



To: DEVELOPMENT CONTROL COMMITTEE

Report of Head of Planning and Building
Control, Regeneration and Performance
Directorate On 06 Jan 2009

REASON FOR BRINGING TO COMMITTEE: Major Application

Application Number: 08/1459/FL

Application Type: Full application

Applicant:

Proposal: Erection of a combined heat and power plant and railway sidings to be used in conjunction with material recovery facility approved under 07/1691/RM/W7.

Ward: Birchills Leamore

Recommendation Summary: Grant Subject to conditions

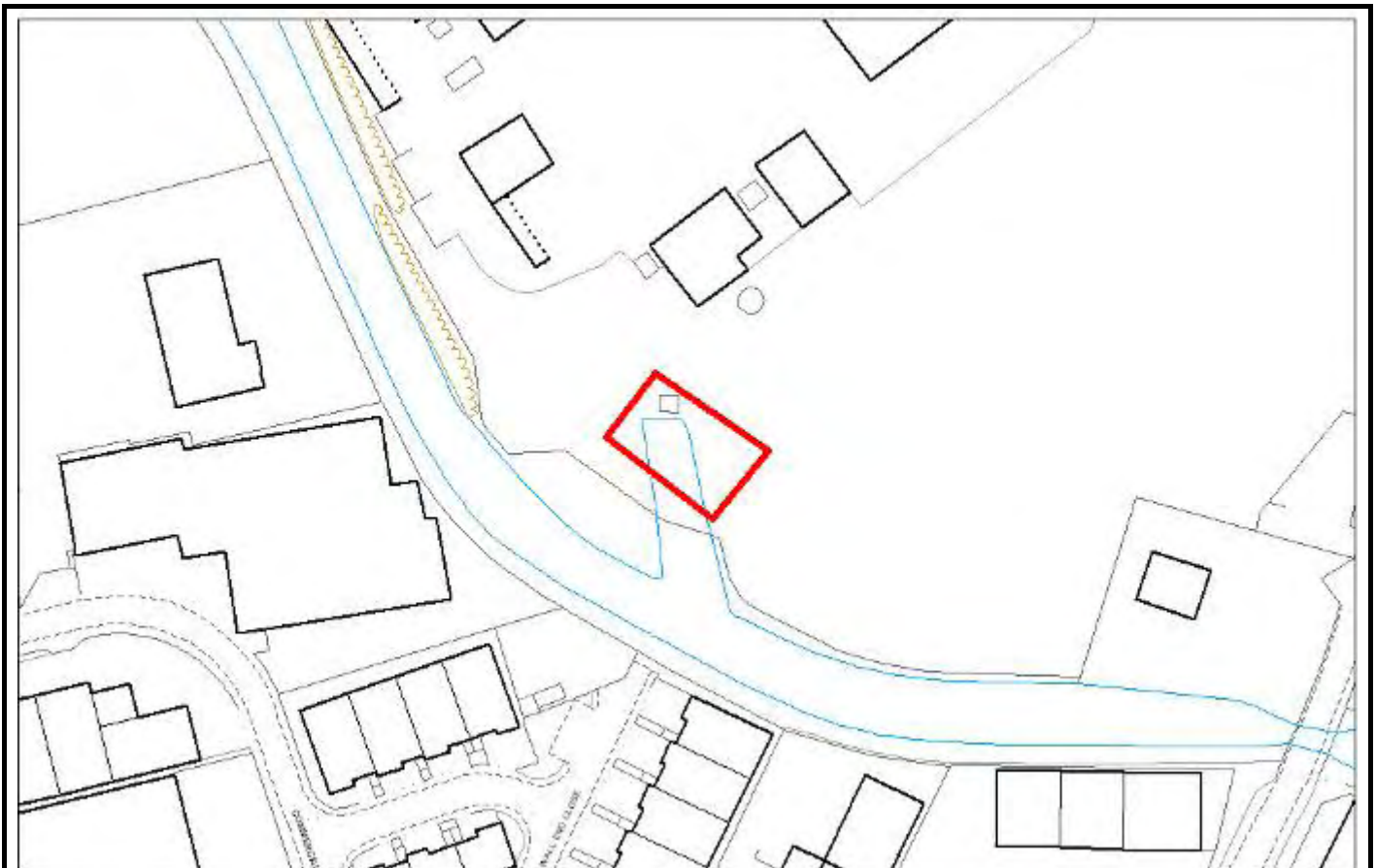
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Agent:

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Expired: 16/12/2008



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Application and Site Details

The application site is part of the Trident Alloys site and is undergoing remediation (already approved under an earlier permission, reference 05/0641/FL/W2, which included new topsoil being imported onto the site and changes to levels).

