies

*Officer comments in italics*

**Coal Authority:** Do not object and recommend an informative note.

**Ecology Officer:** No objection recommends conditions relating to a Construction Environment Management Plan, Landscape and Ecological Management Plan and boundary fencing.

**Environment Agency:** No objection.

**Environmental Protection:** Recommend conditions relating to hours of operation, an air quality assessment, noise assessment and contaminated land investigation and remediation.

**Local Highways Authority:** Supports the outline application, subject to conditions relating to access road, parking and vehicle manoeuvring areas.

**Network Rail:** No further comments or concerns.

**Public Rights of Way:** Object to the proposed development, as insufficient details are currently available, to confirm safe public access along the public right of way at all times during introduction of the proposed development.

*The Public Rights of Way Officer has provided a condition to address the above concerns.*

**Severn Trent Water:** No objection subject to the inclusion of a drainage condition.

**Strategic Planning Policy:** Objection due to loss of the open space.

**Tree Preservation Officer:** Recommend conditions.

**West Midlands Police:** No objection. Note for applicant.

## Representations

The application was advertised by way of the display of a site and press notices and notification letters sent to surrounding properties. The public consultation time expired 31st July 2023 on the latest amended plans.

Seven comments received (some duplicates) objecting to proposal for the following reasons:

- Vibration
- Noise
- Dust
- Disruption
- Increased traffic
- Unsuitable road surface
- Impacts on health
- Increased pollution
- Effects on wildlife
- Trees act as screen for the noise
- Board description of use
- SLINCS designated area

Comments regarding devaluing properties, rights of access and damage to properties from existing uses are non-material planning considerations.

## Determining Issues

- Principle of Development
- Layout and Character
- Amenity of Neighbours and Amenity of Future Occupiers
- Highways
- Ecology
- Flood Risk / Drainage
- Trees / Protected Trees
- Ground Conditions and Environment

## Assessment of the Proposal

### Principle of Development

The loss of the open space [in principle] remains a point of contention and objection for Strategic Planning Policy, contrary to SAD policy OS1, with the premise that open space does not have to be physically accessible to the public to be of public benefit.

In terms of the impact on the SLINC designation, while recognising that landscaping will be a reserved matter should this outline be approved, there have been a number of discussions between our Ecologist and the applicants' Ecologist, with the latest revised scheme showing the maintenance of a 25 m [min.] wide wildlife corridor between the East boundary of the proposed storage area and the railway line, and, subject to there being controls on landscape and nature conservation enhancements being in place across the whole site, this make the mitigation, compensation and enhancement of that impact on balance, marginally acceptable under the existing policy framework.



While Policy holds an objection with regard to the loss of the open space, it is realised that this may need to be placed in the planning balance. At the time the land was designated as open space it was unlikely that it would be developed. The application proposal provides some benefits, including a number of jobs to be created. Finally, some of the open space is still being retained around the edges of the site in order for the development to meet the requirement stated with Policy ENV1: Nature Conservation so that development should not negatively impact Sites of Local Importance for Nature Conservation (SLINC) with the ecological benefits of this being managed.

It is considered that, on balance, the above reasons marginally outweigh the development plan allocation, and the principle of the application can be supported.

## **Layout and Character**

The proposed industrial unit, office building and car parking spaces would be at the far western side of the site where it is accessed off Bescot Road. The proposed buildings size and scale would not be out of keeping with the surrounding area and will be screened from the wider residential area by existing trees and woodland and so would not be overly obtrusive or detrimental to residential amenities. In the event that the proposals could be supported subject to safeguarding conditions. This would accord with saved UDP policies GP2, ENV32 and JP8.

## **Amenity of Neighbours and Amenity of Future Occupiers**

The proposed access to the development site is a service road that runs in a south-easterly direction from the entrance off Bescot Road, near to Junction 9 of the M6 motorway, to the first railway bridge. The service road is located to the rear of numbers 133 to 173 Dickinson Drive, is approximately 250 metres long with land registry identifying the initial 140 metres near Bescot Road, in the ownership of Severn Trent Water Ltd, and the remaining being owned by Highways England Company Ltd.

