

Wolverhampton City Council

OPEN DECISION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date: 20th December 2011
Originating Service Group(s)	REGENERATION AND ENVIRONMENT	
Contact Officer(s)	Stephen Alexander (Head of Development Control & Building Control)	
Telephone Number(s)	(01902) 555610	
Title/Subject Matter	PLANNING APPLICATIONS	

Recommendation

Members are recommended to:

- (i) note the advice set out in the Legal Context and Implications;
- (ii) determine the submitted applications having regard to the recommendations made in respect to each one.

PLANNING COMMITTEE (20th December 2011)

Legal Context and Implications

The Statutory Test

- 1.1 S70 of the Town and Country Planning Act 1990 provides that where a local planning authority is called upon to determine an application for planning permission they may grant the permission, either conditionally or unconditionally or subject to such conditions as they think fit or they may refuse the planning permission. However, this is not without further restriction, as s.70 (2) of the Town and Country Planning Act 1990 requires that the authority shall have regard to the provisions of the development plan so far as material to the planning application and to any other material considerations. Further, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determinations of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise. Officers will give guidance on what amounts to be a material consideration in individual cases but in general they are matters that relate to the use and development of the land.

Conditions

- 1.2 The ability to impose conditions is not unfettered and they must be only imposed for a planning purpose, they must fairly and reasonably relate to the development permitted and must not be manifestly unreasonable. Conditions should comply with Circular Guidance 11/95.

Planning Obligations

- 1.3 Planning Obligations must now as a matter of law (by virtue of the Community Infrastructure Levy Regulations 2010) comply with the tests set down in the Circular 5/2005, namely, they must be:
- i) Necessary to make the development acceptable in planning terms
 - ii) Directly related to the development; and
 - iii) fairly and reasonably related in scale and kind to the development.

This means that for development or part of development that is capable of being charged Community Infrastructure Levy (CIL), whether there is a local CIL in operation or not, it will be unlawful for a planning obligation to be taken into account when determining a planning application, if the tests are not met. For those which are not capable of being charged CIL, the policy in Circular 5/2005 will continue to apply."

Retrospective Applications

- 1.4 In the event that an application is retrospective it is made under S73A of the Town and Country Planning Act 1990. It should be determined as any other planning permission would be as detailed above.

Applications to extend Time-Limits for Implementing Existing Planning Permissions

- 1.5 A new application was brought into force on 1/10/09 by the Town and Country (General Development Procedure) (Amendment No 3) (England) Order 2009 (2009/2261) and the Planning (Listed Buildings and Conservation Areas) (Amendment) (England) Regulations 2009 (2009/2262).

1.6 This measure has been introduced in order to make it easier for developers and LPA's to keep planning permissions alive for longer during the economic downturn, so that they can be more quickly implemented when economic conditions improve. It is a new category of application for planning permission, which has different requirements relating to:

- the amount of information which has to be provided on an application;
- the consultation requirements;
- the fee payable.

1.7 LPA's are advised to take a positive and constructive approach towards applications which improve the prospect of sustainable development being taken forward quickly. The development proposed in an application will necessarily have been judged to have been acceptable at an earlier date. The application should be judged in accordance with the test in s.38(6) P&CPA 2004 (see above). The outcome of a successful application will be a new permission with a new time limit attached.

1.8 LPA's should, in making their decisions, focus their attention on development plan policies and other material considerations (including national policies on matters such as climate change) which may have changed significantly since the original grant of permission. The process is not intended to be a rubber stamp. LPA's may refuse applications where changes in the development plan and other material considerations indicate that the proposal should no longer be treated favourably.

Reasons for the Grant or Refusal of Planning Permission

1.9 Members are advised that reasons must be given for both the grant or refusal of planning decisions and for the imposition of any conditions including any relevant policies or proposals from the development plan.

1.10 In refusing planning permission, the reasons for refusal must state clearly and precisely the full reasons for the refusal, specifying all policies and proposals in the development plan which are relevant to the decision (art 22(1)(c) GDPO 1995).

1.11 Where planning permission is granted (with or without conditions), the notice must include a summary of the reasons for the grant, together with a summary of the policies and proposals in the development plan which are relevant to the decision to grant planning permission (art 22(1)(a and b) GDPO 1995).

