



Walsall Council

Planning and Building Control

Planning Committee 28 November 2024

Report of Head of Planning and Building Control

Plans list item number

Item number: 1

Reason for reporting to the planning committee.

Called in by a Councillor Bird regarding the potential for the regeneration of the application site

Application details.

Application reference: 23/1395

Site location: DRAYTON GROUP - MERCEDES BENZ OF WALSALL, MIDLAND GARAGE LIMITED, DUDLEY STREET, WALSALL, WS1 3NL

Application proposal: Change of use from a car dealership (sui generis) to supermarket (use class E) with new glass frontage associated storage and bin store, 5 no. restaurants (use class E) with ancillary take aways, new shop fronts, bin store and 24 hour security office. Reconfigured parking layout on frontage with bike store. (Adj PROW Wal78 and 79).

Application type: Full Application: Major Mixed Use Classes

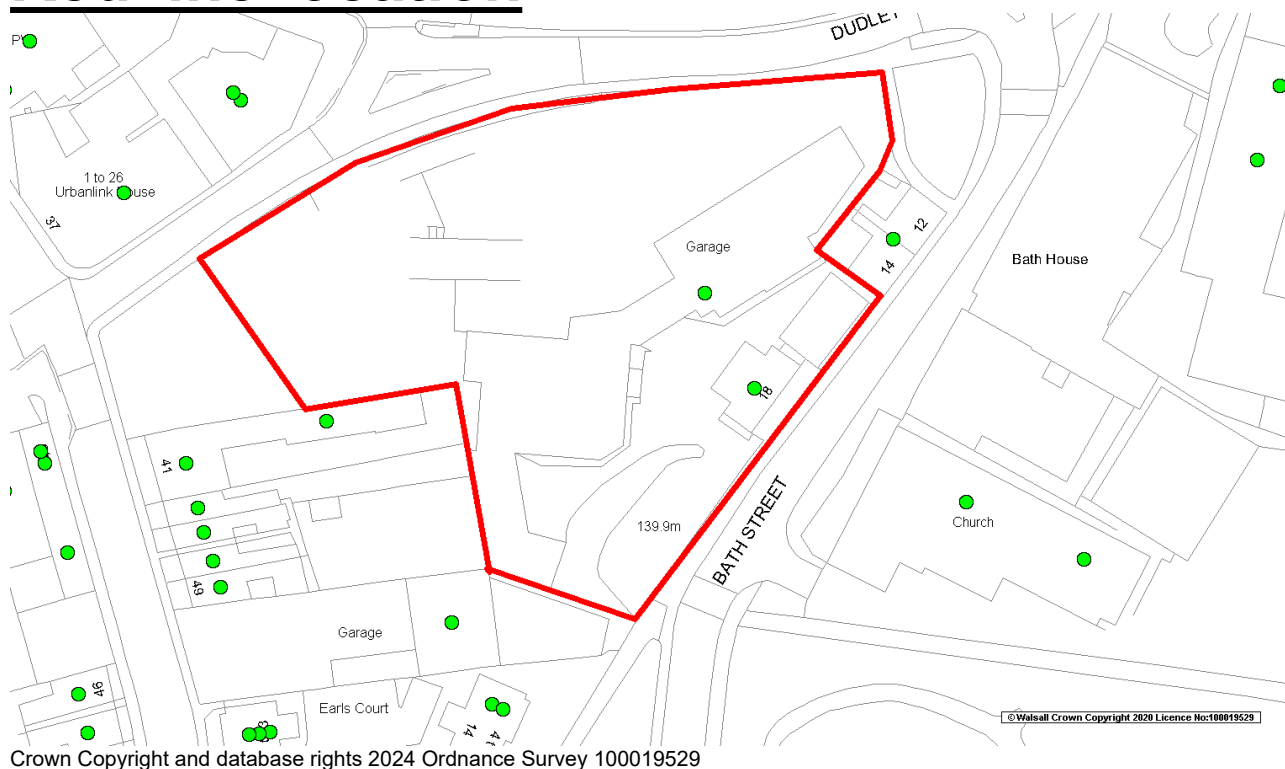
Link to application documents: <https://go.walsall.gov.uk/planningapps?id=23/1395>

Applicant: Mr Suleman, ms111 LTD ms111 LTD, 37 Allcock Street, Birmingham, West Mids, B94DY

Planning agent: - ryder, Architecture & Interior Design Ltd Architecture & Interior Design Ltd, 51, Coleshill Road, Hodge Hill, Birmingham, B36 8DT

Ward: St Matthews

Red line location



Recommendation

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

1. The amendment and finalising of conditions.

Site and surroundings

The application site forms an existing former car dealership complex and car park in the area of the junction with Bath Street and Dudley Street Walsall.

The site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for Planning and is situated outside the Walsall Town Centre. The site is adjacent to a public right of way (Adj PROW Wal78 and 79), but this is not affected by the proposal. The site is also adjacent to the Church Hill Conservation Area, and this is situated on the other side of Dudley Street. The submitted heritage assessment identifies St Matthews Church, as being Grade II* Listed.

Relevant planning history

02/2096 - Relevant A1 Retail Development, including designer outlet and multi-storey car park amendment to Reserved Matters BC57512P/C. – Granted 3 March 2003.

05/0088/FL External alterations to the existing showroom – Granted 24 February 2005.

05/1337 – 2 No. Fascia signs to front of building, 1 No. pylon sign, 2 No. free standing directional signs, 1 No. double sided free standing directional sign and 3 No. 8m high flagpoles - Granted 15 August 2005.