This application is considered in conjunction with application reference 08/1815/RM for a materials recycling facility which appears elsewhere on this agenda.

The proposals are for a new Combined Heat and Power (CHP) building which would be 45m by 45m by 9.5m high and incorporate a 21m high stack (11.5m above the tallest part of the proposed building). The building will use the energy generated from the incineration of materials (mainly low grade wood) from the materials recycling facility

The proposals also include 6 coolers (used in the in the operation of the CHP) each measuring 8.405m by 2.6m by 2.2m high and a potential extension to the existing railway siding.

Material (primarily low grade wood) would be moved by forklift from the main materials recycling facility building on the site (under application reference 08/1815/RM).

The application is supported by a full air quality assessment, supporting planning statement and technical document on matters including ground conditions and flood risk.

Relevant Planning History

04/1862/FL/W7 – Creation of new entrance onto Fryers Road. Approved 30th September 2004.

05/0641/FL/W2 – Creation of new site surface, in places up to 6m above existing levels. Approved - 9th June 2005.

07/0449/OL/W7 – Outline application for the Development of Industrial Units – Granted 6th June 2007

07/1691/RM/W7 – Application for Reserved Matters in respect of development of industrial units (outline planning permission reference 07/0449/OL/W7) – Granted 19th October 2007.

08/1815/RM - Amendment to approved reserved matters (ref 07/1691/RM/W7) re: Layout, Appearance, Scale and Landscaping. Also on this agenda.

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

Adopted UDP

Policies GP1 and GP2 seek to encourage sustainable regeneration in appropriate locations and reuse brownfield land. Policy Env14 sets out the criteria for consideration of the reuse of derelict and previously developed sites. Policy Env10 considers pollution and the impact of industry on an area. Policy Env40 which relates to the conservation, protection and use of water resources also applies.

The site is identified within Policy JP1 as site E24, for employment use. The policy is supplemented by Policy JP5 as the site is located within a Core Employment Area. Policy JP5 encourages development of industry and employment uses within Classes B1(b), B1(c), B2 and B8. Policy JP3 (rail-served sites) applies and encourages development of land which has the capability of being served by rail.

Policy T13 promotes the appropriate level of car parking for employment activities with policies T7 and T8 promoting walking and cycling. Policy LC5 seeks to promote the use of canals as a green network through the Borough.

Regional Spatial Strategy for the West Midlands (RSS11)

Policies PA1, PA2 and PA6 seek to promote regeneration and encourage employment development in sustainable locations (i.e. within the Major Urban Areas) and to ensure that an appropriate portfolio of land exists to meet the needs of the economy. Policy QE9 highlights the need to promote the water environment and improve such facilities, including canals.

National Policy

PPS1 seeks to promote sustainable use of previously developed land whilst locating uses such as offices and retail development in town centres. PPG4 seeks to promote and enhance industrial and commercial development.

Consultations

Transportation – No objection subject to conditions

Pollution Control (Contaminated Land Team) – No objection subject to conditions

Pollution Control (Scientific Team) – No objection subject to the stack being 21m as shown.

British Waterways – No objection subject to conditions

Land Drainage – No objection but must check with British Waterways

National Grid – No objection – risk is negligible

Inland Waterways Association – Object because the applicants do not appear to have considered using the canal for freight movement. Proposals should also offer more landscaping to the canal.

Natural Environment Team – Object - While there is no objection in principle to this development it is recommended for refusal unless amendments are made and more detail provided on how the ecological aspects of this application have been considered.

Seven Trent – No objection subject to a condition.