Historically, Walsall Council have received noise, vibration and dust complaints from Dickinson Drive residents due to a fleet of HGVs travelling along the service road to access the waste recycling activity located at the end of the service road and currently operated by AB Waste Management Ltd. Of note is that the Council does not have responsibility for maintenance of the service road and complaints are caused by vehicles, particularly HGVs, travelling at speed over an uneven road surface. An informal 10mph speed limit exists to minimise this impact, but this cannot be enforced by the Police or Council.

Whilst the site occupied by AB waste Management Ltd is regulated by the Environment Agency, there is no control over the use of the service road. Also of note is that the Environment Agency do not impose any time constraints on operations or restrict the days of the week that AB Waste Management Ltd operate and complaints have been received concerning HGV movement early morning, late evening and at weekends.

With a view to minimising the impact of the use of the service road on Dickinson Drive residents, a planning condition within BC34476P was imposed on the site currently occupied by AB Waste Management Ltd requiring that the site is not operated outside the hours of 0800 and 1700 on Mondays to Fridays; 0800 and 1200 on Saturdays; and not at all on Sundays, or Public Holidays. This limitation included the prohibition of vehicles waiting overnight on the access road outside of those hours. Only limited information has been provided concerning the activities on the proposed development site and therefore this condition should be considered.

The other main user of the service road is National Highways (formerly Highways England) and their subcontractors to access their compound off the service road along with residents of Dickinson Drive to access garages.

If there is to be vehicle parking then the applicant will be required to install electric vehicle charging points, as required by Building Control Regulations Part S. See notes for applicant.

The submitted Transport Statement does not indicate a significant number of vehicle movements that would require an air quality assessment being carried out to consider the impact of introducing further HGVs and cars to this service road. On the other hand, the applicant has not indicated what the proposed activities will be on the site. Depending on the proposed activities, the applicant may be required to undertake an air quality assessment, particularly given that the applicant is applying for a B2 planning use class (the carrying on of an industrial process other than one falling within class B1). Planning B1 class uses include; an office use, that's not A2 planning use, research and development of products and processes, or any industrial use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

Based on the above the need for an air quality assessment is dependent upon what activities will be conducted within the proposed units (not just those associated with traffic movement) and associated external areas, for example, proposed uses that may create noise, vibration, odour, dust and smoke, then there will be a need for an air quality assessment and possibly other controls. The difficulty with asking for an open/any use permission, means that we will need to include restrictions based on all scenarios.

The Air Quality Assessment submitted confirms that there will not be any significant impacts from vehicles using the access road, which we have always agreed with. As previously stated, the main concern is with air quality impacts is from the use of the buildings and yard area, which still appears to be unknown.

Indeed, 1.1.5 of the air quality report advises:

*As the specifics of the materials to be stored are unknown under the outline application it is not possible to prepare an appropriate assessment. It is expected that potential operation dust impacts would be addressed at a later stage via a suitable planning condition or at the reserved matters stage.*

The air quality report has concentrated on impacts from the construction of the proposed buildings and infrastructure, something that we generally control via an appropriate Construction Management Plan condition and from impacts traffic using the access road.

The Environmental Protection comments remain the same as previous, until they are given an indication of what the site is to be used for then it may be possible to consider appropriate mitigation measures and controls and the necessity for an air quality assessment. To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

Similarly, with the Applicant requesting an open planning permission, they will need to undertake a noise assessment to determine noise limits/mitigation measures that will ensure nearby residential premises will not be significantly affected by future activities. This noise survey will need to be undertaken before any construction activities commence, such that mitigation measures can be incorporated. In order to protect the amenities of the surrounding occupiers in compliance with Policies GP2 and ENV32 of the UDP.

## Highways

The revised application looks for Outline consent, with access only for consideration, for a B2 industrial unit with ancillary detached office building and B8 open storage yard on land formerly a sewage treatment plant which has long since been removed and has become derelict and re-wilded.