07/0365 Extension to existing workshop and erection of preparation building and relocation of retaining wall-Granted 04 April 2007.

14/1576 Change of use of existing public car park to parking and display of cars ancillary to adjacent Mercedes Benz Dealership - Granted 12 December 2014.

15/0586 Erection of various signage: 1 x Pylon Sign (illuminated); 1 x Gateway sign; 1 x Entrance sign; 4 x Icon signs; 1 x Information sign; 3 x Flagpoles; 1 x Star Module sign 0 Granted 4 June 2015.

Relevant policies

National Planning Policy Framework (NPPF)

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". The NPPF is a material consideration in the determination of a planning application.

Human rights and reducing inequalities

The provisions of the Human Rights Act and principles contained in the Convention on Human Rights have been taken into account in reaching the recommendation contained in this report. The articles/protocols identified below were considered of particular relevance:

- Article 8 – Right to Respect for Private and Family Life
- THE FIRST PROTOCOL – Article 1: Protection of Property

Section 149(1) of the Equality Act 2010 places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it (the Public Sector Equality Duty or 'PSED'). There are no equality implications anticipated as a result of this decision.

Walsall Council Development Plan

Planning law requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Our Development Plan includes:

- Black Country Core Strategy (BCCS)
- Walsall Site Allocation Document (SAD)
- Saved policies of Walsall Unitary Development Plan (UDP)
- Walsall Town Centre Area Action Plan (AAP)

Planning guidance is published within a number of Supplementary Planning Documents. Those of relevance will be referenced in this assessment.

Public consultation has been carried out in accordance with the Development Management Procedure Order and the council's Statement of Community Involvement.

Consultee comments (planning officer's summary)

Conservation Officer

Concerns raised regarding the submitted Heritage Statement which does not provide a detailed assessment of the impact of the proposal.

Ecology Officer

No objection. Do not have any ecological comments.

Environmental Health

No objection, request conditions.

Environmental Protection

No objections subject to conditions.

Historic England

No objections.

Local Highways Authority

Supports the proposal and considers the revised development will not have an unacceptable impact on road safety or have severe cumulative impacts on the

operation of the road network and is acceptable in accordance with the NPPF December 2023 paragraph 115, and supports the proposal, subject to conditions in relation to parking and turning, cycle storage facilities, and a Construction Environmental Management Plan.

Lead Local Flood Authority

No objections subject to conditions.

Public Health

No objection. No comment.

Severn Trent Water

No objections to the proposal subject to the inclusion of a condition in relation to drainage plans for the disposal of foul and surface water flows.

Strategic Planning Policy

The policy team cannot support the application on strategic policy grounds, in particular, AAP policies AAPS1, AAPS2, BCCS Policy CEN7 and UDP policy S7, especially S7 [VI]. Also, UDP policy S11 is of some relevance as insistence on the inclusion of a drive-through facility should not be a reason to require an edge-of-centre or out of centre location.

West Midlands Fire Service

Note for applicant.

West Midlands Police

No objection. Note for applicant.

Neighbour and interested parties' comments (planning officer's summary)

Objections

6 comments received objecting to proposal for the following reasons:

- Highway safety
- Congestion
- Antisocial behaviour
- Other sites more suitable for this use

Petition with more than 10 signatures against the proposal regarding an increase in congestion, traffic, and antisocial behaviour.

An objection from Valerie Vaz MP has been received regarding the impact of the proposal on Walsall Town Centre retail function. Traffic and congestion and impact on heritage assets and health caused by the negative impact of hot food takeaways on the local community and school children.

Support

6 received in support of proposal for the following reasons:

- Job creation
- Economic development
- Good for the community
- Increased availability of dining and leisure facilities
- Will bring more business to the area

Determining issues

1. Principle of development
2. Heritage assessment
3. Design, layout, and character
4. Amenity of neighbours and future occupiers
5. Highways
6. Ecology and Biodiversity Net Gain
7. Flood risk / Drainage
8. Ground conditions and environment

Assessment of the proposal

Principle of development

The application involves a change of use from a car dealership (sui generis) to supermarket (use class E) with new glass frontage associated storage and bin store, 5 no. restaurants (use class E) with ancillary take aways, new shop fronts, bin store and 24-hour security office. Reconfigured parking layout on frontage with bike store. (Adjacent to the PROW Wal78 and 79).

The application site is an existing car dealership which is now unoccupied. The proposal includes associated parking and servicing. The site is on the edge of the Walsall Town Centre.

The application is accompanied by a retail and sequential assessment. The retail and sequential assessment do not conclusively demonstrate the impact on the Walsall Town Centre.

The existing site is currently vacant since the closure of the Mercedes Benz car dealership in September 2022. The site is located within the Walsall Strategic Centre; however, it is situated outside of the Primary Shopping Area (PSA).

The proposal will retain the existing building footprint; however, the supporting drawings show that the external design will be replaced with glazed frontages,

including a glazed extension at the front of the proposed supermarket. A bin store is also proposed to the eastern corner at the side of the restaurants.

The internal layout proposes 5 no. individual take away/restaurants with kitchenettes and a separate supermarket with storage facilities. A security office is proposed between the restaurant units and the supermarket.

Relevant Development Plan policies include:

Black Country Core Strategy (BCCS)

Policy CEN2: Hierarchy of Centres. To maximise regeneration to protect the identified centres and ensure appropriate distribution of investment. Walsall is identified as a Strategic Centre.

