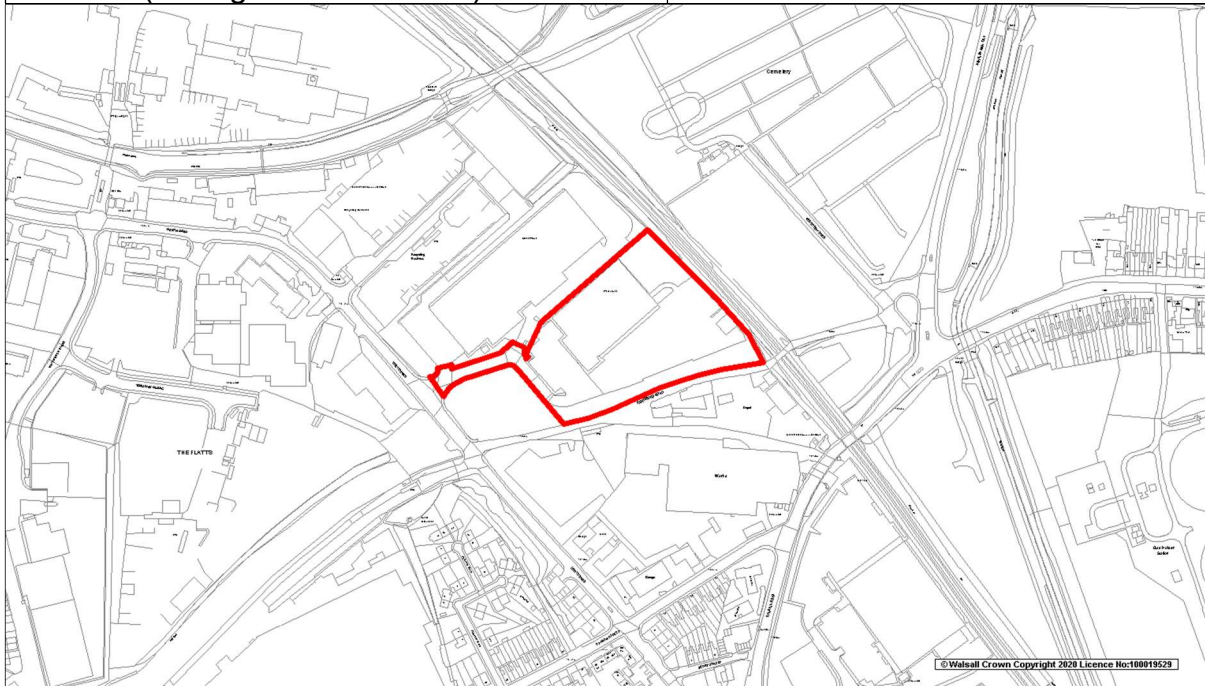


## Planning Committee

Report of Head of Planning and Building Control on 10 February 2022

Plans List Item Number: 1

Reason for bringing to committee	
Major Application	
Application Details	
<b>Location:</b> EURO FOODS GROUP LTD, HEATH ROAD, DARLASTON, WEDNESBURY, WS10 8XL	
<b>Proposal:</b> PROPOSED NEW WAREHOUSE EXTENSION (USE CLASS B8 - STORAGE AND DISTRIBUTION)	
<b>Application Number:</b> 21/0113	<b>Case Officer:</b> Helen Smith
<b>Applicant:</b> Mr S. Hussain	<b>Ward:</b> Bentley And Darlaston North
<b>Agent:</b> Mr Ian Williams	<b>Expired Date:</b> 31-May-2021
<b>Application Type:</b> Full Application: Major Use Class B8 (Storage or Distribution)	
	
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### Recommendation

Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;

- No new material considerations being received within the current consultation period;

- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objections raised by the Fire Officer

## Status

This planning application was withdrawn from the agenda of the Planning Committee meeting of 7th January 2022 to consider issues in relation to the site boundary and was not discussed, or presented, at that meeting. Since then the applicant has submitted amended plans and the report has been updated throughout to take account of this. This planning application has been re-consulted on these amendments. Any comments received prior to the Planning Committee meeting will be set out in the Supplementary Paper. The updated recommendation takes account of the current re-consultation.

## Proposal

This application proposes an extension to an existing Planning Use Class B8 storage and distribution warehouse used by Euro Foods Group (EFG) to support their ongoing trading and expand their business. EFG are an international manufacturer and distributor of frozen and fresh foods.

The planning application has recently been revised to a larger warehouse than previously proposed and following these updates re-consultation is required. The report has been updated to explain these proposed amendments.

The planning agent advised that the proposed extension has been designed to also operate as a stand-alone distribution warehouse to give the site maximum flexibility and extend the life of the building which would require a new planning consent in the future. There will be an internal connection between the existing and proposed warehouse. The proposal states that it aims to support the applicant's aspiration for the site to support a high quality distribution warehouse which takes advantage of narrow aisle high density racking systems.

The proposed new warehouse would be split into two thirds dry store and one third cold store linked by a chilled transition area. Racking systems would be accessed via specialist forklift trucks.

The proposal would include;

- 3466.19 sq. metres gross internal floor space
- 2 heavy goods vehicle loading docking bays
- 25 parking spaces
- 2 accessible parking bays
- 2 electric car charging bays
- 8 covered cycle parking locations
- 3 external fire exit staircases
- Chilled Store
- Cold Store
- Dry Store
- Plant room
- Access ramp
- Fire engine access area to side of the proposed warehouse

Access would be retained via the existing shared access from Heath Road which is designed to accommodate HGVs. Certificate B has been completed with the requisite notice served on interested parties as included on the application form.

An existing storage building of approximately 142.8 metres sq. would be demolished. A dedicated cycle access is proposed on the south eastern boundary and the north east boundary of the site abuts the proposed site for a new railway station which is the subject of planning application reference 20/0746 which is currently under assessment.

The existing warehouse and proposed new extension would be connected to the north east elevation of the proposed new extension with the loss of a loading door and associated access.

The proposed new unit would have a steel frame with exterior profile steel cladding to match the existing unit with subdivision into coloured panels to reduce its perceived mass. The proposed colour palette would be mostly mid grey, light grey to the top of the building and a series of dark grey panels. Solar photovoltaic panels are to be fitted on the roof and exterior lighting information will be provided with details to be agreed.

Hours of opening would be as follows;

Monday to Friday – 00.01hrs to 23.59hrs

Saturdays – 08.00hrs to 16.00hrs

Sunday and Bank Holidays – 12.00hrs to 23.59hrs

The key dimensions would be;

- Height to eaves 16.2 metres to 17.6 metres
- Between 17.6 metres to 18.95 metres high to the ridge
- Length 109 metres
- 33.2 metres wide
- Between 3 (north-east) and 8.7 (south-east) metres from the eastern boundary of the application site.
- 2.7 metres higher than the ridge of the existing building

The planning application states that landscaping will be designed to support local wildlife and plants to add to the diversity of the site. The site currently has 50 full time employees and 4 part time employees. The proposal states that 25 full time equivalent additional staff would be employed to serve the proposed development.