The site is hemmed in with railway lines on all sides.

The revised proposal has reduced the site area from 9616sqm to 7674sqm.

The reduction in the site area does not affect the Highway Authority's previous support for the scheme and may well result in a corresponding reduction in vehicle movements to the site.

Vehicle access is via a private industrial shared vehicle access road off the A461 Bescot Road which is a classified road and a Strategic Highway.

The private shared access road also carries a Public Right of Way – see separate comments from the Public Rights of Way Officer.

Additional information has been submitted demonstrating that the largest HGV expected to visit the site can pass safely beneath the bridge without striking the bridge. This is subject to confirmation from Network Rail.

A 'Give-Way' arrangement is proposed beneath the bridge.

The underbridge is single track with no segregated footway to accommodate the Public Right of Way.

Para 3.2.10 of the submitted Transport Statement states that *'the route [the Byway] has been severed at the railway crossing to the east of the site and is not currently used. It is therefore proposed as part of the application to formally stop up the Byway'*. Comments from the Public Rights of Way Officer should be referred to in this respect.

Adequate turning and manoeuvring space is provided.

15 parking spaces are proposed inclusive of two disabled bays and two EV spaces.

Based upon the GFA of the B2 unit of 465sqm and the ancillary E(g) (iii) Office at 93sqm GFA the maximum T13 parking policy requirement is 15 spaces inclusive of 2 disabled spaces.

The development proposal therefore accords with T13 parking policy.

The development is predicted to generate less than 20 two-way trips during the peak periods.

This is not deemed to constitute a significant increase on the highway network.

Following the submission of additional information demonstrating that the largest vehicle expected to service the development can satisfactorily pass under the railway bridge (subject to confirmation from Network Rail) the Highway Authority supports the outline application, subject to conditions relating to access road, parking and vehicle manoeuvring areas.

## Public Rights of Way

A definitive public right of way (PROW), known as restricted Byway 107 Walsall falls within

the red planning boundary site outline, running along the private access road and the wooded area to the south of Bescot Triangle. There is currently a temporary Traffic Regulation Order in place on this PROW at Wallows Lane Level crossing directly adjacent to the red planning site boundary outline, although the public right of way remains in existence and open for public use across the site without restriction.

The revised Design and Access Statement, and updated Planning Layout confirm that no development is proposed to take place on the line of the PROW, and that it will be retained along the private access track, across the proposed site access and wooded area.

Public rights of way object to the proposed development, as insufficient details are currently available, to confirm safe public access along the public right of way at all times during introduction of the proposed development. These concerns may be addressed through the provision of additional planning details to ensure safety of the restricted byway prior to determination of this outline application. Alternatively, planning conditions may be included within the planning decision notice for this outline application, to enable details to be provided by the applicant at reserved matters and agreed prior to commencement of the proposed development.

The Public Rights of Way Officer has provided a condition to address the above concerns.

## **Ecology**

Following correspondence and amendments to the proposals to include a 25m buffer strip along the western boundary alongside detailed information on the mitigation measures to ensure the retained areas and habitat creation areas are protected and enhanced during construction and operation of the development, the Ecology Officer believes that the development now meets the requirement stated with Policy ENV1: Nature Conservation that development should not negatively impact Sites of Local Importance for Nature Conservation (SLINC).

To ensure that stipulation within Ecological Appraisal report, Biodiversity Impact Assessment and Ecology Technical Note are implemented as part of the development The Ecology Officer would seek for a Construction and Ecological Management Plan and Landscape and Ecological Management Plan are secured by condition. This should include the securing of management of the SLINC for 30 years to ensure that habitat enhanced within the management plan which their target condition as set out with the Biodiversity Impact Assessment dated April 2023.

## **Flood Risk / Drainage**

The Environment Agency note although some areas of the site are located in Flood Zone 3, the development is located in Flood Zone 1 and Flood Zone 2. Therefore, for applications such as this we refer the LPA to our Flood Risk Standing Advice.