Policy CEN3: Growth of the Strategic Centres. The Strategic Centres should be the principal locations for major leisure, commercial leisure, entertainment, cultural facilities and services, such as hotels which meet the needs of the sub region and beyond.

Policy CEN7: Controlling Out-of-Centre Development. For retail purposes, a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the primary shopping area of Strategic and Town Centres will be regarded as edge-of-centre. For all other main town centre uses a location that is well connected and within easy walking distance (i.e. up to 300 metres) of the centre boundary of Strategic and Town Centres will be regarded as edge-of-centre, unless otherwise defined in relevant saved UDP policies.

Policy ENV2: Development proposals will be required to preserve and, where appropriate, enhance local character and those aspects of the historic environment together with their settings which are recognised as being of special historic, archaeological, landscape or townscape quality.

Policy AAPS1: Primary Shopping Area. It is crucial that investment in retail is concentrated within the heart of the town centre and that the area provides an attractive shopping destination. The Primary Shopping Area forms the main focus of activity in the centre and the approach to development in and around the town centre should be to protect and enhance its function as the heart of Walsall Town Centre. This will be achieved by:

- a) Concentrating new retail floorspace and investment within or immediately adjacent to the Primary Shopping Area boundary.
- c) Only permitting retail development away from the Primary Shopping Area where it can be demonstrated that there are no suitable development sites or vacant premises within or immediately adjacent to it (in accordance with UDP Saved Policy S7, BCCS Policy CEN7, and Policy AAPS2). When proposals come forward that can demonstrate there are no suitable alternatives the Council will require the provision of safe, direct and attractive pedestrian links into the Primary Shopping Area.
- and d) Encouraging developments for other uses in Walsall Town Centre to improve connections to the Primary Shopping Area where possible. Any development for town centre uses that would generate significant visitor numbers will be expected to accord with Policy AAPT1 in improving linkages throughout the centre and to show

that there would be no negative impact on the Primary Shopping Area in terms of investment and footfall.

Policy AAPS2: New Retail Development.

c) Any edge-of-centre proposals will be expected to:

- i) Link directly to active frontages in the Primary Shopping Area, or if not possible, to improve linkages functionally and visually to the Primary Shopping Area; and
- ii) Show that there is no significant adverse impact on the vitality and viability of the town centre and planned investment for its future (as in accordance with BCCS Policies CEN3 and CEN7).

d) Where proposals for retail are permitted away from the Primary Shopping Area planning conditions will be applied where necessary to minimise the impacts of the development on the centre by, for example, controlling the broad range of goods to be sold.

In addition, saved UDP Policies, S4 the Town and District Centre and General Principles apply, Policy S6 Meeting Local Needs, Policy S10 Hot Food Take Aways, Restaurants and other A3 (Food and Drink) Outlets, Policy ENV40 Conservation, protection and use of water resources and Policy T13 Parking Standards.

New retail development should normally be concentrated in the town centre. Policy AAPS1 Primary shopping area seeks to ensure the main focus of development is in and around the town centre. To protect and enhance the function of as the heart of Walsall.

a) Concentrating new retail floorspace and investment within or immediately adjacent to the Primary Shopping Area boundary, c) Only permitting retail development away from the Primary Shopping Area where it can be demonstrated that there are no suitable development sites or vacant premises within or immediately adjacent to it (in accordance with UDP Saved **Policy S7**, **BCCS Policy CEN7**, and **Policy AAPS2**).

When proposals come forward that can demonstrate there are no suitable alternatives the Council will require the provision of safe, direct and attractive pedestrian links into the Primary Shopping Area; and d) Encouraging developments for other uses in Walsall Town Centre to improve connections to the Primary Shopping Area where possible. Any development for town centre uses that would generate significant visitor numbers will be expected to accord with Policy AAPT1 in improving linkages throughout the centre and to show that there would be no negative impact on the Primary Shopping Area in terms of investment and footfall.

Policy AAPS2: New Retail Development.

c) edge-of-centre proposals will be expected to: i) Link directly to active frontages in the Primary Shopping Area, or if not possible, to improve linkages functionally and visually to the Primary Shopping Area; and

- ii) Show that there is no significant adverse impact on the vitality and viability of the town centre and planned investment for its future (as in accordance with BCCS Policies CEN3 and CEN7).

d) Where proposals for retail are permitted away from the Primary Shopping Area planning conditions will be applied where necessary to minimise the impacts of the development on the centre by, for example, controlling the broad range of goods to be sold.

Policy AAPLV5 states that:

- b) Development proposals affecting sites identified as heritage assets or as areas of high sensitivity to change should demonstrate how they will be conserved and enhanced including, where appropriate:
 - i) Consideration of the need to protect views and enhance the setting of heritage assets.

The current application has provided a sequential assessment in order to demonstrate how other sites including the application site have been considered. The information submitted in this Sequential Assessment does not provide sufficient evidence to be conclusive in relation to the impact of the proposed development on the Walsall Town Centre Shopping Area. However, the proposed development will bring the site back into use which would ensure that the site is regenerated and is not left vacant.

The site is situated on the edge of Walsall Town Centre but outside the Primary Shopping area and the site can be regarded as an edge of centre location. The site is separated from the town centre by an existing dual carriageway through the area and on that basis cannot be considered a preferred edge of centre site if there are no suitable sites identified as available within the centre of Walsall. Paragraph 92 of the NPPF advises when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Paragraph 91 of the NPPF advises that main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.

The applicants have submitted additional information to identify other sites that have been considered but these were discounted either due to their size or parking arrangements or availability. The applicant advises that they consider the presence of the highway should not act as a significant barrier due to the presence of a crossing point opposite the application site which would allow pedestrian access to the Primary Shopping Area. Notwithstanding this information, the site is separate from the Primary Shopping Area.