The plans have been amended to include a new Network Rail boundary which is to be agreed with Network Rail and a 3 metres wide gap to the side of the proposed new development to ensure that the proposed development does not conflict with the new railway station (planning application reference 20/0746). The area to the south of the proposed new unit is proposed to be used temporarily for storage and provision of associated facilities during the construction of the new railway station.

The application is supported by the following documents;

- Design and Access Statement (Revision E) 2022 01 17) which states the proposal would;

- Develop an existing site which is not being intensively used
  - Support the expansion of an existing local employer
  - Provide new employment
  - Provide a purpose built, high quality modern distribution warehouse to meet current and future needs of the area.
- Surface Water Drainage Strategy
  - Ecological Impact Assessment
  - Energy Statement
  - Flood Risk Assessment
  - Geotechnical Summary Report
  - Planning Statement
  - Transport Statement
  - Coal Mining Risk Assessment

## Site and Surroundings

The application site sits within 2.2 hectares of land to the east of Heath Road and north of its junction with Kendricks Road.

To the north of the site is an existing warehouse and yard operated by Acerinox and to the east is a railway line. A new railway station including two platforms, footbridge and parking is proposed on land to the north of the application site (planning application reference 20/0746).

The application site is located within an established industrial estate and an existing group of industrial units of significant size. The existing yard is concreted with parking and access for heavy goods vehicles. The site is mostly level and an existing storage building site on the site would be demolished.

The site is located within a designated Flood Zone 2 area and a Development High Risk Area for Coal. This site is allocated as existing high quality employment land, part of site IN97 listed under Walsall's Site Allocation Document Policy IND1.

## Relevant Planning History

### The application site;

19/0183 - Prior approval for the installation of solar photovoltaics on the roof – Prior Approval Granted 20/03/19

13/1116/FL - Change of use of part of existing warehouse to allow Cash and Carry and trade counter use (floor space maximum of 320 sq. m.) – GSC 22/11/13

BC52714P – Construction of 3no. Production/warehouse buildings with ancillary office and associated works. Granted 13/10/98.

### Former AB Waste Site, Cemetery Road, Darlaston;

20/0746 - Construction of new railway station including two platforms, footbridge, installation of steps and lift, platform furniture, lighting, soft and hard landscaping, flood mitigation, services and boundary treatment and other associated works.

Construction of car park (up to 300 spaces) incorporating accessible spaces and parking, charging facilities for electric vehicles, parking for cycles and motorcycles and installation of measures to restrict vehicular access to Kendricks Road bridge –

On 15/10/20 Planning Committee resolve to delegate to the Head of Planning & Building Control to Grant Planning Permission Subject to Conditions and the securing of a S106 Agreement for a river level gauge, plus off-site way finding along Bentley Mill Way and works to the adjacent canal towpath including improving accessibility via a financial contribution for the proposed improvement works and subject to ...

- No new material considerations being received within the consultation period;
- The amendment and finalising of conditions;
- No further comments from a statutory consultee raising material planning considerations not previously addressed;
- Overcoming the outstanding objections from the Local Lead Flood Authority and Archaeologist plus finalising negotiations between the applicant the Canal and River Trust regarding wayfinding and improvements for accessibility and use of the towpath.

The decision notice has not yet been issued pending conclusion of the associated Section 106 Agreement.

## Relevant Policies

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

[www.gov.uk/guidance/national-planning-policy-framework](http://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 11 – Making effective use of land**
- **NPPF 12 – Achieving well-designed places**
- **NPPF 14 – Meeting the challenge of climate change, flooding and coastal change**
- **NPPF 15 – Conserving and enhancing the natural environment**

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

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

On **decision-making** the NPPF sets out the view that local planning authorities should approach decisions in a positive and creative way. They should use the full range of planning tools available and work proactively with applications to secure developments



that will improve the economic, social and environmental conditions of the area. Pre-application engagement is encouraged.

### **National Planning Policy Guidance**

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

### **Reducing Inequalities**

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

### **Development Plan**

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

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

- 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
- ENV23: Nature Conservation and New Development
- ENV32: Design and Development Proposals
- ENV35: Appearance of Commercial Buildings
- ENV40: Conservation, Protection and Use of Water Resources
- S1: Definition of Town Centre Uses
- S4: The Town and District Centres: General Principles
- S7: Out-of-Centre and Edge-of-Centre Developments
- 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**

- CSP3: Environmental Infrastructure
- CSP4: Place Making
- CSP5: Transport Strategy
- EMP1: Providing for Economic Growth
- EMP2: Actual and Potential Strategic High Quality Employment Areas
- CEN1: The Importance of the Black Country Centres for the Regeneration Strategy
- TRAN2: Managing Transport Impacts of New Development
- 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**

IND1: Existing High Quality Industry  
 IND5: New Employment Opportunities  
 EN1: Natural Environment Protection, Management and Enhancement  
 EN3: Flood Risk  
 T3: The Rail Network  
 T4: The Highway Network

### **Supplementary Planning Document**

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

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

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

Survey standards

- NE4 – Survey Standards

The natural environment and new development

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

Development with the potential to affect trees, woodlands and hedgerows

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

#### **Designing Walsall**

- DW1 Sustainability
- DW2 Safe and Welcoming Places
- DW3 Character
- DW4 Continuity
- DW7 Diversity
- DW8 Adaptability
- 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

**Any further received consultee responses will be updated in the Supplementary Paper in relation to the current re-consultation on amended plans received on 20/1/22.**

**Archaeology** – No objections

**Coal Authority** – No objections subject to the inclusion of planning conditions to secure intrusive site investigation works, if necessary, remediation of coal mining legacy affecting the site and development with a suitably designed piled foundation

**Community Safety Team** – No objections

**Environment Agency** – No objections and require the inclusion of a planning condition to ensure that the development does not contribute to water pollution from previously unidentified contamination sources.

**Environmental Heath** – No objections

**Fire Officer** – Object as the proposal does not appear to meet the requirement for the provision of water for firefighting (parts 16.8 a & b of Approved Document B, Volume 2, Buildings other than Dwellings, 2019 – *see Notes for Applicant*)

**Highways England** – No objections

**Historic England** – No comments

**Lead Local Flood Agency** – No objections

**Local Highways Authority** – No objections subject to the inclusion of planning conditions in respect of access ways, parking bays, vehicle manoeuvring, surfacing, and cycle shelters.

**Natural England** – No comments

**Network Rail** – No objection

**Pollution Control** – No objections subject to the inclusion of planning conditions in respect of contaminated land investigations.

**Severn Trent Water** – No objections following agreement to a sewer diversion approved by their Developer Service Team and subject to the inclusion of a planning condition in respect of the disposal of foul and surface water.

**Sport England** – No objection

**Strategic Planning Policy** – No objections

**Structures & Geotechnics** – No objections

**Transport West Midlands** – no response



## Representations

None

This will be updated at planning committee following the current re-notification if comments are received.