Severn Trent Water raise no objection to the proposed development subject to the inclusion of a drainage condition.

The Lead Local Flood Authority are now satisfied with the submitted proposals and have no objection to the granting of outline planning permission. The Lead Local Flood Authority would however recommend that a condition relating to the control of surface water is attached to any planning permission in order to secure the implementation of the scheme in accordance with the submitted documents. To ensure the development is provided with a satisfactory means of drainage and/or to reduce the risk of creating or exacerbating a flooding problem and/or to minimise the risk of pollution and/or to safeguard water quality from fuels, oils and other chemicals from the site in accordance with NPPF10, BCCS Policy ENV5 and

saved Walsall's Unitary Development Plan policy GP2 and ENV40.

## **Trees / Protected Trees**

The Tree Preservation Officer raises no objection to the proposed development and recommended conditions relating to details of both hard and soft landscaping works, Protective fencing and ground protection and retained trees.

## **Ground Conditions and Environment**

The Coal Authority have reviewed the proposals and confirm that part of the application site falls within the defined Development High Risk Area.

The Coal Authority records indicate that within that part of the application site and surrounding area there are coal mining features and hazards, which should be considered as part of development proposals.

The Coal Authority's general approach in cases where development is proposed within the Development High Risk Area is to recommend that the applicant obtains coal mining information for the application and submits a Coal Mining Risk Assessment to support the planning application.

However, when considering this particular proposal, the specific part of the site where the structures are proposed actually falls outside the defined Development High Risk Area. Therefore, the Coal Authority do not consider that a Coal Mining Risk Assessment is necessary for this proposal and do not object to this planning application.

As the development proposes a building and the site was previously associated with a sewage works, the Applicant will need to undertake a contaminated land investigation, and if necessary, agree and implement a remediation statement with the Local Planning Authority.

A Site Investigation Interpretative Report', March 2023, G&J Geoenvironmental Consultants Ltd, Report Reference: GJ280(01)-R001-V1 has been submitted in support of the application. The report represents the findings of an intrusive investigation of the application site.

The report has identified contaminants to be present and has offered a proposed remediation methodology based on the future activity being of an industrial/commercial nature. Environmental Protection are fine with the proposed recommendations. However, the Consultant has not undertaken any ground gas measurements, on the basis that the intrusive investigation works did not identify significant degradable material, although, they have recommended that the buildings include gas protection measures within their design.

Given that historically the site has been a sewerage works and some landfilling of materials has occurred, Environmental Protection are of the opinion that ground gas monitoring is required, particularly as any significant hard covering on the site may result in any ground gas migrating off site.

The consultant has also provided recommendations to the Applicant in the case where previously unidentified contamination is encountered, requiring them to undertake further investigation.

Planning conditions for contaminated land investigation and remediation are recommended. To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

## Conclusions and Reasons for Decision

In weighing the key material considerations, consultee and neighbour responses against the national and local planning policies and guidance, it is considered that the principle of development would bring economic growth and productivity to the area. The proposed vehicle access arrangements would not have an impact and the proposal provides localised access improvements through the provision qualitative improvements to the public right of way Wal107.

The site has existing adverse ground conditions that would need to be addressed as part of a reserved matters, however in principle terms this is not a barrier to supporting the outline proposal. There are no substantial ecological constraints to development the site, but an opportunity to provide net ecologically grounds through sensitive and substantial landscape improvements.

The development is not at risk of or poses flood risk issues.

While the size of such a building and its operation could have impacts on visual and residential amenity grounds, the principle of a buildings in this location could be acceptable. Detailed designs through reserved matters will need to demonstrate a satisfactory relationship with neighbours and the general character of the area.