Public Participation Responses

One letter has been received from a neighbouring business which objects to the application on the basis of emissions from the proposals affecting the integrity of warehouse stocks and products vulnerable to contamination. The facility would also have a detrimental impact on property values in the area.

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

Determining Issues

- Relationship to approved applications
- Layout
- Issues raised by the neighbouring commercial operator
- Design and external appearance of the proposed building
- Car parking provision
- Landscaping and Relationship to the canal

Observations

Relationship to approved applications

The principle of a waste recovery centre development on the site was established by Committee in the acceptance of the previous planning permissions (07/0449/OL and 07/1691/RM/W7).

The proposals will move the CHP from being attached to the approved building to the eastern boundary of the application site. The creation of two separate buildings will reduce the overall bulk and mass of the

proposals. The CHP will work in coordination with the amended proposed building under application reference 08/1815/RM elsewhere on this agenda.

This is considered acceptable in light of the approved plans and the layout in relationship to the approved scheme and the proposed scheme under 08/1815/RM would be acceptable.

Layout

The proposals will change the existing approved layout however there are a number of similarities between the approved and proposed schemes. The principal differences are that the building will be split from the main building resulting in two smaller buildings. As a result servicing will now also take place to the canal elevation resulting in activity to the canal frontage, some landscaping to the canal and Trident Alloys (the neighbouring industrial premises) being reduced, and a slight increase in the level of car parking. The proposed layout would allow the CHP plant to work more efficiently and safely and in coordination with the main recycling centre.

Issues raised by the neighbouring commercial operator

With regard to the objection of the neighbouring commercial operator, the application is supported by an air quality assessment and mitigation measures have been designed into the proposals. It is considered that the proposals would allow for continued commercial operations to be carried out. Whilst property valuers are not directly a planning matter, it is considered that the redevelopment of the site and the creation of additional jobs would have a beneficial impact on the area.

Design and external appearance of the proposed building

The proposed CHP building has been designed to reduce the bulk and mass of the proposals through the use of alternative materials and colour on the uppermost parts of the building. The building also incorporates colour and vertical panels to break up the bulk and mass and to create interest to the street scene.

The proposals are a relatively large commercial building in a commercial area dominated by larger buildings. The building would be acceptable in terms of external appearance.

Car parking provision

It is noted that the proposals have been designed specifically for an end user. PPG13 (Paragraph 51) guides that "Local Authorities should not require developers to provide more spaces than they themselves wish, other than in exceptional circumstances which might include for example where there are significant implications for road safety which cannot be resolved through the introduction or enforcement of on-street parking controls." The present application provides a slight increase in the number of parking spaces previously approved. This is a low intensity proposal. The level of parking proposed is to that required by the end user and the proposals are acceptable.

The use of the canal for freight movement is not practical as incorporating this into the scheme would involve potentially damaging the canal bank and disturbing existing established flora and fauna.

The proposals have shown an indicative position to extend the railway sidings. It is understood that the applicant is discussing the viability and feasibility of this with Network Rail.

Landscaping and Relationship to the canal

The comments of the Natural Environment Team are noted as the proposed development is adjacent to the Wyrley and Essington Canal Site of Local Importance for Nature Conservation and partially within a wildlife corridor identified in the UDP. The proposed development therefore needs to respond to both the Site of Local Importance for Nature Conservation and the wildlife corridor.

Good quality landscape treatment is required especially on the canal frontage but also on the Fryers Road frontage. It is noted that British Waterways request that no tree be planted within 5 metres of the canal bank. In addition the ground conditions of the site require that a minimum of 75% of the total site area must be hard surfaced with no soakaways present (to meet the remediation specification) but

recommend higher levels of hard surface. As such whilst officers accept that there is a need for quantitative and qualitative landscaping on developments, the site constraints on the site determine that the landscaping of the site cannot meet the aspirations of the Natural Environment Team.

However, the proposals may include the opportunity for limited further landscaping (within the above constraints), in particular to the canal frontage and as such it is conditioned that the landscaping scheme shown on the plans submitted be amended to take account of the revised landscape potential and the comments of British Waterways.

Conclusion

Overall, the proposals are considered to be acceptable and would create a high quality employment facility as defined by the allocation in the Unitary Development Plan.