Further comments from the Strategic Policy Officer advise the following on the additional information submitted in the sequential supporting statement.

“The revised sequential assessment refers to the Old Square but does not refer to the Saddlers Centre. Both these sites have numerous vacant units and on-site parking. This parking is multi-storey which might limit access to larger vehicles, but other food stores in the Primary Shopping Area manage to operate with multi-storey car parks. Both Asda and Tesco sell bulky food items.

Therefore, this proposal would dilute the Primary Shopping Area still further. Given our shortage of land for housing and employment, we need to ensure that land is used effectively in accordance with NPPF paragraphs 123 and 124, and that town centre uses are not allowed to spread into surrounding areas. As previously mentioned, the effect of a new convenience store and restaurant / takeaway facilities outside of the Primary Shopping Area would divert spending from existing shops and cannot be supported on strategic policy grounds”.

The supporting statement advises that the applicants have considered all potential opportunities to utilise town centre sites whilst considering edge of centre sites. Edge of centre locations should be used when no sequentially preferable sites are available. The supporting statement advises that there would be no harmful impacts on the Primary Shopping Area and that the current proposal would provide investment to the application site. The supporting statement does not however provide any conclusive explanation on how the site will impact the Primary Shopping Area and only makes a statement to say that the proposal would not be harmful. The proposal includes five take away restaurants which would not normally be supported in this location outside the primary shopping area. On that basis it is considered that the policy concerns have been overcome in so far as the site will be brought back into a sustainable use appropriate to the location.

The application is contrary to the Walsall Town Centre Area Action Plan, policies AAPS1, AAPS2, BCCS Policy CEN7 and UDP policy S7, especially S7 [VI] land is used effectively in accordance with NPPF paragraphs 123 and 124, and that town centre uses are not allowed to spread into surrounding areas.

As previously mentioned, the effect of a new convenience store and restaurant / takeaway facilities outside of the Primary Shopping Area would be contrary to the BCCS Policy CEN2: Hierarchy of Centres. To maximise regeneration to protect the identified centres and ensure appropriate distribution of investment. Walsall is identified as a Strategic Centre.

Policy CEN3: Growth of the Strategic Centres and Policy CEN7: Controlling Out-of-Centre Development, and Saved Policy S1 of the UDP Definition of Town Centre Uses, S2 The Hierarchy of Centres, S3 integration of developments into centres, to ensure that proper integration of developments in or on the edge of centres should be of a scale and nature appropriate to the size and function of the centre concerned. Policy S4 Town and district centres General Principles seeks to ensure that town centres will sustain and enhance the range and quality of shopping, leisure and other town centre uses which these centres provide consistent with the role and function a centre.

The proposal has not conclusively demonstrated that the role and function of the centre will not be adversely affected by the proposed development, on balance however the use is appropriate in scale and siting and will provide regeneration for the site in a sustainable location and retains a retail function which will augment the existing town centre retail function of Walsall. The proposal will provide 20 full time jobs and 10 part time jobs as set out in the submitted application form. It is considered that a restriction on the use classes proposed should be conditioned to define the development proposal to those uses in Class E that are appropriate to the Town Centre for commercial, business and services.

Heritage assessment

The site is within the setting of Church Hill Conservation, a designated heritage asset. The Conservation Area is listed on Historic England's Heritage at Risk Register as being in a very bad condition. The site is within the setting of Walsall Memorial Gardens, a Grade II Registered Park and Garden, which have not been referenced in the Design and Access Statement. The amended Design and Access Statement only identifies St Matthews Church, as being Grade II* listed.

Paragraph 200 of the NPPF states "in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum, the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation". Furthermore, the historic environment record has not been consulted.

Historic England (HE) Advice Note 12: Statements of Heritage Significance provides guidance on preparing heritage statements. In this case, the heritage section within the Design and Access statement does not include a more detailed Heritage Assessment in accordance with the NPPF and HE advice note 12.

The NPPF defines significance as "the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting".

The NPPF defines setting as "the value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic, or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance".

The submitted Design and Access Statement includes a section on heritage but does not provide sufficient detail to inform the impact of the proposal on existing designated heritage assets. However, the proposals do not involve any material extensions or alterations to the footprint of the proposed development and changes to the external appearance are minimal. It is considered that the proposal will not result in any significant harm to existing designated and non-designated heritage assets and will have a low impact therefore on existing heritage assets within the surrounding area. Whilst the proposal fails to accord to the advice in paragraph 200 of the National Planning Policy Framework the impact on the existing heritage assets would not undermine their character, appearance or setting in relation to Saved UPD Policy ENV27 Buildings of Historic or Architectural Interest.

Design, layout, and character

The proposal involves the change of use of the existing building for retail and leisure facilities including restaurants, takeaway with new shop fronts, a security office, bin store, bike store and revisions to the existing parking area layout.

In relation to the visual impact of the development the existing building is a low-level single storey building which is a former car sales showroom. The existing footprint of the buildings is arranged behind a car parking area to the frontage of the site. The proposed changes to the frontage of the building from a visual point of view are the creation of shop frontages to accommodate the proposed supermarket, restaurant

and take away. The footprint of the building will remain similar to the existing footprint with reconfigured internal space to facilitate the proposed new uses. Five new restaurants with ancillary take aways within use class E are proposed together with associated kitchen, storage and bin storage areas. Adjacent to the restaurant/takeaway is a cycle store with disabled parking bays. The parking area to the front of the site will be rearranged to accommodate marked parking and turning areas adjacent to the building.