1.12 The purpose of the reasons is to enable any interested person, whether applicant or objector, to see whether there may be grounds for challenging the decision (see for example *Mid - Counties Co-op v Forest of Dean* [2007] EWHC 1714).

Right of Appeal

1.13 The applicant has a right of appeal to the Secretary of State under S78 of the Town and Country Planning Act 1990 against the refusal of planning permission or any conditions imposed thereon within 6 months save in the case of householder appeals where the time limit for appeal is 12 weeks. There is no third party right of appeal to the Secretary of State under S78.

1.14 The above paragraphs are intended to set the legal context only. They do not and are not intended to provide definitive legal advice on the subject matter of this report. Further detailed legal advice will be given at Planning Committee by the legal officer in attendance as deemed necessary.

The Development Plan

- 2.1 Section 38 of the 2004 Planning and Compulsory Purchase Act confirms that the **development plan**, referred to above, consists of the *development plan documents* which have been adopted or approved in relation to that area.
- 2.2 Wolverhampton's adopted Development Plan Documents are the saved policies of Wolverhampton's Unitary Development Plan (June 2006) and the West Midlands Regional Spatial Strategy.

Environmental Impact Assessment Regulations

- 3.1 The Town and Country Planning (Environmental Impact Assessment) Regulations 2011 require that where proposals are likely to have significant effects upon the environment, it is necessary to provide an Environmental Impact Assessment (EIA) to accompany the planning application. The EIA will provide detailed information and an assessment of the project and its likely effects upon the environment. Certain forms of development [known as 'Schedule 1 Projects'] always require an EIA, whilst a larger group of development proposals [known as 'Schedule 2 Projects'] may require an EIA in circumstances where the development is considered likely to have a “significant effect on the environment”.
- 3.2 Schedule 1 Projects include developments such as:-

Oil Refineries, chemical and steel works, airports with a runway length exceeding 2100m and toxic waste or radioactive storage or disposal depots.
- 3.3 Schedule 2 Projects include developments such as:-

Ore extraction and mineral processing, road improvements, waste disposal sites, chemical, food, textile or rubber industries, leisure developments such as large caravan parks, marina developments, certain urban development proposals.
- 3.4 If it is not clear whether a development falls within Schedule 1 or Schedule 2 the applicant can ask the local authority for a “screening opinion” as to which schedule is applicable and if Schedule 2, whether an EIA is necessary.
- 3.5 Even though there may be no requirement to undertake a formal EIA (these are very rare), the local authority will still assess the environmental impact of the development in the normal way. The fact that a particular scheme does not need to be accompanied by an EIA, is not an indication that there will be no environmental effects whatsoever.

<u>REFERENCE</u>	<u>SITE ADDRESS</u>	<u>WARD</u>	<u>PAGE NO</u>
11/00828/FUL	Compton Park Wolverhampton WV3 9DU	Park	Page 6
Application Type	Smallscale Major All Other Development		

PLANNING COMMITTEE - 20-Dec-11

APP NO: 11/00828/FUL

WARD: Park

DATE: 05-Sep-11

TARGET DATE: 05-Dec-11

RECEIVED: 25.08.2011

APP TYPE: Full Application

SITE: Compton Park, Wolverhampton, WV3 9DU

PROPOSAL: Demolition of the existing St Edmund's Catholic School & the erection of an indoor training pitch & associated building, the provision of an all-weather football pitch & replacement of the existing flood lights, reorganisation & upgrading of existing pitches, associated staff & parent & visitor parking & the erection of a replacement pavilion & three floodlit tennis courts. Demolition of University halls of residence, buildings & redevelopment to provide replacement school for St Edmund's comprising the conversion, reconfiguration & extension of the retained University buildings together with external sport, recreation areas, car parking & the erection of 55 four & five bedroom two storey dwellings, access roads & open space.
(AMENDED PLANS RECEIVED)

APPLICANT:

Redrow Plc, WWFC, Inspire, W-ton Uni. & The
Archdiocese Of B-Ham
C/o Agent

AGENT:

Mr Graham Love
Turley Associates
1 New York Street
Manchester
M1 4HD

COMMITTEE REPORT:

1. Purpose of Report

1.1 To update Members and make a recommendation.

2. Background

2.1 This application was reported to Planning Committee on 8th November 2011 including a verbal update (report attached – appendix 1 and minutes – appendix 2).