Taking into account the above factors it is considered that the application should be recommended for approval. The development is considered to meet the aims and objectives of the National Planning Policy Framework, policies CSP1, CSP3, CSP4, CPS5, EMP1, EMP2, TRAN1, TRAN2, TRAN3, TRAN4, TRAN5, ENV1, ENV2, ENV3, ENV5, ENV7 and ENV8 of the Black Country Core Strategy, policies IND3, M1, RC1 and EN3 of the Walsall Site Allocation Document and saved policies GP2, 3.6, 3.7, ENV10, ENV11, ENV14, ENV18, ENV23, ENV24, ENV32, ENV33, ENV40, JP8, T1, T7, T8, T9, and T13 of Walsall Unitary Development Plan, Supplementary Planning Documents Designing Walsall, Conserving Walsall's Natural Environment and Air Quality.

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

## Positive and Proactive Working with the Applicant

Officers have spoken with the applicant's agent and in response to concerns raised regarding ecology, policy, highways, public rights of way, environmental protection, Network Rail and the Lead Local Flood Authority amended plans and additional information have been submitted which enable full support to be given to the scheme.

## Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and subject to:

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed.

## Conditions and Reasons

1a: Application for the approval of reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

1b: The development hereby permitted shall be begun not later than the expiration of 2 years from the date of approval of the last of the reserved matters to be approved.

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

2: Prior to the commencement of development hereby permitted approval of the details of the following reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced:

1. Appearance
2. Landscaping
3. Layout
4. Scale

Reason: Pursuant to Town & Country Planning (Development Management Procedure) Order 2015.

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

- Transport Statement received 15/11/2022
- Planning Statement received 15/11/2022
- Ecological Appraisal received 15/11/2022
- Arboricultural Statement and Tree Condition Survey received 16/11/2022
- Site Access (23400-02) received 16/11/2022
- Design and Access Statement received 27/04/2023
- Flood Risk Assessment received 20/12/2022
- Interpretative Desk Study received 16/02/2023
- Air Quality Assessment received 08/03/2023
- Site Investigation Interpretative Report received 31/03/2023
- BNG Calculation received 27/04/2023
- Ecology Technical Note – BNG Calculations received 27/04/2023
- Location Plan (PA-01 Revision A) received 27/04/2023
- Existing Site Plan (PA-02 Revision A) received 27/04/2023
- Proposed Site Plan (PA-03 Revision B) received 10/07/2023
- Proposed Habitats (Figure 2) received 10/07/2023
- Ecology Technical Note – Additional Ecological Information received 07/08/2023
- Biodiversity Metric received 07/08/2023
- Planning Statement Addendum received 19/09/2023
- Planning Statement Addendum 2 received 13/11/2023

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).

4a: Prior to commencement of the development hereby permitted (including any vegetation clearance/ or any demolition) a Construction Environment Management Plan (CEMP) shall be submitted in writing to and approved in writing by the Local Planning Authority. The approved CEMP shall be implemented in full according to the specified timescales. The revised plan shall include:

- i. Tree protection plan for all trees scheduled to be retained;

- ii. Precautionary working practices in respect to badgers, bats, birds, and hedgehogs;
- iii. Vegetation removal outside bird nesting season (Sept to Feb);
- iv. Invasive species control;
- v. Precautionary working measures, including mitigation to prevent dust and drainage from the construction and future operation of the development impacting the retained area of the onsite Site of Local Importance of Nature Conservation and Ford Brook Site of Local Importance of Nature Conservation; and
- vi. Lighting scheme to avoid light spill from the industrial uses onto the SLINC, open space area and the 25 m buffer to protect bats, detailing the provision of lighting across the site, in accordance with guidance outlined in Note 08/18 bats and artificial lighting in the UK, Bats and the Built Environment Series, BCT, 2018.