## Determining Issues

- Principle of Development
- Darlaston Railway Station
- Design Appearance and Character
- Amenity
- Ecology
- Ground Conditions
- Flooding and Drainage
- Access and Parking

## Assessment of the Proposal

### Principle of Development

The site is allocated as existing high quality employment land, part of site IN97 listed under SAD policy IND1. The proposed development can therefore be strongly supported on planning policy grounds. The site lies next to the proposed Darlaston Railway Station and is considered to be a sustainable location and would increase the employment opportunities available on the site. The existing permission is for a warehouse with an ancillary trade counter and the current application is therefore considered acceptable on planning policy grounds. The previous proposal included a small ancillary office and staff welfare facilities which have been removed from the proposal.

### Darlaston Railway Station

In October 2020 planning committee resolved to approve the construction of new Darlaston railway station, which includes two platforms, footbridge, installation of steps and lift, platform furniture, lighting, soft and hard landscaping, flood mitigation, services and boundary treatment, 300 space car park and other associated works

The proposed location for the railway station is adjacent the site of the original station known as James Bridge Station which was built on the Grand Junction Railway in 1837 and closed in January 1965. This site sits to the north east of the application site.

Transport West Midlands and Network Rail have been consulted as part of this current planning application being considered. Network rail have provided detailed requirements and conditions as the proposed development includes works less than 10 metres from the railway boundary and the applicants will be required to interface with Network Rail to ensure the safe operation and integrity of the railway is maintained during construction and as a permanent arrangement. Network Rail initially objected to the proposed positioning of the unit. To address this, the applicant's plans have been amended to increase the distance from the new railway station to accommodate a 3 metres wide easement. Updated comments have been received from Network Rail advising that the revised magenta coloured line shown on the revised plan excludes the land West Midlands Combined Authority and Network Rail requires for the station, however the red line of the application remains the same. Network Rail consider that

the red outline should be amended to exclude Network Rail land. The planning agent has confirmed, as this land is in the applicants' ownership, the red line will remain as submitted until Network Rail have bought the land. The LPA agrees with this point. Land ownership is a civil matter between the applicant and Network Rail to now secure the land for themselves and does not prevent the LPA determining the current planning application.

Network Rail have also commented previously that Plan 71130-297173 appears to show footpaths etc. around the new extension. Network Rail would need to be satisfied again that these are not within the land required for the station. The Planning agent has confirmed that the footpaths around the perimeter of the extension will not be constructed on land required for the new station. The Local Planning Authority does not have a copy of this plan however the LPA has sufficient information to determine the application. However, this objection is not sufficient to hold the application up and a matter between landowners. Land ownership is a civil matter and the planning agents' advice that the red line is correct must be taken at face value. Network Rail have been re-consulted on the amended plans received 20/1/2022.

### **Design Appearance and Character**

The proposed scale and layout of the new extension along with the proposed exterior materials is considered acceptable and would reflect the design and appearance of the existing industrial units on this estate. The proposed use of three grey colour tones of profile metal sheeting is considered would break up the perceived bulk of the new unit, if the application is approved.

Photovoltaic panels would be added to the roof which can be conditioned to ensure contain anti-reflective glass. Details of a landscaping scheme can be required by planning conditions as this would soften the appearance of the development and provide biodiversity enhancement. A landscaped area is proposed between the east facing side of the proposed new warehouse and the side boundary with the railway.

### **Amenity**

The nearest residential properties are approximately 200 metres away from the proposed building on Station Street and are screened from the application site by intervening industrial units. Consequently, it is considered that the proposal would have a limited impact on the amenity for neighbouring occupiers because of the separation distance and intervening buildings.

It is considered, the proposal would have little additional impact on the operation of neighbouring commercial units.

### **Ecology**

The Ecological Impact Assessment report prepared by Midland Ecology, dated 14 January 2021 confirms that the application site is not subject to any statutory or non-statutory designations. Tree lined boundaries are considered to serve a landscape scale-role in connecting nearby woodland to the wider landscape and so are ecologically valuable green infrastructure when evaluated at the district scale. The site boundaries are known to support nesting birds and have the potential to support hedgehog and foraging/commuting bats. The report states that all other protected species are likely absent from the site due to unsuitable habitats, levels of disturbance, species range and/or landscape context. However, the report specifically recommends that care is taken to protect bats, breeding birds, badger and hedgehogs that may be on the site post ecological survey. Safeguarding conditions can be included.

No invasive and non-native species were observed during the ecological survey.

The report advises that further ecological surveys are not considered to be necessary providing recommended avoidance measures can be accommodated in respect of protected species and nesting birds as outlined in the report. Ecological enhancements to secure a net gain for biodiversity are recommended. The ecologist has advised that should the following measures be implemented in full then only residual ecological impacts are anticipated;

- Design of wildlife friendly lighting
- Measures to protect trees from construction activities
- Inclusion of plant species of known value to wildlife in any landscape proposals
- Design and implementation of measures to improve ecological connectivity; such as strengthening the tree-lined boundaries into hedgerows. These are to contain a minimum of 6 suitable native hedgerow species.

These matters can be secured and safeguarded by planning conditions that meet the 6 tests if the application is approved.

## **Ground Conditions**

### Contaminated Land

The Council's Pollution Control Team have advised that the applicant will need to undertake a contaminated land and ground gas investigation for the area where the extension is proposed to ensure that any potential contamination and ground gas mitigation measures are considered within the building design.

The Geotechnical Information Summary also indicates the need for ground testing to be undertaken to determine appropriate foundation design. Therefore, the Applicant should combine the contamination/ground gas/geological testing to ensure appropriate foundation design is incorporated into the proposed building. Suitable conditions in respect of these requirements can be included if the proposal is approved.

### Coal

The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the site lies in an area where historic unrecorded shallow coal mining activity is likely to have taken place in the past.

The Coal Authority records indicate the presence of two recorded mine entries (shafts 398297-048 and 398297-049) close to the south western boundary of the application site, for which The Coal Authority hold no details of any past treatment. Whilst the potential zones of influence associated with these shafts may encroach into the application site, they are a significant distance away from the area where development is proposed.

The Coal Authority withdrew their objection to the planning application on 17/8/21 subject to relevant planning conditions being imposed on any planning permission granted.

The Coal Authority advised that following receipt of a Coal Mining Risk Assessment (dated 23 March 2021, prepared by the commercial arm of the Coal Authority) this report reiterated that shallow underground coal (and possibly ironstone) mining activity posed a risk to the proposed development, but also identified that the potential failure of off-site recorded mine shaft 39827-021, located to the north of the site, posed a

potential stability risk to the development due to the significant depth of superficial deposits in the locality.

The Coal Mining Risk Assessment recommended that a ground investigation should be carried out before finalising the development layout, in order to establish the likely extent of instability in the event of an off-site shaft collapse and to demonstrate that the development will be sited outside the affected area. As these works had not been carried out and no information had been submitted to demonstrate that the layout of development avoids the area of instability associated with the shaft, the Coal Authority objected to the application in our consultation response letter of 28 April 2021.