2.2 The following updates were reported to Committee verbally on 8th November:

- (i) City of Wolverhampton College supports the proposals.
- (ii) Paul Uppal MP is fully supportive of the proposals as he believes it will provide excellent investment into the City. He seeks reassurance regarding the impact of the development on the natural environment including the Smestow Valley local nature reserve.
- (iii) Police – no objections
- (iv) Natural England – no objections. Recommended conditions for a landscape and ecological management plan and an environmental protection plan for construction.

- (v) The transfer of the Aldersley facility to the community can now be given significant weight as the applicant has agreed that the details of how this will be delivered will be secured through the S106 obligation.
- (vi) The education contribution payable by Redrow in respect of the housing site is printed as £2.5m. It should read £2.45m.
- (vii) To not remove hedges and trees between March and September would impact on the build programme for the school. This can be amended for the building of the school to not remove hedges and trees between May and September, subject to an appropriate programme of works and mitigation measures to be included in the habitat management plan recommended by condition.
- (viii) A commuted sum is no longer necessary as a package of on-site physical mitigation measures will be secured through a Section 106 obligation.
- (ix) The condition to agree community access to sporting provision should be for the proposed new St Edmund School not the existing St Peters School.
- (x) Section 106 payment of educational contribution can be made in instalments to be agreed rather than prior to the commencement of development. The S106 will include details of the delivery of the community facilities at Aldersley and a package of nature conservation mitigation measures
- (xi) Additional conditions:-
 - Construction traffic
 - Hours of deliveries (during construction)
 - Signposting and information boards at the wetland habitat
 - Community Use Agreement (for St Edmunds School)

2.3 Planning Committee on 8th November 2011 resolved that the Interim Director for Education and Enterprise be given delegated authority to grant planning application 11/00828/FUL subject to:-

- (i) No overriding objection from the Fire Officer;
- (ii) Referral and no call-in by the Secretary of State;
- (iii) Negotiation and signing of a Section 106 Agreement to secure:
 - Delivery of the Academy
 - The payment of the education contribution payable in instalments
 - A claw back mechanism to secure future potential development surplus as contribution to off-site Affordable Housing as a result of the District Valuer's report and advice
 - Details of the delivery of the community facilities at Aldersley;
- (iv) Any necessary conditions to include:
 - Habitat management plan (including during construction)
 - Materials
 - Remove PD rights for rear boundary fencing (plots 18-22 and 34-38)
 - Landscaping (including hard and soft features in the SUDs area)
 - External Lighting (including hours of operation)
 - Bat boxes, bat bricks in new school building and Academy

- Archaeology
- Arboricultural Method Statement
- Gate to Newbridge Avenue used for bus access only
- Boundary Treatment
- Waste management
- Community Use Agreement
- Site investigation report
- Cycle Parking (St Edmunds School)
- Drainage
- Measures to protect residents during construction
- No loud speaker/public address system
- Renewable energy
- Ventilation and extraction details
- Acoustic glazing
- Acoustic fencing
- Residential Travelwise
- Traffic calming on access road
- Travel Plans implemented
- Traffic Regulation Order Compton Road West
- Car park management plan
- Targeted recruitment and training
- Levels
- Footpath links
- Bin stores
- Construction traffic
- Hours of deliveries during construction
- Signposting and information boards at the wetland habitat
- Community Use Agreement (for St Edmunds School).

2.4 Following consideration by the Planning Committee of the application on the 8th November, considerable work has been progressed on the outstanding matters in accordance with the authority delegated to the Interim Strategic Director Education and Enterprise.

2.5 This update report informs Members of the progress of the planning application, provides clarity on certain matters and advises Members of the issues raised by a member of the public subsequent to the 8th November 2011 Planning Committee and ensures this is brought to your attention and duly considered prior to the determination of the planning application.

3. Updating

3.1 The key points to update relate to the following:-

- Referral to the Secretary of State
- Consultee responses
- Section 106 Agreement
- Planning Conditions
- Other matters to be secured by condition
- Environmental Impact Assessment

Referral to the Secretary of State

- 3.2 Since the Planning Committee on the 8th November the planning application and committee resolution were referred to the Secretary of State. Confirmation in writing was received on 28th November that the Secretary of State did not wish to intervene in the matter. The Secretary of State concluded that the application should be decided by Wolverhampton City Council.