4b. The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Plan and the approved Construction Environmental Management Plan shall be maintained throughout the lifetime of the development.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

5a: Prior to the commencement of building operations above damp-proof course for buildings one and two shown on plan PA\_03 Revision B (planning drawings proposed site plan) dated November 2022 a Landscape and Ecological Management Plan shall be submitted in writing to and approved in writing by the Local Planning Authority. This shall include:

- i. Details of management practices for retained and newly created habitat for a minimum of 30 years;
- ii. The submission of monitoring reports to the Local Planning Authority for approval every 10 years to ensure the habitat conditions targets are on track.
- iii. A detailed habitat management regime for both retained and newly created habitat as per the Ecology Technical Note dated August 2023 and Biodiversity Impact Assessment dated April 2023;
- iv. Provision of three bird boxes, with 32mm hole, attached to retained trees on site;
- v. Provision of two hedgehog boxes within the retained woodland area away from the operational area;
- vi. Provision of hedgehog highways within all proposed fencing.

5b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Landscape and Ecological Management Plan and approved monitoring reports.

5c: The approved Landscape and Ecological Management Plan shall be retained for the lifetime of the development.

Reason: To preserve and enhance the natural environment and safeguard any protected species in accordance with Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

6a: Prior to the commencement of building operations above damp-proof course of the development hereby permitted, details of the proposed boundary treatment of the site, including heights, positions and extents, materials and finishes of all walls, fences, gates or other means of enclosure, shall be submitted in writing to and approved in writing by the



Local Planning Authority. The submitted details shall include all internal site divisions in addition to the perimeter boundary treatments and all gates shall be designed and installed so they cannot open outwards onto a highway.

6b: The development shall not be carried out otherwise than in accordance with the approved schedule and the boundary treatments shall thereafter be retained for the lifetime of the development.

6c: The development hereby permitted shall not be occupied until all boundary treatments have been erected in accordance with the approved schedule.

Reason: To ensure the satisfactory appearance and functioning of the development in accordance with the saved policies GP2 and ENV32 of the Walsall Unitary Development Plan and in the interest of highway and pedestrian safety in accordance with the saved UDP policies T7 and T13 of the Walsall Unitary Development Plan

7a: Prior to commencement of the development hereby permitted a noise survey assessment shall take into account the proposed use of the buildings and the site including the access to and from the public highway shall be submitted in writing to and approved in writing by the Local Planning Authority. The noise survey assessment shall include recommendations for mitigation measures for impacts to sensitive receptors.

7b: Prior to occupation of the development hereby permitted the approved noise survey mitigation measures shall not be carried out otherwise than in accordance with the approved details and such measures shall thereafter be retained for the lifetime of the development.

Reason: In order to protect the amenities of the surrounding occupiers in compliance with Policies GP2 and ENV32 of the UDP.

8a: Prior to commencement of the development hereby permitted a site survey to identify any potentially hazardous materials shall be carried out and a Method Statement detailing actions to be taken and timescales for the taking of such action to prevent localised contamination shall be submitted in writing to and approved in writing by the Local Planning Authority.

8b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement.

8c: Prior to commencement of the development hereby permitted including any site preparation or engineering operations, a validation report shall be submitted in writing to the Local Planning Authority to demonstrate that no ground contamination has occurred as a result of the removal of any hazardous materials and the building and to verify that the approved Method Statement has been carried out.

Reason: To prevent potential contamination of the ground due to any potentially hazardous materials associated with the buildings or their previous use in accordance with saved policies GP2 and ENV14 of Walsall's Unitary Development Plan.

9a: Prior to commencement of the development hereby permitted, details of measures to ensure safe pedestrian, cycle and horse-riding access along the Public Right of Way known as restricted Byway 107 Walsall, along the site access track shall be submitted in writing to and approved in writing by the Local Planning Authority. Measures shall include:

- i. Introduction of a level and inclusive crossing point on the Public Right of Way where it crosses the new site access
- ii. Introduction of waiting areas for path users and site traffic at the railway bridge
- iii. Safety signs and alternative measures at the new site access and railway

- bridge, to alert drivers to path users, and vice versa
- iv. Public rights of way pointer signs and way markers to safely guide path users.
- v. Removal of the temporary concrete barriers adjacent to the new site entrance and replacement with new equestrian gates.
- vi. Proposed drainage scheme of the public right of way and site access, including underneath the railway bridge.
- vii. Details of the proposed PROW surface, where it passes through the wooded area, to comprise of inert type 1 stone laid on top of the existing natural path surface, to ensure the path surface remains free from mud and waterlogging, following the introduction of the hardstanding areas of the development.
- viii. Details of routine maintenance of the path surface, removal of any fly tipping and clearance of vegetation at regular intervals for the lifetime of the development.