The applicants subsequently submitted a Coal Mining Risk Assessment – Summary Review (undated, prepared by Morgan Structural Ltd) which has been prepared following a discussion with The Coal Authority.

This report states, *“There is mine entry on the adjacent land to the rear (not on the site). There is superficial fill on the adjacent site. In the event of a collapse, there is a risk that part of the fill may encroach into our site. However, this will not affect the structure on our site because the foundations are supported on piles which are socketed into bedrock which will be unaffected by this. In summary the risk of collapse of superficial fill from adjacent site, affecting the structure in our site is not deemed significant, due to robust piled foundation solution.”*

The Coal Authority have commented, whilst the applicant has not demonstrated the proposed extension will be clear of the area of land associated with an off-site collapse. They have clarified the building will be constructed with piled foundations, which the Coal Authority are satisfied will mitigate against instability posed by a collapse of the site.

Based on the submitted information and the professional opinions contained therein, and in light of the scale of the proposed development and constraints to repositioning the extension elsewhere on site, The Coal Authority withdrew their objection to the application. This withdrawal is subject to the construction of the development with a suitably designed piled foundation and the imposition of conditions to secure the investigation and, if necessary, the remediation of coal mining legacy affecting the site, as set out in their initial consultation response letter

### **Flooding and Drainage**

Flooding and surface water drainage matters will be updated in the supplementary planning paper once comments have been received from the Lead Local Flood Agency.

Severn Trent Water advised, the applicant would need to divert the sewer, providing full clearance (5m either side of the pipe 10m across the diameter. Not to be offset). The developer liaising with Severn Trent Water, confirmation was received on 26/10/21, the proposed sewer diversion has been approved by Severn Trent’s Developer Service Team (sap reference 10001403). Severn Trent Water require the inclusion of a planning condition in respect of drainage.

The Environment Agency have commented solely in respect of ‘Controlled Waters’, advising in reference to the 1:50,000 scale geological map, this indicates the site is located on the Pennine Lower Coal Measures and Superficial Glaciofluvial deposits are also indicated. Both strata are designated a Secondary A Aquifer by the Environment Agency. These are permeable strata capable of supporting water supplies at a local rather than strategic scale and in some cases forming an important source of base flow

to rivers. The site is not located within a groundwater Source Protection Zone and there are no licensed abstractions within 1km of the site. The River Tame is located approximately 280 metres to the east of the development site.

Reviewing the Geotechnical Summary submitted by the Environment Agency ('Proposed New Warehouse Heath Road Wednesbury WS10 8XL Geotechnical information Summary', Morgan Structural Limited), it is considered contains a basic preliminary assessment, identifying the need for further investigations to assess the contamination risk.

The Environment Agency recommend a condition be included on any planning permission, to deal with any significant contamination that may represent a risk to controlled waters. They recommend that initially the applicant should undertake a comprehensive Phase I desk study review to determine the potential for ground contamination. A conceptual site model should be produced, to include identifying potential pollutant linkages with respect to controlled waters. Appropriate site investigations should then be scoped based on the findings of the desk study. Safeguarding conditions are imposed that meet the 6 tests.

The Lead Local Flood Agency have confirmed they are satisfied with the submission and have no objections to the granting of planning permission on flooding grounds.

### **Access and Parking**

Access onto Heath Road is via a private access road which the Local Highways Authority considers is adequate to serve the development.

In terms of parking, the existing development currently has provision for 57 car parking spaces, which is inclusive of 5 disabled spaces. There are currently 8 articulated lorry bays at loading docks, as well as 2 fuelling bays.

An additional 25 parking spaces, inclusive of 2 disabled spaces and 2 electric charge point equipped parking spaces are to be provided. It is also proposed that 2 articulated lorry bays will be provided at loading docks. The additional parking provision is considered acceptable.

The Local Highway Authority considers the development will not have an unacceptable impact on road safety or have severe cumulative impacts on the operation of the road network and is acceptable in accordance with the NPPF 2018 paragraph 109

## **Conclusions and Reasons for Decision**

In weighing the material planning considerations, taking into account the local and national planning guidance, it is considered the proposed development to extend a previously approved warehouse will not involve any change in the use. The existing permission is for a warehouse with an ancillary trade counter and the current application is therefore considered acceptable on planning policy grounds.

Subject to the resolution of Network Rail's concerns regarding the proposal of the development next to the new Darlaston Railway Station and Fire Officers concerns the proposal is considered acceptable on planning policy grounds and would provide additional employment opportunities for the borough.

The nearest residential properties are approximately 200 metres away from the proposed building on Station Street and are screened from the application site by intervening industrial units. Consequently, it is considered that the proposal would have



a limited impact on the amenity for neighbouring occupiers because of the separation distance and intervening buildings.

The use of safeguarding conditions will further ensure that the neighbours' amenity and impacts on the environment are protected and that the 6 tests: necessary; relevant to planning and; to the development to be permitted; enforceable; precise and reasonable in all other respects within the national planning guidance are fully met.

As such the development is considered to meet the aims and objectives of the National Planning Policy Framework (para 127), policies CSP3, CSP4, CSP5, EMP1, EMP2, CEN1, TRAN2, TRAN 4, TRAN5, ENV2, ENV3, ENV5, ENV7 and ENV8 of the Black Country Core Strategy and saved policies GP2, GP6, ENV10, ENV11, ENV14, ENV17, ENV32, ENV35, ENV40, T7, T8, T9, T10, T11, T12 and T13 of Walsall Unitary Development Plan, policies IND1, IND5, EN3, T3 and T4 of Walsall's Site Allocation Document and Supplementary Planning Documents Designing Walsall and Air Quality. Taking into account the above factors it is considered that the application should be recommended for approval.

The economic and social benefits in this instance are considered would not have an unacceptable impact on the environment.

### **Positive and Proactive Working with the Applicant**

Officers have liaised with the Planning Agents to assist with addressing consultee concerns prior to this application being heard at planning committee

### **Recommendation**

1. Planning Committee resolve to Delegate to the Head of Planning & Building Control to Grant Planning Permission subject to;
  - No new material considerations being received within the current consultation period;
  - The amendment and finalising of conditions;
  - No further comments from a statutory consultee raising material planning considerations not previously addressed;
  - Overcoming the outstanding objections raised by the Fire Officer

### **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. This development shall not be carried out otherwise than in conformity with the following approved documents and plans: -

- Block Plan, drawing no. PL-03 Revision B, deposited 20/01/2022
- Proposed Site Layout Plan with Station Planning Layout, drawing PL-14 Rev. A, deposited 20/01/2022