Adjacent to the larger unit the proposed Class E Supermarket are storage areas and a security office which will be linked to both buildings. Behind the proposed supermarket is a bin storage area and vehicular access for deliveries.

There are no objections to the design of the proposed buildings which will utilise existing buildings. There will be no changes to the buildings to the rear of the proposed restaurant and supermarket which are shown as existing on the proposed drawings. In relation to visual impact there are no objections.

The proposal is contrary to Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), ENV2 (Historic Character and Local Distinctiveness) and ENV3 (Design Quality) and SPD Policies DW1, Sustainability, DW2 Safe and welcoming places, DW3 Character and the revised NPPF 2023.

Amenity of neighbours and future occupiers

The application site is situated on the edge of the town centre. There are no nearby residences immediately affected. However, suitable conditions to control the hours of operation of the premises to avoid adverse impacts on the nearby properties can be conditioned. The Design and Access statement advises that the hours of opening for the site will be 08:00 to 23:00 Monday to Saturday and 10:00 to 23:00 on Sundays and Bank Holidays.

The Environmental Protection Officer advises that it will also be necessary to identify whether there is any contamination/ground gas present that may be a risk to the proposed structures or future occupants of the development. Results of a desk study and site reconnaissance will be required and a condition to ensure that these matters are addressed to ensure that the site is not adversely affected by contamination. If ground gas is found mitigation measures will be required to deal with any potential hazards.

In addition, an acoustic impact assessment will be required to ensure that noise from future activities within the site including noise from machinery/extraction equipment/ventilation and deliveries will not result in significant impacts to nearby properties. Details of any extraction and ventilation equipment would need to be demonstrated to be submitted and agreed in writing by a condition.

There is no demolition proposed however the Environmental Protection Officer advises that the buildings are surveyed for the potential for asbestos presence which can be dealt with under the contamination conditions suggested.

Environmental Health have commented there is potential for odour nuisance to the occupants of nearby properties. No information has been provided with regard to how this will be controlled. Full details of the type and specification of plant and

equipment installed for the purposes of ventilation and extraction of cooking odours can be secured by condition.

Environmental Health also advise there is potential for noise disturbance to the occupants of nearby properties from plant noise and noise from goods deliveries. No information has been provided with regard to how this will be controlled. An assessment of noise emanating from the proposed development, including noise from plant and goods deliveries to the premises, shall be undertaken. A report detailing the findings and any recommendations for mitigation measures can be secured by condition.

Deliveries of goods should be restricted to between the hours of 07:00am and 21:00pm.

In the interests of maintaining the free flow and capacity of the drainage system, and to prevent pollution of the system a means of preventing fat, oil and grease entering the drainage system (such as a grease trap) must be installed and maintained thereafter which can also be secured by condition.

In accord with the Unitary Development Plan Policies GP2 (Environmental Protection) and ENV32 (Design and Development Proposals), Black Country Core Strategy Policies CSP4 (Place Making), and ENV3 (Design Quality) Designing Walsall SPD in particular policies DW1 Sustainability, DW3 Character and DW9 High Quality Public Realm, together with Together with the design advice in Chapter 12 of the NPPF Achieving well-designed places and the revised NPPF 2023.

Highways

The Highway Authority considers the proposal will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF December 2023 paragraph 115 and supports the proposal subject to conditions in relation to parking and turning, pedestrian safety, cycle storage and a construction management plan. The main site access is from Dudley Street to the front of the site. There are 64 parking spaces, 12 disabled spaces and 12 EV charging spaces. There is access to the rear of the site for delivery vehicles from an existing access situated on Bath Street.

Ecology and Biodiversity Net Gain

The Council's Ecologist has no objections to the proposal and there are no ecological implications. There are no BNG implications for this proposal as the application was submitted prior to the current regulations coming into force. To accord with the Black Country Plan policy ENV1, saved Unitary Development policy ENV23 and Supplementary Planning Document Conserving Walsall's Natural Environment.

Flood Risk / Drainage

Severn Trent have confirmed that they have no objections to the proposal subject to the inclusion of a condition in relation to drainage plans for the disposal of foul and surface water flows.

The site is low risk regarding flooding. The site is in Flood Zone 1 and is not at risk of surface water flooding for all events up to the 100-year return period. There is some minor ponding of surface water on the building's southern elevation during the 1000-year event, however, this is not a major risk to the existing building and could be reduced by installing water butts on downpipes during any refurbishment works. The proposals demonstrate that the existing building is to be retained and re-furbished, and that no additional impermeable area is proposed. As such, the runoff generated by the site following refurbishment works will remain as existing.

The Lead Local Flood Authority have no objection to the proposals subject to the inclusion of a condition to ensure that a CCTV survey is undertaken to demonstrate that the sites existing drainage system is in good condition and that a management and maintenance plan is provided with a named contractor for undertaking maintenance of the retained system over the lifetime of the development.

A condition requiring the submission of a sustainable drainage plan and management and maintenance scheme is advised as the suggested condition above can be incorporated into the drainage plan for the site which needs to be submitted and agreed upon in writing with the LPA prior to the development being commenced and those agreed details shall be implemented prior to the development being first brought into use.

The site is situated in Flood Zone 1 as defined on the Environment Agency Flood Map for Planning and the proposal is considered to be acceptable in terms of flood risk and drainage and is in accord with the Black Country Core Strategy ENV5: Flood Risk, Sustainable Drainage Systems, Urban Heat Island and NPPF Chapter 14 of the revised NPPF December 2023. Meeting the Challenge of climate change flooding and coastal change.