9b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Public Rights of Way details and shall be retained for the lifetime of the development.

Reason: To ensure that no works commence on the site until measures are in place to ensure safe public access at all times along the Public Right of Way, known as Restricted Byway 107 Walsall.

10a: Prior to the commencement of development hereby permitted drainage plans for the discharge of surface water, to include all oil and chemical interceptors and disposal of foul sewerage and all existing and proposed underground services and sewers shall be submitted in writing to and approved in writing by the Local Planning Authority.

10b: The development shall not be carried out otherwise than in accordance with the approved drainage details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

10c: The development hereby permitted shall not be occupied until the approved drainage has been installed in accordance with the approved plans.

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

11a: Prior to the commencement of development hereby approved:

- i. Details of protective fencing and ground protection to be installed around all retained trees shall be submitted in writing to and approved in writing by the Local Planning Authority.
- ii. The approved protective fencing and ground protection shall be installed.
- iii. One month's written notice of the intention to commence development shall be given to the Local Planning Authority to allow the Council's Arboricultural Officer to fully inspect the installation of the protective fencing and ground protection.

11b: The erection of fencing for the protection of any retained tree shall be undertaken in accordance with the approved details before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

11c: Nothing shall be stored or placed, nor any fires started, any tipping, refuelling, disposal of solvents or cement mixing carried out inside the protective fencing or on the ground protection referred to in part a to this condition. Ground levels within protective fencing and on ground protection areas shall not be altered nor shall any excavation or vehicular access or drainage routes be made.

11d: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details.

Reason: To preserve and enhance the visual amenities of the locality in accordance with Saved Policy ENV18 of the UDP and Conserving Walsall's Natural Environment SPD plus NPPF paragraphs 136 and 180.

12a: Prior to commencement of the development hereby permitted an air quality assessment taking into account the proposed uses of the buildings and the open storage area, plus the associated additional vehicles coming and going from the development shall be submitted in writing to and approved in writing by the Local Planning Authority. The assessment shall include details of recommendations for mitigation measures.

12b: Prior to occupation of the development hereby permitted shall not be carried out otherwise than in accordance with the agreed mitigation measures and such measures shall thereafter be retained for the lifetime of the development.

Reason: To reduce potential negative health impact upon future occupants in compliance with the saved policy ENV10 of Walsall's Unitary Development Plan.

13a: Prior to the commencement of development hereby permitted above the damp proof course details of landscaping including both hard and soft landscape works and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority. This scheme shall include details of all hard surfaces, walls, fences, access features, the existing trees, and hedges to be retained, together with any new planting and details of the measures to be taken to protect existing retained landscape features during the construction of the development.

13b: Prior to occupation of the development hereby permitted the approved landscaping details shall be carried out.

13c: If within a period of 5 years from the date of the planting of any trees shrubs or plants, that tree shrub or plant, or any tree shrub or plant planted in replacement for it, is removed, uprooted, destroyed or dies and or becomes seriously damaged or diseased in that period another tree shrub or plant of the same species and size as that originally planted shall be planted at the same place.

Reason: In the interests of the visual amenities of the area in accordance with saved policies ENV17 and ENV33 of Walsall's Unitary Development Plan.

14a: Prior to the commencement of building operations above damp-proof course of the development hereby permitted a schedule of materials to be used in the construction of the external surfaces including details of the colour, size, texture, material and specification of bricks, render, roof tiles, windows, doors, rainwater products and soffits shall be submitted in writing to and approved in writing by the Local Planning Authority.

14b: The development shall not be carried out otherwise than in accordance with the approved details and the approved materials shall thereafter be retained for the lifetime of the development.