Summary of Reasons for Granting Planning Permission

The proposals have been considered with the aims and objectives of the Development Plan. These are the Regional Spatial Strategy for the West Midlands (RSS11) and the Unitary Development Plan (March 2005).

The Local Planning Authority have considered the submitted information and that the design of the proposals, the impact of the proposals on the character of the area, the air quality resulting from the proposals, and the impact on the continued operation of nearby businesses the proposals would not have a detrimental impact due to the air quality mediation techniques applied.

The ground conditions of the site and the required remediation determine that the level of hardsurfacing needs to be at a minimum of 75% of the total site area with no soakaways. In addition British Waterways do not wish for trees to be planted in close proximity to the canal due to the implications on the structural stability of the canal. Therefore given the site constraints the scope of landscaping appears reasonable and a revised landscaping scheme is conditioned to meet the requirements of British Waterways. It is acknowledged that this will not meet the aspirations of the Council's Natural Environment Team. However, on balance, the proposals are considered to be acceptable.

As such, the proposed development (having considered all relevant public participation responses and consultation comments) complies with the relevant policies of the Development Plan (namely Walsall Unitary Development Plan and the Regional Spatial Strategy for the West Midlands) and national planning guidance and best practice guidance. In particular the relevant policies of the development plan, in particular policies GP1, GP2, GP3, GP7, T7, T12 T13, ENV18, ENV21, ENV32, ENV33, JP1, and JP7 of the Adopted Walsall Unitary Development Plan (March 2005) and Policies PA1, PA2, PA6, QE3, QE4, QE5 and QE9 of the Regional Spatial Strategy for the West Midlands (RSS11), on balance, having taken into account all material planning considerations, the proposal is acceptable.

Recommendation: Grant Subject to conditions

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

Reason: Pursuant to the requirements of Section 91 of the Town and Country Planning Act, 1990.

2. This development, wherever possible, shall meet the 2005 Building Research Establishment Environmental Assessment Method 'very good' standard, unless otherwise agreed with the local planning authority. Details submitted shall include details of eco friendly measures to be incorporated within the construction of the building. These shall be approved in writing by the Local Planning authority and provided prior to occupation and retained at all times in the future in accordance with details approved. These measures should address the following: a scheme for rainwater harvesting for reuse as part of the day to day functions of the building and landscaping maintenance within the design of the permitted development, details of rainwater discharge, details of a solar/photovoltaic system and/or micro wind energy system on roofs.

Reason: In order to comply with guidance within policies ENV39 and ENV40 of Walsall's Unitary Development Plan and PPS1 in terms of sustainable development and use of natural resources.

3. Details for the disposal of both surface water and foul sewage are to be submitted to and agreed by the Local Planning Authority prior to the commencement of the development hereby approved. The approved details shall be implemented as part of the construction of the development.

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

4. No built development shall be carried out until full details of the proposed boundary treatment of the site (including the boundary treatment to the proposed water features and roof terraces) have been approved in writing by the local planning authority. The approved scheme shall be implemented before the development is brought into use and shall be thereafter retained.

Reason: To ensure the satisfactory appearance of the development.

5. This development shall not be carried out until samples of the facing materials to be used have been approved in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

6. Prior to the commencement of built development the details and locations of cycle stores and bin stores shall be completed submitted to and approved by the Local Planning Authority. The approved details shall be implemented and completed before the development is brought into use.

Reason: To ensure the satisfactory appearance of the development.

7. No development shall be carried out until a scheme for external lighting has been submitted to and approved by the Local Planning Authority and the lights shall be installed and thereafter retained in accordance with the approved details.

Reason : To safeguard the amenities of the occupiers of adjoining premises and highway safety.

8. Before this development is brought into use, the access ways, vehicle parking and manoeuvring areas shown on the approved plans shall be surfaced in a suitable impervious hardwearing material to be agreed in writing by the Local Planning Authority. The areas shall thereafter be retained and used for no other purpose. The parking spaces are to be clearly marked out.

Reason: To ensure the satisfactory functioning of the development.