Consultee responses

- 3.3 Members were informed at the 8th November Planning Committee of the response of Natural England which arrived shortly before the meeting. Details of how the matters raised have been addressed are fully set out below at paragraphs 5.5 to 5.11.

Fire Officer

- 3.4 The comments of the Fire Officer were unresolved at the time of Planning Committee on 8th November.
- 3.5 The Fire Officer was concerned about the proposed residential layout. He was concerned the length of the proposed cul-de-sac may hinder a fire appliance accessing any more than half the proposed number of houses in the result of a fire.
- 3.6 A fire appliance can park and access buildings within 180m. The fire officer claims that if vehicles are parked either side of the new road it could not gain access to over half of the dwellings as the road would not be wide enough. The appliance would have to park at the access point from Compton Park and could therefore only access half of the site.
- 3.7 The road could be widened but there would be unacceptable consequences for the design. The location is semi-rural and a wide carriageway to accommodate a fire appliance would be unsatisfactory in visual terms and result in a more urban appearance to the layout.
- 3.8 Manual for Streets states that a carriageway width should be a minimum of 3.7m wide to accommodate a large fire appliance (para 6.7.3). The proposed new road would be 5.5m wide. This is an entirely usual width and the same width as new residential streets being granted by many local planning authorities across the country. Even if vehicles were parked on one side of the carriageway it is still possible for a fire appliance to access the entire site. The concern of the fire officer is if there two vehicles parked on the street opposite each other. However, the likelihood of this event is low in this case as the proposed 'within curtilage' parking provision for the housing development is generous. Any parking on the highway would be limited but even more so, as vehicle users are unlikely to double park as it is not good parking practice and car owners would not wish to risk damage to their vehicles.
- 3.9 The local planning authority takes public safety very seriously but also has to take a pragmatic approach when dealing with new housing layouts. The road width is far wider than the minimum width in government planning policy guidance and problems associated with access for a fire appliance would only arise if cars were parked on both sides of the new road which is an unlikely scenario for this relatively low density layout and on balance the risk is small. It is considered that the concern raised by the fire officer should clearly not outweigh the significant benefits of the scheme. It is considered that there is clearly no reasonable justification in planning policy to refuse the application on these grounds.

Environment Agency

- 3.10 The Environment Agency maintains an objection to the proposal as contrary to PPS1, PPS9, PPS23 and Black Country Core Strategy policies ENV1 & ENV5. The main reason for the objection is that the proposal does not include the deculverting of Graisley Brook. A report submitted by the applicant detailing the reasons why

deculverting would be unviable, was not considered persuasive by the Environment Agency as it did not consider alternative options to managing surface water and flood waters from the site. The other argument against deculverting is the health and safety of pupils which the Environment Agency consider is also unconvincing as the balancing ponds will have a boardwalk through them as an educational feature which would have an equal health and safety risk to children.

- 3.11 The Environment Agency also objects because there is a Combined Sewer Outlet that frequently causes pollution to the Graislely Brook and the Smestow Brook originating from the site. There have been no proposals to resolve this issue within the development.
- 3.12 The Environment Agency do not object on the grounds of flooding and officers are satisfied that the development would not result in flooding and would therefore be in accordance with PPS25.
- 3.13 The Environment Agency states that the benefits of re-opening the culvert would be to provide wider water quality, and biodiversity benefits. The case submitted by the applicant for not opening the culvert is considered by officers to have significant weight. On balance it was not considered reasonable to require the applicant to undertake deculverting particularly when the site is financially unviable and could result in potentially health and safety risks to pupils. There is no evidence that the proposal would worsen the pollution problems highlighted by the Environment Agency.
- 3.14 The benefits of enhanced biodiversity can and will be achieved through other measures which do not require the opening of the culvert and therefore on balance the local planning authority consider that the objection of the Environment Agency is outweighed by the potential significant benefits afforded the scheme generally.
- 3.15 PPS25 – Development and Flood Risk advises that where the Environment Agency object to a proposal on flood risk grounds, but the local planning authority is minded to approve there should be a discussion of the case and with an opportunity for further representations to be made. Further representations were made by the applicant directly to the Environment Agency who considered that the case was not convincing. The local planning authority however is satisfied with the justification submitted.
- 3.16 PPS25 advises that if the Environment Agency is unable to withdraw its objection and the site is within flood zone 2 or 3 it should under the Town and Country Planning (Consultation) (England) Direction 2009 be referred to the Secretary of State. Part of the site is within flood risk zone 2 and the application was referred to the Secretary of State. In a letter dated 28th November 2011, the SOS decided not to intervene.
- 3.17 The Environment Agency concerns have been considered in accordance with the guidance and on balance a reason for refusal on the grounds stated by the Environment Agency would not be justified.