Ground conditions and environment

The site lies in an area at low risk of legacy coal mining development no further action is required. The Environmental Protection Officer advises that a survey to identify any potential contamination including ground contamination from the existing buildings and previous use shall be conducted and submitted to the Local Planning Authority and any mitigation measures shall be agreed in writing prior to the occupation of the development.

The proposal is considered to accord with "Saved" Unitary Development Plan Policy ENV10: Pollution and The Black Country Core Strategy ENV8 Air Quality.

Conclusion and reasons for decision

On balance, this application is considered to accord with local and national planning policies and guidance as set out in this report. Officers have worked with the applicant in a positive and creative way in accordance with the National Planning Policy Framework paragraph 38 in asking for further information to support the proposal.

This amended information in support of the sequential assessment does not fully inform the likely impact of the proposal on town centre retail functions however on balance the proposal will regenerate a site which is now vacant and has a link to the

town centre via vehicular access and pedestrian access across the highway as there is a crossing outside the premises. The application is considered to be beneficial to the regeneration of the Walsall Centre.

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

Recommendation

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

1. The amendment and finalising of conditions.

Conditions and reasons

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

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

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

- 2022-0 REV C Existing plans and elevations. dated 4 April 2024
- 2023-124 REV C and D Proposed elevations dated 23 April 2024
- 2023-124 REV D Proposed, and existing site and car parking plan dated 23 April 2024.
- 2023-124 REV B Site location plan dated 23 April 2024
- Design and access statement revised to include heritage statement received 03 July 2024

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

3a: Prior to the commencement of development hereby permitted a drainage scheme for the discharge of surface water and disposal of foul sewerage and a management and maintenance scheme for all existing and proposed underground services and sewers including a CCTV survey investigation report of the drainage system at the point of outfall. The approved drainage scheme shall include a named maintenance provider responsible for the maintenance and a management of the agreed drainage scheme, shall be submitted in writing to and approved in writing by the Local Planning Authority.

3b: The development shall not be carried out otherwise than in accordance with the approved details and the approved drainage shall thereafter be retained as installed for the lifetime of the development.

3c: 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 the site in accordance with NPPF10, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

4a: Prior to the commencement of development, a Construction Environmental Management Statement shall be submitted in writing to and approved in writing by the Local Planning Authority. The Construction Environmental Management Statement shall include:

- Construction working hours
- Parking and turning facilities for vehicles of site operatives and visitors
- Loading and unloading of materials
- Storage of plant and materials used in constructing the development
- A scheme for recycling/disposing of waste resulting from works
- Temporary portacabins and welfare facilities for site operatives
- Site security arrangements including hoardings
- Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway
- Measures to prevent flying debris
- Dust mitigation measures
- Measures to prevent site drag-out (including need for wheel cleaning)
- Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures

4b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Construction Environmental Management Statement and the approved Construction Environmental Management Statement shall be maintained throughout the construction period.

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

5a: Prior to the occupation of the development hereby approved full details of the type and specification of plant and equipment installed for the purposes of ventilation and extraction of cooking odours shall be submitted to and agreed in writing with the Local Planning Authority.

5b: The agreed extraction equipment shall be installed and maintained thereafter in accordance with the agreed details.

Reason: To ensure the satisfactory functioning of the development and to ensure the development does not cause odours in the interests of the amenities of the locality. In accordance with UDP Policy GP2.

6a: 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.

6b: The development hereby permitted shall not be carried out otherwise than in accordance with the approved Method Statement.

6c: Following demolition of the building hereby permitted and removal of the demolition material but prior to any building 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.

7a: Prior to the commencement of the development hereby permitted a Noise Impact Assessment together with noise mitigation measures including an Acoustic Design Statement shall be submitted in writing to and approved in writing by the Local Planning Authority.

7b: Prior to occupation the approved Acoustic Design Statement shall be carried out to the satisfaction of the Local Planning Authority.

7c: Noise from external plant and flues shall not exceed a noise rating of NR45, one metre from habitable room windows between the hours of 23:00 and 07:00 and NR60 between the hours of 07:00 and 23:00.

7d: Doors and windows facing residential properties shall remain closed when the units are not operational except from access and egress purposes.

7e: The development hereby permitted shall not be carried out otherwise in accordance with the approved details and the approved details shall thereafter be retained for the lifetime of the development.

Reason: To protect to amenities of nearby occupiers in compliance with saved Policies GP2 and ENV32 of the UDP.

8a: Prior to the occupation of the development hereby permitted mitigation measures shall be submitted and agreed to prevent pollution of the drainage system from cooking fat, oil and grease entering the drainage system (such as a grease trap).

8b: The agreed mitigation measures shall be installed and maintained thereafter in accordance with the agreed details.

Reason: To ensure the satisfactory functioning of the development and to ensure the drainage system is not contaminated to prevent pollution in the interests of the amenities of the locality. In accordance with UDP Policy GP2.

9a: 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 laid out in accordance with drawing number 2023-124 Rev D Proposed and existing site and car parking plan dated 23 April 2024.

9b: The access, turning area and parking facilities shall not be used for any purpose otherwise than for access, turning and parking respectively.

Reason: To reduce the need for on street parking in the interest of highway safety and ensure surface water does not run onto the highway and to avoid increased surface flooding to comply with Walsall's Unitary Development Plan saved policies GP2 and ENV40.