9. Prior to the commencement of built development the applicant shall submit to and agree in writing with the Local Planning Authority a Travel Plan, including measures taken to promote sustainable travel to and from the development. The approved Travel Plan shall be implemented in accordance with the approved details.

Reason: In order to promote the use of alternative modes of transport.

10. Prior to built development commencing details of a survey and assessment of ground gas conditions shall be undertaken following completion of the reclamation works and the results provided to the Local Planning Authority. Details of ground gas mitigation or ingress prevention measures identified by the survey and assessment shall be submitted to and agreed in writing with the Local Planning Authority prior to built development commencing. Buildings shall not be occupied until agreed works have been completed to the satisfaction of the Local Planning Authority.

Reason: To ensure the satisfactory development of the site.

11. Prior to the commencement of development the landscaping scheme shown on the approved plans for 07/1691/RM/W7 shall be revised to meet the requirements of the layout approved under this permission, and submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall be implemented within 12 months of any part of the development being brought into use, or such other period as may be agreed in writing by the Local Planning Authority.

Reason: To ensure the satisfactory appearance of the development.

12. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, and the Town and Country Planning (General Permitted Development) Order 1995, or succeeding Orders, the premises shall not be used solely for B1(a) office purposes. Any office use shall be ancillary to the primary use of the proposed buildings as B1(b), B1(c), B2 and/or B8 as defined the Town and Country Planning (Use Classes) Order 1987.

Reason: The site is not located in a recognised town centre, which is appropriate location for office uses, and therefore the site is not necessarily suitable for office use.

13. The development shall not be occupied until visibility splays shown on the approved plans have been provided at the junction with the public highway. The visibility splay(s) shall thereafter be kept free of all obstruction higher than 900mm above the adjoining carriageway level.

Reason To ensure that the proposed development does not prejudice the free flow of traffic or conditions of general safety along the neighbouring highway.

14. Notwithstanding the plans hereby approved submitted details of the proposed foundations and excavations to be undertaken within 5 metres of the canal shall be submitted to and agreed in writing by the Local Planning Authority in consultation with British Waterways

Reason: Excavation and construction of foundations have the potential to impact upon the integrity of the waterway.

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

Reason: To ensure the satisfactory appearance of the development.

16. No tipping, or raising of ground levels shall take place within 5 metres of the top of the bank of the watercourse and no structures, works or fences (except of an easily removable nature) shall be erected and no materials shall be stacked or stored within that distance of the watercourse

Reason: To safeguard the maintenance, and the flood plain, of the watercourse.

17. Prior to the implementation of the extension to the railway sidings, full details, including results of any feasibility study and physical installations on the site shall be submitted to and approved in writing by the Local Planning Authority. The extension shall be implemented in accordance with the approved details.

Reason: To ensure the satisfactory functioning of the development.

18. With reference to the air quality survey and modelling undertaken by White Young Green reference AO46999-1 jr-at-080908-R1758, issue 2, the exhaust stack serving the biomass incinerator shall attain a minimum height of 21m above ground level.

Reason: To ensure the satisfactory functioning of the development.

NOTES FOR APPLICANT:

A) The applicant/developer is advised to contact Des Harris, British Waterways Third Party Works Engineer on 1827 252038, in order to ensure that any necessary consent is obtained and that the works comply with British Waterways' "Code of Practice for Works affecting British Waterways".

B) Ground investigation surveys should have regard to current "Best Practice" and the advice and guidance contained in Planning Policy Statement 23 - Planning and Pollution Control; British Standard BS10175: 2001 "Investigation of potentially contaminated sites - Code of Practice"; British Standard BS5930: 1999 "Code of practice for site investigations"; Construction Industry Research and Information Association "Assessing risks posed by hazardous ground gasses to buildings" (CIRIA C659); 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.

C) British Waterways offer no right of support to the adjacent property. The land owner should take appropriate steps to ensure that their works do not adversely affect the canal wall at this location.

D) The applicant is advised that permission would be required for the planting of trees and landscaping and boundary treatment sited on British Waterways' property

E) The applicant is advised that an agreement with British Waterways would be required for the discharge or abstraction of water into or from the canal.

F) The applicant is advised that an agreement with British Waterways would be required for the use of the canal navigation for freight movements.