Section 106 Agreement

- 3.18 Members are advised that final draft Section 106 Agreement agreements are ready to sign. There are three separate agreements due to the different parties to which they apply and officers are satisfied that this is acceptable and will appropriately bind those part of the site to which they relate.
- 3.19 This planning application contains elements which will be developed by different bodies. For example the intention is for Redrow to build the houses (although it does not have to be Redrow), the education instalments will be paid towards a new school which will be built by the Partnership but the new Academy will be built by the Football Club. One of the section 106 agreements contains a clause that in the event that an education contribution is not paid on time, no further houses shall be occupied.

However it has not been possible to secure similar provisions in relation to the new academy and community use of the existing academy because of the different ownerships and developers involved. The Council would have to rely on trying to enforce a breach by taking court action for a mandatory order. By way of further clarification, if for example the Academy is not built the houses may have already been built by the time the New Academy was supposed to have been. The Council will not in that event be able to reverse the position but it will be able to take the Owners to court to attempt to force the Academy to be built. Members are requested to note the position.

3.20 As resolved at the 8th November committee meeting, the obligations which are secured through these agreements are as follows:

- (i) An education contribution of £2.45m from Redrow Homes towards the construction of the new St Edmund's Catholic School, payable in instalments starting in March 2012;
- (ii) A commitment to provide community use of the Indoor Training Dome at Aldersley Leisure Village via the Wolves Community Trust and based upon a community use scheme that is to be agreed with the local planning authority
- (iii) A commitment to transfer the Indoor Training Dome at the Aldersley Leisure Village to the Wolves Community Trust on completion of the new Academy facilities at Compton Park for the benefit of the community, and;
- (iv) A clause to ensure that should the residential development generate revenues in excess of those allowed for in the Viability Assessment submitted with the application and independently assessed by the District Valuer, 25% of any additional revenue will be paid to the City Council as an affordable housing contribution.

Clarification on ecological mitigation

3.21 With reference to the verbal update to 8th November Planning Committee that on-site ecological mitigation measures would be secured through a Section 106 Agreement, Officers are satisfied that the on-site and non-financial nature of the ecological measures mean that they can be secured by condition in accordance with Government guidance.

Clarification on claw back

3.22 For clarification and as dealt with in paragraphs 11.58 and 11.59 of the Planning Committee report dated 8th November 2011, the development would normally be subject to a contribution of 25% to affordable housing and the local planning authority would not normally depart from this policy requirement. However, the comprehensive review of the financial viability report by the District Valuer has demonstrated that the development is not financially viable. It has also compared the value of the contributions which would normally be required (including off site open space contributions and affordable housing) with the education contribution of £2.45m and found that the education contribution would be in excess of what would normally be received for other contributions. In these circumstances affordable housing policy can be relaxed as the development is providing a recognised benefit to a value in excess of that which the affordable housing policy would secure and therefore the development cannot viably make affordable housing or off-site open space contributions.

3.23 Further consideration has been given to the recommendation for a S106 claw back clause to seek a financial contribution to off-site Affordable Housing should the residential development generate future potential surplus. The benefits arising from the whole development include a £2.45m contribution to education provision (towards the new St Edmunds Catholic School). As this contribution would not normally be required by planning policy but is part of the whole package of development proposals, it seems reasonable to take account of this contribution when considering whether additional benefit should be accrued towards affordable housing in the unlikely event of the

housing generating excess revenues (given that it is not currently financially viable). This approach to the assessment of viability has been independently assessed by the District Valuer and he has stated that a claw back clause is strongly recommended. However he has also stated that the Council could take into account the education contribution. Officers have taken all these matters into account and on balance it is considered to be reasonable in this case, taking into account the £2.45m education contribution which would exceed the value of the contribution secured for affordable housing and off-site open space. It is very unlikely that any overage would close the gap between the proposed education contribution and what would normally be required by policy for affordable housing and public open space, therefore a claw back clause is considered unnecessary in this case.