- Design and Access Statement, Revision E- 2022 01 17, deposited 20/01/2022
- Surface Water Drainage Strategy prepared by Avocet dated January 2021, deposited 08/11/2021
- Ecological Impact Assessment prepared by Midlands Ecology dated 14/01/2021 and deposited 28/01/2021
- Energy Statement prepared by Watt Design dated January 2021, deposited 28/01/2021
- Existing Site Layout Plan, drawing no. PL-02 Revision A, deposited 20/01/2022
- Existing Plans and Elevations Building (To be Demolished) drawing no. PL-06, deposited 20/11/2021
- External Works Plan, drawing no PL-12 Revision D, deposited 20/01/2022
- Flood Risk Assessment prepared by Avocet dated January 2021, deposited 28/01/2021
- Geotechnical Information Summary prepared by Morgan Structural Ltd, deposited on 28/01/2021
- Planning Statement by Mango Planning and Development Ltd, reference AH/200123/R0001VFINAL/A dated January 2021, deposited 28/01/2021
- Proposed Elevations, drawing no. PL-09, Rev. B deposited 20/01/2022
- Proposed Outline Section, drawing no. PL10 Rev A, deposited 20/01/2022
- Proposed Plan, drawing no. PL08 Rev. B, deposited 20/01/2022
- Proposed Roof Plan, drawing no. PL11, Rev. B deposited 20/01/2022
- Proposed Site Layout Plan, drawing no. PL-07 Rev E, deposited 20/01/2022
- Proposed Site Layout with former planning layout overlay, drawing no. PL-19, deposited 20/01/2022
- Site Location Plan, drawing no. PL-01 Rev A, deposited 20/01/2022
- Transport Statement prepared by Cotswold Transport Planning dated January 2021, deposited 28/01/2021.
- Flood Exceedance Route, drawing no. AVO-20079-PLA-003, Rev. A01, deposited 08/11/21
- Proposed Drainage Strategy, drawing no. AVO-20079-PLA-001 Rev. A03, deposited 08/11/21
- Coal Mining Risk Assessment – Summary Review by Morgan Structural Ltd, Version 1.0616, deposited 02/08/21
- Coal Mining Risk Assessment by The Coal Authority dated 26/03/21 deposited 16/04/2021

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

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

- i. Construction working hours
- ii. Parking and turning facilities for vehicles of site operatives and visitors
- iii. Loading and unloading of materials
- iv. Storage of plant and materials used in constructing the development
- v. A scheme for recycling/disposing of waste resulting from construction works
- vi. Temporary porta-cabins and welfare facilities for site operatives
- vii. Site security arrangements including hoardings
- viii. Wheel washing facilities and/or other measures to prevent mud or other material emanating from the application site reaching the highway

- ix. Measures to prevent flying debris
- x. Dust mitigation measures (particularly as the contaminated land investigation has indicated that land is contaminated)
- xi. Measures to prevent site drag-out (including need for wheel cleaning and use of a road-sweeper)
- xii. Noise and vibration (if piling and/or ground stabilisation is to be conducted) mitigation measures
- xiii) Re-covering of holes, escape from holes, tree/hedgerow protection for terrestrial mammals etc.

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

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, to safeguard the railway and its boundary from demolition machinery and dust and debris and to control the environmental and highway impacts of the development in accordance with saved policies GP2, ENV10, ENV32, T7 and T13 of Walsall's Unitary Development Plan.

4: a) Prior to the commencement of development hereby permitted a remediation strategy to deal with the risks associated with contamination of the site and the proposal shall be submitted in writing to and approved in writing by the local planning authority. This strategy shall include the following components:

- (i) A preliminary risk assessment which has identified:
  - all previous uses
  - potential contaminants associated with those uses
  - a conceptual model of the site indicating sources, pathways and receptors
  - potentially unacceptable risks arising from contamination at the site
- (ii) A site investigation scheme, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
- (iii) The results of the site investigation and the detailed risk assessment referred to in (ii) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- (iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

4: b) 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 lifetime of the development.

Reasons: To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by unacceptable levels of water pollution from previously unidentified contamination sources at the development site and to minimise the risk of pollution and 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

5: a) Prior to the commencement of any development hereby permitted details set out in parts I to IV shall be submitted in writing to and approved in writing by the Local Planning Authority;

- I. Details of intrusive site investigations for past coal mining activity;
- II. the approved details of intrusive site investigations shall be undertaken and a report of findings arising from the intrusive site investigations including the results of any monitoring;
- III. details of remedial works;
- IV. Details of a suitably designed piled foundation;

5: b) 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 lifetime of the development.

5: c) Prior to the first occupation of the development hereby permitted a signed statement/declaration prepared by a suitably competent person confirming the site has been made, safe and stable for the permitted development shall be submitted in writing to and approved in writing by the Local Planning Authority. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

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

6: a). Prior to the commencement of any development hereby permitted a method statement and risk assessment relating to the operation of the railway during remediation and construction of the building shall be submitted in writing to and approved in writing by the Local Planning Authority

6: b) 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 lifetime of the development.

Reason: To ensure that the construction and subsequent maintenance of the proposal can be carried out without adversely affecting the safety, operational needs or integrity of the railway and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

7: a) Prior to the commencement of the development hereby permitted details of the disposal of both surface water and foul water drainage directed away from the railway shall be submitted in writing to and approved in writing by the Local Planning Authority.

7: b) 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 lifetime of the development.

Reason: To protect the adjacent railway from the risk of flooding, soil slippage and pollution and in accordance with saved policies GP2, ENV10 and ENV32 of Walsall's Unitary Development Plan.

8: a) Prior to the commencement of the development hereby permitted full details of ground levels, earthworks and excavations to be carried out near to the railway boundary shall be submitted in writing to and approved in writing by the Local Planning Authority.

8: b) 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 lifetime of the development.

Reason: To protect the adjacent railway and its boundary and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

9: a) Prior to the commencement of the development hereby permitted details of scaffolding works within 10m of the railway boundary shall be submitted in writing to and approved in writing by the Local Planning Authority

9: b) 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 lifetime of the development construction period.

Reason: In the interests of protecting the railway and its boundary from over-sailing scaffolding and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

10: a) Prior to the commencement of the development hereby permitted any proposed vibro-impact works on site, a risk assessment and method statement shall be submitted in writing to and approved in writing by the Local Planning Authority

10: b) 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 lifetime of the development construction period.

Reason – to prevent any piling works and vibration from de-stabilising or impacting the railway and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

11: a) Prior to the commencement of the development hereby permitted details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted to the Local Planning Authority

11: b) 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 lifetime of the development.

Reason: to prevent the design and layout of the road and parking spaces from impacting the adjacent operational railway with accidental vehicle incursion and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

12: i) Prior to the commencement of the development hereby permitted a site investigation, ground contamination survey and assessment of ground gas having regard to current best practice shall be undertaken (see Note for Applicant CL1)

12: ii) Prior to the commencement of the development hereby permitted a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of identified and/or potential hazards arising from any land contamination and/or ground gas shall be submitted in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

12: iii) Prior to the commencement of the development hereby permitted a 'Remediation Statement' setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation shall be submitted in writing to and approved in writing by the Local Planning Authority (see Note for Applicant CL2)

12: iv) The remedial measures as set out in the 'Remediation Statement' required by part iii) of this condition shall be implemented in accordance with the agreed timetable.