10: Prior to any unit on the development first coming into use, the revised car parking layout, including the pedestrian ramp, pedestrian zones, car free forecourt area, and associated bollards, signing and lining, shall be fully implemented in accordance with the approved details shown on drawing number 2023-124 REV D and shall thereafter be retained and used for no other purpose.

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

11: Prior to any unit on the development first coming into use, the proposed cycle shelter, shown on drawing number 2023-124 REV D which shall be secure, covered and illuminated, shall be fully implemented and shall thereafter be retained and used for no other purpose.

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

12a: No external lighting shall be installed on the site unless details of the lighting including the intensity of illumination and predicted lighting contours have first been submitted in writing to and approved in writing by the Local Planning Authority.

13b: No external lighting shall be installed on the site otherwise than in accordance with the approved details.

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

14: The development hereby permitted shall not be open to customers otherwise than between the hours of 0800 hours to 2300 hours Mondays to Saturdays and 1000 hours to 2300 hours Sundays, Bank and Public Holidays.

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

15: The development hereby permitted shall not be used otherwise than for the purposes of Class E and shall not be used for any other purpose including any other

purpose in Class E(a),(b) and (c) of Part A of Schedule 2 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.

Reason: To protect the amenities of the area and to ensure that the site is not used for unauthorised use that would be contrary to policies UDP policies GP2 and ENV32.

16: No machinery shall be operated, process shall be carried out, or deliveries taken at or despatched from the site otherwise than between the hours of 0700 hours to 2100 hours Mondays to Saturdays and 0700 hours to 2100 hours Sundays, Bank and Public Holidays.

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

17: No storage of goods, material or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage area/open area/outside the buildings.

Reason: To ensure satisfactory functioning of the development, in the interests of highway/pedestrian and the prevention of the potential for pollution in accordance with saved UDP policies GP2 T7, T13, ENV10 and ENV32.

Case specific notes for applicant

Environmental Protection

Contaminated Land

CL1

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

CL2

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

contained in, on or under the land to impact upon ground water, advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the 'as installed' remediation or mitigation works agreed with the Local Planning Authority and the persons/business responsible for the Building Regulation compliance. For example, photographs of earthworks, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported 'clean cover' materials, manufacturer's specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive, and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority. The Validation Report shall be written by a Technically Competent person/company. CL4 The desk study and site reconnaissance shall have regard to previous unknown filled ground and materials used and processes carried on. A further detail on the matters to be addressed is available in 'Model Procedures for the Management of Contamination' (CLR 11, DEFRA/Environment Agency). The results of the desk study and reconnaissance will be used to determine the need for further site investigation and remediation.

West Midlands Police

Ensure security between any public and private areas of commercial premises. Particularly security of offices cash, higher value items.
Crime reduction measures are encouraged to current standards at time of construction.

Consider construction security.

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

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

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

The applicant may wish to consider crime prevention and home security advice contained within SBD New Homes.

If required cycle stores, approved products, are recommended (SBD Homes 2023 page 85, 64

Secured By Design security standards are explained.

West Midlands Fire Service

Approved Document B, Volume 2, Buildings other than Dwellings, 2019 edition incorporating 2020 and 2022 amendments – for use in England Requirement

B5: Access and facilities for the fire service

These sections deal with the following requirement from Part B of Schedule 1 to the Building Regulations 2010.

Requirement

Limits on application Access and facilities for the fire service B5.

(1) The building shall be designed and constructed so as to provide reasonable facilities to assist fire fighters in the protection of life.

(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.

Intention

Provisions covering access and facilities for the fire service are to safeguard the health and safety of people in and around the building. Their extent depends on the size and use of the building. Most firefighting is carried out within the building. In the Secretary of State's view, requirement B5 is met by achieving all of the following.

- a. External access enabling fire appliances to be used near the building.
- b. Access into and within the building for firefighting personnel to both:
 - i. search for and rescue people
 - ii. fight fire.
- c. Provision for internal fire facilities for firefighters to complete their tasks.
- d. Ventilation of heat and smoke from a fire in a basement.

If an alternative approach is taken to providing the means of escape, outside the scope of this approved document, additional provisions for firefighting access may be required. Where deviating from the general guidance, it is advisable to seek advice from the fire and rescue service as early as possible (even if there is no statutory duty to consult)

Section 15: Vehicle access

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m², with a top storey that is a maximum of 11m above ground level), vehicle access for a pump appliance should be provided to whichever is the less onerous of the following.

- a. 15% of the perimeter.
- b. Within 45m of every point of the footprint of the building (see Diagram 15.1).

15.2 For all other buildings, provide vehicle access in accordance with Table 15.1.

15.3 Every elevation to which vehicle access is provided should have a door, a minimum of 750mm wide, to give access into the building. The maximum distance

between doors, or between a door and the end of the elevation, is 60m (e.g. a 150m elevation would need a minimum of two doors)

Buildings fitted with fire mains

15.4 For buildings fitted with dry fire mains, both of the following apply.

- a. Access should be provided for a pumping appliance to within 18m of each fire main inlet connection point. Inlets should be on the face of the building.
- b. The fire main inlet connection point should be visible from the parking position of the appliance and satisfy paragraph 16.10.

15.5 For buildings fitted with wet fire mains, access for a pumping appliance should comply with both of the following.

- a. Within 18m, and within sight of, an entrance giving access to the fire main.
- b. Within sight of the inlet to replenish the suction tank for the fire main in an emergency.

15.6 Where fire mains are provided in buildings for which Sections 16 and 17 make no provision, vehicle access may be as described in paragraphs 15.4 and 15.5, rather than Table 15.1.