Reason: To ensure the satisfactory appearance of the development and to comply with saved policies GP2 and ENV32 Walsall's Unitary Development Plan.

15a: Prior to the commencement of the development hereby permitted, details for the control of surface water as part of the temporary works and construction period shall be submitted in writing to and approved in writing by the Local Planning Authority.

15b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved details and the approved details shall thereafter be retained for the construction period of the development.

Reason: To reduce the risk of surface water flooding to the development and surrounding properties during construction in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

16: Prior to occupation of the development hereby permitted, the access road, parking, and vehicle manoeuvring areas shall be implemented, consolidated, hard surfaced in tarmac. The access and parking areas shall thereafter be retained and used for no other purpose for the lifetime of the development.

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

17: None of the trees on the site shown on the approved plans as retained trees shall be lopped, topped, felled, root pruned, cut down or uprooted for the lifetime of the development.

Reason: To safeguard the existing trees on the site in accordance with saved policy ENV18 of Walsall's Unitary Development Plan.

18: No trees, scrub, or hedges shall be removed between September to February inclusive in any year.

Reason: To safeguard the existing trees on the site in accordance with saved policy ENV18 of Walsall's Unitary Development Plan.

19: The development hereby permitted shall not be used otherwise than for the purposes of Classes B2 (General Industry) and B8 (associated office) of the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that Class in any Order revising, revoking or succeeding that Order with or without modification and any office space supplied shall be ancillary to this use only.

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

20: No machinery shall be operated, or process shall be carried out, or deliveries taken at or despatched from the site otherwise than between the hours of 0800 and 1700 on Mondays to Fridays; 0800 and 1200 on Saturdays; and not at all on Sundays or Public Holidays\*.

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

## **Notes for Applicant**

\*Hours of operation. Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday.

### **Coal Authority**

***The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848.***

***Further information is also available on The Coal Authority website at [www.coal.gov.uk](http://www.coal.gov.uk)***

***Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service at [www.groundstability.com](http://www.groundstability.com)***

### **West Midlands Police**

Ensure security between any public and private areas of commercial premises. Particularly security of offices cash, higher value items.

Consider construction security.

[https://www.securedbydesign.com/images/CONSTRUCTION\\_SITE\\_SECURITY\\_GUIDE\\_A4\\_8pp.pdf](https://www.securedbydesign.com/images/CONSTRUCTION_SITE_SECURITY_GUIDE_A4_8pp.pdf)

Security is important.

A change of environment requires review of safety and security and an opportunity for improvement.

Any measures are more easily included during construction or alterations.

A review of security including alarm, CCTV, lighting and access control.

Suitable lighting provides some security.

External LED lights with daylight sensors to external walls, particularly by entrances and lighting to parking areas.

Other lighting should not be located close to fencing to provide a climbing aid.

Low bollard style lighting is not a security feature providing poor visibility and identification.

Any cycle storage should be located close to entrances in clear view, natural surveillance.

Alarm and CCTV installers should be approved by NSI, SSAIB or both

See <https://www.nsi.org.uk/> and <https://ssaib.org/>

I would recommend security using the principles of Secured By Design.

Below is a link to secured by design guides, including Commercial, police approved crime reduction information.

<https://www.securedbydesign.com/guidance/design-guides>

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

[https://www.securedbydesign.com/images/downloads/SBD\\_Commercial\\_2015\\_V2.pdf](https://www.securedbydesign.com/images/downloads/SBD_Commercial_2015_V2.pdf)

Secured by Design security standards are explained.

Please see: <https://www.securedbydesign.com/guidance/standards-explained>

### **Electric Vehicle Charging Points**

Building Regulation Approved Document S, 'Infrastructure for charging electric vehicles', requires for new dwellings to include electric vehicle charging points and appropriate cabling for other parking spaces. The Applicant will need to refer to Walsall Council Building Control Section or their own Building Control provider for further information on compliance.

**END OF OFFICERS REPORT**