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

12: vi) Prior to the first occupation of the development hereby permitted until a validation report setting out full details of the remedial measures implemented and cross referencing those measures to the approved Remediation Statement together with substantiating information and justification of any changes from the agreed remedial arrangements shall be submitted in writing to and agreed in writing by the Local Planning Authority. (See Note for Applicant CL3)

12: vii) The development shall not be carried out otherwise than in accordance with the approved Remediation Statement and the remedial measures shall thereafter be retained for the lifetime of the development.

Reason: To ensure safe development of the site and to protect human health and the environment. In addition, to meet the requirements of the National Planning Policy Framework (2019) 170 and 178.

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

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

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 NPPF14, BCCS Policy ENV5 and saved Walsall's Unitary Development Plan policy GP2 and ENV40.

14: a) Prior to commencement of any building operations above the damp proof course of the development hereby permitted details of the proposed finished floor levels, ridge and eaves heights of the buildings hereby permitted shall be submitted in writing to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding properties.

14: b) 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 lifetime of the development.

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

15: a). Prior to the commencement of the development hereby permitted details of landscaping including both hard and soft landscape works with plants species of known value to wildlife, including strengthening the tree-lined boundaries into hedgerows with a minimum mixture of 6 approved native hedgerow species to improve ecological connectivity, and earthworks shall be submitted in writing to and approved in writing by the Local Planning Authority.

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

15: c) 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.

16: a) Prior to the commencement of building operations above damp proof course of the development hereby permitted until details of the proposed boundary treatment of the site, including heights, positions and extents, materials, colours 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.

16: b) 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.

16: c) prior to the first occupation of the development hereby permitted all boundary treatments have been erected in accordance with the approved schedule and thereafter be maintained and retained for the lifetime of the development.

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.

17: a) 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.

17: b) 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.

18: Prior to the occupation of the development hereby permitted all access ways, parking bays, vehicle manoeuvring and turning areas shall be consolidated, drained and hard surfaced, together with the clear demarcation of all parking bays. These areas shall thereafter be retained for the lifetime of the development and used for no other purpose.

Reason: To ensure the safe and satisfactory operation of the development and in accordance with UDP policy GP2, ENV40, T7 and T13.

19: a) Prior to the occupation of the development hereby permitted, details of the proposed cycle shelter, which shall be covered and illuminated, shall be submitted in writing to and approved in writing by the Local Planning Authority.

19: b) The development shall not be carried out otherwise than in accordance with the approved details and the approved cycle shelter shall thereafter be retained for the lifetime of the development and used for no other purpose.

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

20: a) Notwithstanding the Ecological Impact Assessment carried out by Midland Ecology dated 14 January 2021 all workers on the site shall be made aware that bats and badgers may be present and shall not undertake demolition works including the dismantling of roofs, soffits, gables or in the vicinity of cracks and crevices otherwise than with the use of hand tools. All roofing materials shall be listed carefully (and not dragged or slid) and the undersides examined for bats or bat droppings.

20: b) If during the construction period bats or evidence of bats or their roosts are found:

- i. bats and badgers shall not be handled or touched
- ii. The vicinity of any bat roost or badger sett shall be immediately reinstated.
- iii. No further destructive works shall be carried out until the need for Natural England licence has been established.
- iv. Within one week of finding a badger sett and/or bats or evidence of bats or their roosts, a written report by the supervising ecologist who shall be a person qualified in ecology and/or nature conservancy shall be submitted in writing to and approved in writing by the Local Planning Authority. The report

- shall record what was found, and propose appropriate mitigation measures, including a timetable for their implementation
- v. Work shall not continue otherwise than in accordance with the approved mitigation measures and the approved timetable

Reason: To conserve local bat and badger populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

21: Site clearance and dismantling works shall be undertaken outside the bird nesting season. The bird nesting season extends between March and August inclusive but is weather dependant and nesting may take place outside this period. If nesting birds are discovered, clearance works should be delayed until the young have fledged.

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

22: Site clearance and dismantling works shall be undertaken outside the hedgehog hibernation season between September and March inclusive but is weather dependant and hibernation may take place outside this period. If hedgehogs are discovered, care should be taken to avoid disturbance.

Reason: To conserve local bird populations and to comply with NPPF11, BCCS Policy ENV1, saved UDP Policy ENV23 & policies NE1 to NE6 of the Natural Environment SPD.

23: a) Prior to the installation of any external lighting on the site 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.

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

Reason: In the interests of the visual amenities of the area and to minimise ecological impacts in accordance with saved policies GP2, ENV11, ENV23 and ENV32 of Walsall's Unitary Development Plan.

24: No loading and unloading of goods or storage of goods materials or equipment shall take place within the parking/turning/vehicle manoeuvring/bin storage areas and open areas outside the building.

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

25: a) The solar PV panels will consist of anti-reflective glass and this shall be retained as such thereafter.

25: b) The solar PV equipment or solar thermal equipment is removed as soon as reasonably practicable when no longer needed

Reason: To prevent glare and safeguard the amenity of neighbours and in accordance with saved policies GP2 and ENV32 of Walsall's Unitary Development Plan.

## **Notes for Applicant**

### **Highway Authority**

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

### **Fire Officer**

#### **Approved Document B, Volume 2, Buildings other than Dwellings, 2019.**

Requirement B5: Access and facilities for the fire service

**The proposal does not appear to meet the requirement for the provision of water for firefighting (See below 16.8 a & b).**

### **Section 15: Vehicle access**

Buildings not fitted with fire mains

15.1 For small buildings (up to 2000m<sup>2</sup>, with a top occupied 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)

### **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)

### **Section 16: Fire mains and hydrants**

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 280m<sup>2</sup>.
- 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**

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:

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

For further information please contact the WMFS Water Office at the address given above or by email on [Water.Officer@wmfs.net](mailto: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)

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

### **Network Rail Notes**

This proposal includes works less than 10m from the railway boundary – therefore the proposal WILL require the applicant to interface with Network Rail and conditions to be applied to ensure the safe operation and integrity of the railway is maintained both during construction and as a permanent arrangement.

### **Measurements to railway tracks and railway boundary**

When designing proposals, the developer and council are advised, that any measurements must be taken from the operational railway / Network Rail boundary and not from the railway tracks themselves. From the existing railway tracks to the Network Rail boundary, the land will include critical infrastructure (e.g. cables, signals, overhead lines, communication equipment etc.) and boundary treatments (including support zones) which might be adversely impacted by outside party proposals unless the necessary asset protection measures are undertaken. No proposal should increase Network Rail's liability. To ensure the safe operation and integrity of the railway, Network Rail issues advice on planning applications and requests conditions to protect the railway and its boundary.

### **RAMS**

The developer is to submit directly to Network Rail, a Risk Assessment and Method Statement (RAMS) for all works to be undertaken within 10m of the operational railway under Construction (Design and Management) Regulations, and this is in addition to any planning consent. Network Rail would need to be re-assured the works on site follow safe methods of working and have also taken into consideration any potential impact on Network Rail land and the existing operational railway infrastructure. Builder to ensure that no dust or debris is allowed to contaminate Network Rail land as the outside party would be liable for any clean-up costs. Review and agreement of the RAMS will be undertaken between Network Rail and the applicant/developer. The applicant /developer should submit the RAMs directly to:

[AssetProtectionLNWSouth@networkrail.co.uk](mailto:AssetProtectionLNWSouth@networkrail.co.uk)

### **Encroachment**

The developer/applicant must ensure that their proposal, both during construction, and after completion of works on site, does not affect the safety, operation or integrity of the operational railway, Network Rail land and its infrastructure or undermine or damage or adversely affect any railway land and structures.