Design of access routes and hard-standings

15.7 Access routes and hard standings should comply with the guidance in Table 15.2. Requirements can only apply to the site of the works. It may not be reasonable to upgrade the route across a site to a small building. The building control body, in consultation with the fire and rescue service, should consider options from doing no work to upgrading certain features, such as sharp bends.

15.8 Where access to an elevation is provided in accordance with Table 15.1, the following requirements should be met, depending on the building height. a. Buildings up to 11m, excluding small buildings (paragraph 15.1): pump appliance access should be provided adjacent to the building for the specified percentage of the total perimeter. b. Buildings over 11m: access routes should comply with the guidance in Diagram 15.2.

15.9 Where access is provided for high reach appliances in accordance with Table 15.1, overhead obstructions (such as cables and branches) should be avoided in the zone shown in Diagram 15.2.

15.10 Dead-end access routes longer than 20m require turning facilities, as in Diagram 15.3. Turning facilities should comply with the guidance in Table 15.2.

Overall

Access routes should have a minimum width of 3.7m between kerbs, noting that **WMFS appliances require a minimum height clearance of 4.1m and a minimum carrying capacity of 15 tonnes** (ADB Vol 2, Table 15.2)

Dead Ends including cul-de sacs

Dead ends including cul-de sacs should be avoided but where not possible the following should be applied.

The main problem with dead ends and cul-de sacs is access in an emergency and the issue of obstructions such as parking. In these circumstances fire service personnel are committed to approach on foot carrying equipment to deal with the situation. 225 to 250 metres carrying equipment is considered a maximum for efficient fire-fighting operations.

Dead ends/cul-de sacs roadways should be a minimum of 5.5 metres in width.

Vehicle Access

Dead end/cul de sac access routes must not exceed 180 metres in length unless.

- a) an emergency vehicle access is provided which complies with item 3.8.2, or
- b) the carriageway width is increased to 7.3 metres and complies with the requirements of item 3.8.3. The provision of an emergency vehicle access is preferred to the alternative of increasing the carriage width to 7.3 metres.

3.8.2 Emergency Vehicle Access

- a) A suitable means of preventing the use by other vehicles must be provided at the time of construction.
- b) The height of 4.1 metres minimum, width 3.7 metres minimum and the construction of the access road are sufficient to allow the free passage of fire appliances.
- c) Neither end is obstructed by parked cars.
- d) The emergency vehicle access may incorporate a pedestrian route but must not be used by statutory undertakers to accommodate underground services or public sewers.

3.8.3 Increased Carriageway Widths

- a) The carriageway width is increased to 7.3 metres from the entrance to the route to the point where it is 180 metres to the end of the dead end in accordance with 3.8.3b immediately below.
- b) The subsequent reduction in the width from 7.3 to 5.5 metres must occur at a road junction, at which point parking for the fire appliance at the end of the dead end must be within vision and a fire hydrant is on the pavement or ground alongside the parking space.

3.8.4 General

- a) There is no maximum length to a dead end/cul-de sac access route, however, it should accommodate no more than 150 dwellings.
- b) A turning circle or hammer head should be provided in any dead end greater than 20 metres in length. It should be provided either at the end or within 25 metres of the end please see Approved Document B – Volume 2.
- c) When inspecting plans with regard to access it may be necessary to accept a temporary situation or phased approach until the matter can best be resolved.

Industrial Estates

- a) In order to accommodate very long articulated vehicles carriageways should be 9 metres wide but certainly not less than 7.3 metres.
- b) The estate should be designed so that there is adequate off-street parking and there is no loading, unloading or long-term parking on the carriageway.
- c) Dead end access routes must not exceed 180 metres in length from a junction which provides two alternative routes out of the industrial estate, unless an emergency vehicle access is provided from the dead end, as described in 3.8.2.

Section 16: Fire mains and hydrants

Provision of fire mains

16.2 Buildings with firefighting shafts should have fire mains in both of the following.

- a. The firefighting shafts.
- b. Where necessary, in protected escape stairs. The criteria for providing firefighting shafts and fire mains are given in Section 17.

16.3 Buildings without firefighting shafts should be provided with fire mains where fire service vehicle access is not provided in accordance with Table 15.1. In these cases, outlets from fire mains should be located as described in paragraph

16.4, with a maximum hose distance of 45m from the fire main outlet to the furthest point, measured on a route suitable for laying a hose. Stairs do not need to be designed as firefighting shafts.

Provision of private hydrants

16.8 A building requires additional fire hydrants if both of the following apply.

- a. It has a compartment with an area more than 280m².
- b. It is being erected more than 100m from an existing fire hydrant.

16.9 If additional hydrants are required, these should be provided in accordance with the following.

- a. For buildings provided with fire mains – within 90m of dry fire main inlets.
- b. For buildings not provided with fire mains – hydrants should be both of the following.

- i. Within 90m of an entrance to the building.
- ii. A maximum of 90m apart.

16.10 Each fire hydrant should be clearly indicated by a plate, fixed nearby in a conspicuous position, in accordance with BS 3251. 16.11 Guidance on aspects of provision and siting of private fire hydrants is given in BS 9990.

Water Supplies

Water supplies for firefighting should be in accordance with ADB Vol 2, Sec 16 and “National Guidance Document on the Provision for Fire Fighting” published by Local Government Association and WaterUK:

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

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

Early liaison should be held with this Authority in relation to fixed firefighting facilities, early fire suppression and access (ADB Vol 2, Section 8).

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

End of report