- There must be no physical encroachment of the proposal onto Network Rail land, no over-sailing into Network Rail air-space and no encroachment of foundations onto Network Rail land or under the Network Rail boundary.
- All buildings and structures on site including all foundations / fencing foundations must be constructed wholly within the applicant's land ownership footprint.



- Buildings and structures must not over-sail Network Rail air-space.
- Any future maintenance must be conducted solely within the applicant's land ownership.
- Rainwater goods must not discharge towards or over the railway boundary
- Should the applicant require access to Network Rail land to facilitate their proposal they would need to approach the Network Rail Asset Protection Team at least 20 weeks before any works are due to commence on site. The applicant would be liable for all costs incurred in facilitating the proposal and an asset protection agreement may be necessary to undertake works. Network Rail reserves the right to refuse any works by an outside party that may adversely impact its land and infrastructure.
- Any unauthorised access to Network Rail air-space or land will be deemed an act of trespass.

### **Scaffolding**

Scaffolding which is to be constructed within 10 metres of the Network Rail / railway boundary must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffolding must be installed. The applicant / applicant's contractor must consider if they can undertake the works and associated scaffolding / access for working at height within the footprint of their land ownership boundary. The applicant is reminded that when pole(s) are erected for construction or maintenance works, they must have a minimum 3m failsafe zone between the maximum height of the pole(s) and the railway boundary.

This is to ensure that the safety of the railway is preserved, and that scaffolding does not:

- Fall into the path of on-coming trains
- Fall onto and damage critical and safety related lineside equipment and infrastructure
- Fall onto overhead lines bringing them down, resulting in serious safety issues (this is applicable if the proposal is above the railway and where the line is electrified).

### **Vibro-Impact Machinery**

If vibro-compaction machinery / piling machinery or piling and ground treatment works are to be undertaken as part of the development, details of the use of such machinery and a method statement must be submitted to the Network Rail for agreement.

- All works shall only be carried out in accordance with the method statement and the works will be reviewed by Network Rail. The Network Rail Asset Protection Engineer will need to review such works in order to determine the type of soil (e.g. sand, rock) that the works are being carried out upon and also to determine the level of vibration that will occur as a result of the piling.
- The impact upon the railway is dependent upon the distance from the railway boundary of the piling equipment, the type of soil the development is being constructed upon and the level of vibration. Each proposal is therefore different and thence the need for Network Rail to review the piling details / method statement.

Maximum allowable levels of vibration - CFA piling is preferred as this tends to give rise to less vibration. Excessive vibration caused by piling can damage railway structures and cause movement to the railway track as a result of the consolidation of track ballast. The developer must demonstrate that the vibration does not exceed a peak particle velocity of 5mm/s at any structure or with respect to the rail track.

### **Demolition**

The demolition works on site for the existing structure close to the railway boundary must be carried out so that they do not endanger the safe operation of the railway, or the stability of the adjoining Network Rail structures and land. The demolition of the existing building(s), due to its close proximity to the Network Rail boundary, must be carried out in accordance with an agreed method statement. Review of the method



statement will be undertaken by the Network Rail Asset Protection Engineer before the development and any demolition works on site can commence. Network Rail would like to add that the applicant is strongly recommended to employ companies to demolish buildings / structures belonging to the National Federation of Demolition Contractors. This will ensure that all demolition works are carried out to professional standards and the company itself will also include liability insurance as part of its service.

### **Drainage proposals and Network Rail land**

The NPPF states:

178. Planning policies and decisions should ensure that:

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability.

And

163. When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.

In order to comply with the NPPF, the applicant must ensure that the proposal drainage does not increase Network Rail's liability, or cause flooding pollution or soil slippage, vegetation or boundary issues on railway land. Therefore, the proposed drainage on site will include the following:

- All surface waters and foul waters must drain away from the direction of the railway boundary.
- Soakaways for the proposal must be placed at least 30m from the railway boundary.
- Any drainage proposals for less than 30m from the railway boundary must ensure that surface and foul waters are carried from site in closed sealed pipe systems.
- Suitable drainage or other works must be provided and maintained by the developer to prevent surface water flows or run-off onto Network Rail's land and infrastructure.
- Proper provision must be made to accept and continue drainage discharging from Network Rail's property.
- Drainage works must not impact upon culverts, including culverts/brooks etc. that drain under the railway. The applicant will not be permitted to direct surface or foul waters into culverts which run under the railway – any discharge of surface water under the railway via a culvert will require review and agreement from Network Rail who reserve the right to refuse use of any culverts.
- The developer must ensure that there is no surface or sub-surface flow of water towards the operational railway.
- Rainwater goods must not discharge in the direction of the railway or onto or over the railway boundary.

NB: Soakaways can materially affect the strength of soil leading to stability issues. A large mass of water wetting the environment can soften the ground, and a build-up of water can lead to issues with the stability of Network Rail retaining walls/structures and the railway boundary. Network Rail does not accept the installation of soakaways behind any retaining structures as this significantly increases the risk of failure and subsequent risk to the travelling public.

If the developer and the council insist upon a sustainable drainage and flooding system then the issue and responsibility of flooding, water saturation and stability issues should not be passed onto Network Rail. We recognise that councils are looking to proposals that are sustainable, however, we would remind the council that flooding, drainage, surface and foul water management risk as well as stability issues should not be passed 'elsewhere', i.e. on to Network Rail land.

The drainage proposals are to be agreed with Network Rail and surface water drainage on the site should be removed by a closed sealed pipe system.

The HSE identifies railways as a Major Hazard Industry. An earthwork failure within a high-hazard area has the potential to result in a catastrophic accident with multiple fatalities or long-lasting environmental issues. It should be noted that where the actions of an adjacent landowner have caused a landslide on the railway the loss adjusters are likely to advise recovery of Network Rail costs from the 3rd party, which would include costs of remediation and recovery of costs to train operators. Many railway earthworks were constructed in the Victorian period and are susceptible to failure by water saturation. Water saturation leads to an increase in pore water pressure within the earthwork material. Please also note that railways, and former railway land adjacent to it, is considered as contaminated land due to historic use of railways, which can affect the suitability of infiltration drainage.

### **Excavation and Earthworks and Network Rail land:**

The NPPF states:

178. Planning policies and decisions should ensure that:

a) A site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability.

In order to comply with the NPPF, the applicant will agree all excavation and earthworks within 10m of the railway boundary with Network Rail. Network Rail will need to review and agree the works to determine if they impact upon the support zone of our land and infrastructure as well as determining relative levels in relation to the railway. Network Rail would need to agree the following:

- Alterations to ground levels
- De-watering works
- Ground stabilisation works
- Works to retaining walls
- Construction and temporary works
- Maintenance of retaining walls
- Ground investigation works must not be undertaken unless agreed with Network Rail.
- Confirmation of retaining wall works (either Network Rail and/or the applicant).
- Alterations in loading within 15m of the railway boundary must be agreed with Network Rail.
- For works next to a cutting or at the toe of an embankment the developer / applicant would be required to undertake a slope stability review.

Network Rail would need to review and agree the methods of construction works on site to ensure that there is no impact upon critical railway infrastructure. No excavation works are to commence without agreement from Network Rail. The council are advised that the impact of outside party excavation and earthworks can be different depending on the geography and soil in the area. The council and developer are also advised that support zones for railway infrastructure may extend beyond the railway boundary and into the proposal area. Therefore, consultation with Network Rail is requested. Any right of support must be maintained by the developer.

### **3m Gap**

Network Rail requires that the developer includes a minimum 3 metres gap between the buildings and structures on site and the railway boundary. Less than 3m from the railway boundary to the edge of structures could result in construction and future maintenance works being undertaken on Network Rail land, and close to the railway boundary potentially impacting support zones or lineside cabling. All the works undertaken to facilitate the design and layout of the proposal should be undertaken

wholly within the applicant's land ownership footprint including all foundation works. Network Rail requires a minimum 3m easement between structures on site and the railway boundary to ensure that we can maintain and renew our boundary treatments.

### **Trees**

Proposals for the site should take into account the recommendations of, 'BS 5837:2012 Trees in Relation to Design, Demolition and Construction', which needs to be applied to prevent long term damage to the health of trees on Network Rail land so that they do not become a risk to members of the public in the future.

No trees shall be planted next to the boundary with the railway land and the operational railway, except for evergreen shrubs which shall be planted a minimum distance from the Network Rail boundary that is equal to their expected mature growth height. The vegetation planting must be in line with the attached matrix which has been agreed with the Tree Council. This is to prevent long term issues with leaf fall impacting the operational railway.

### **Parking / Hard Standing Area**

As the proposal calls for the following adjacent to the boundary with the operational railway, running parallel to the operational railway or where the existing operational railway is below the height of the proposal site:

- hard standing areas
- turning circles
- roads, public highways to facilitate access and egress from developments

Network Rail requests the installation of suitable high kerbs or crash barriers (e.g. Armco Safety Barriers).

### **BAPA (Basic Asset Protection Agreement)**

As the proposal includes works which could impact the existing operational railway and in order to facilitate the above, a BAPA (Basic Asset Protection Agreement) will need to be agreed between the developer and Network Rail. The developer will be liable for all costs incurred by Network Rail in facilitating this proposal, including any railway site safety costs, possession costs, asset protection costs / presence, site visits, review and agreement of proposal documents and any buried services searches. The BAPA will be in addition to any planning consent.

The applicant / developer should liaise directly with Asset Protection to set up the BAPA.

### [AssetProtectionLNWSouth@networkrail.co.uk](mailto:AssetProtectionLNWSouth@networkrail.co.uk)

Should the above proposal be approved by the council and should there be conditions, where the proposal interfaces with the railway (as outlined in this response) the outside party is advised that a BAPA (Basic Asset Protection Agreement) must be in place, in order for Network Rail to review and agree the documentation and works outlined in conditions (and those areas covered by the discharge of conditions).

The applicant is advised that before the proposal progresses (should it be approved) they will be required to submit the development form to Network Rail's Asset Protection team and agree the BAPA before any works commence on site.

Network Rail is a Government funded Organisation and we are expected to recover our involvement costs from this type of interface, to proceed in more detail with discussions a signed Basic Asset Protection Agreement (BAPA) would be required to be in place.

Permanent impacts of development are usually material considerations (such as the position of permanent structures, or drainage design etc.) and where these are likely to occur, requests for planning conditions or scheme amendments are requested to

protect the existing railway infrastructure from the impacts of the works on site and as a permanent arrangement. Controls on the temporary impact of construction to outside party land should also be picked up via building control, or in some cases a party wall surveyor.

Once the attached Asset Protection Questionnaire has been completed and forwarded to the team the enquiry will then be processed and an email sent to the applicant giving a project reference number and name of person with the asset protection team that will deal with the enquiry.

For further information on interfacing with Network Rail please see Working by the railway - Network Rail

### **Severn Trent Water**

Severn Trent Water advise that there is a public 300-375mm foul sewer located within this site. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent. You are advised to contact Severn Trent Water to discuss the proposals. Severn Trent will seek to assist in obtaining a solution which protects both the public sewer and the building. Please note, when submitting a Building Regulations application, the building control officer is required to check the sewer maps supplied by Severn Trent and advise them of any proposals located over or within 3 meters of a public sewer. Under the provisions of Building Regulations 2000 Part H4, Severn Trent can direct the building control officer to refuse building regulations approval.

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

Please note if you wish to respond to this email please send it to [Planning.apwest@severntrent.co.uk](mailto:Planning.apwest@severntrent.co.uk) where we will look to respond within 10 working days. Alternately you can call the office on 0345 266 7930

### **Coal**

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

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

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

### **Environment Agency**

The Environment Agency recommend that initially the applicant should undertake a comprehensive Phase I desk study review to determine the potential for ground contamination. A conceptual site model should be produced that should include identifying potential pollutant linkages with respect to controlled waters. Appropriate site investigations should then be scoped based on the findings of the desk study.

We recommend that developers should:

- Follow the risk management framework provided in Land Contamination Risk Assessment when dealing with land affected by contamination.
- Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.
- Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land contamination risks are appropriately managed.
- Refer to the contaminated land pages on GOV.UK for more information.

We would like to refer the applicant/enquirer to our groundwater position statements in 'The Environment Agency's approach to groundwater protection', available from gov.uk. This publication sets out our position for a wide range of activities and developments, including:

- Waste management
- Discharge of liquid effluents
- Land contamination
- Ground source heat pumps
- Drainage

Additionally, it should be noted that in accordance with Government policy detailed in the National Planning Policy Framework (paragraph 188), 'where a site is affected by contamination or land stability issues responsibility for securing a safe development rests with the developer and/or landowner'. Therefore, should any significant contamination subsequently become apparent then responsibility will remain with these parties.

### Further Advice

Should you wish us to review any technical documents or want further advice to meet the requirements of the conditions recommended, we may do this as part of our charged for planning advice service.

Further engagement will provide you with certainty of our position as to what our response to your application to discharge conditions will be. It should also result in a better quality and more environmentally sensitive development.

As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems. We currently charge £100 per hour, plus VAT. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms of our charged for service are available [here](#).

If you would like more information on our planning advice service, including a cost estimate, please contact us on the details provided below. Please consult us on the details submitted to your authority to discharge this condition and on any subsequent amendments/alterations.

### **Planning Application Advice**

Should the applicant or any subsequent owners wish to create a separate planning unit with the proposed new warehouse then planning permission shall need to be sought and obtained.

**END OF OFFICERS REPORT**