- 3.24 Therefore it is considered that it would not be reasonable to insist on a claw back provision in the S106 agreement. In simple terms this means that given the current economic climate, in this case it is considered the significant benefits to education should and do outweigh the policy requirement for affordable housing.

Planning conditions

- 3.25 Ongoing discussions between Officers and the applicants have enabled a draft of the detailed wording of the conditions to be produced and are in the process of being agreed in principle with the applicants as providing a robust framework for delivering what is a complex series of developments. The conditions have been separated into the individual elements and are covered by the conditions as set out in the recommendation.

Other matters to be secured by condition

- 3.26 Multiple bat and bird boxes to be erected within the school grounds and within the wider site if / where necessary.
- 3.27 Installation, landscaping, habitat-rich planting and management of the SUDS attenuation pond to provide a new and diverse habitat area within the site and the incorporation of boardwalks for public benefit and educational use by St Edmunds Catholic School.
- 3.28 Sign-posting / way-marking within the site to direct public access and identify and protect habitats.
- 3.29 Provision of an interpretative information board at the SUDS pond and entrance to the LNR to provide ecological information and guidance on good management practice for public users etc.
- 3.30 Landscaping plans to secure new replacement tree planting and new habitat creation wherever possible across the site to provide habitat connectivity to the LNR and improve green infrastructure.
- 3.31 Details of enhanced public access to the Local Nature Reserve and the Canal towpath will be achieved through a condition. The details required will include enhancing and upgrading of the existing route, and steps (or ramped access) to provide access from the existing path to the canal towpath.

Environmental Impact Assessment

- 3.32 A further EIA screening request has been submitted in respect to the changes to the EIA Regulations which came into force during the determination of this application for the avoidance of doubt. Officers have considered the request and are of the opinion that the development would not require a formal Environmental Impact Assessment in accordance with the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011.

4. Legal Implications

- 4.1 General legal implications are set out at the beginning of the schedule of planning applications. [LD/12122011/T]

5. Letter from resident dated 23rd November

- 5.1 Since the Planning Committee resolution on the 8th November a letter has been received from a Wolverhampton resident dated 23rd November. This reiterates a number of points made in the same resident's earlier objection letter dated 6th October 2011 (which was amongst those reported in summary form in the officer report to 8th November Planning Committee), and in his direct correspondence between the resident and Members and the Leader dated 20th and 31st October respectively (which also included copies of his 6th October letter and the objections made by the Smestow Valley Bird Group).
- 5.2 In the letter dated 23rd November the resident raises a number of issues. In order to ensure that the decision of the local planning authority is as robust as it can be and that there is no misunderstanding of the issues or any outstanding and/or unresolved matters material to the determination of the planning application, it is necessary to make Members aware of the matters raised and of your Officers' responses.

The resident makes allegations centring on the following issues:

- (i) Pre-determination of the planning application;
- (ii) Inadequate regard to objections and representations as material considerations;
- (iii) Determination of the planning application based on inadequate plans and information;
- (iv) Publicity of amendments and revisions made to the planning application during the period of its consideration by officers.
- (v) Other Nature conservation matters
- (vi) Works during bird nesting season
- (vii) Financial Viability

Each matter is addressed in turn in the following paragraphs:

Pre-determination

- 5.3 The resident is concerned about the role of the Council as both landowner and planning decision maker in this case. This point was raised by a speaker (a different resident) objecting to the application at the Planning Committee on the 8th of November and was addressed by the Council's solicitor in verbal advice to Members at the meeting. The resident has raised the point in his letter but has raised no evidence of predetermination, bias or improper purpose. For the record and sake of completeness, as in every planning case that comes before them, Members are reminded of the importance of putting from their minds any consideration of the financial gain that may or may not be received by the Council or any other party as landowner when making a determination and only focus on the planning issue.

Inadequate regard to objections and representations as material considerations

- 5.4 The resident is concerned that the Planning Committee of the 8th November report did not fully address several material considerations. It is considered the report of the 8th November was logical, thorough and well reasoned. However, given the significance of this particular scheme and in accordance with the Council's commitment as the local planning authority to transparent decision making it is considered appropriate to provide more detail and clarification for the sake of completeness in the following paragraphs.

- 5.5 The Natural England consultation response was received on 4th November 2011 confirming that no objection was raised to the application subject to the imposition of conditions to secure a Landscape and Ecological Management Plan and an Environment Protection Plan for Construction. A summary was verbally reported to Members at the 8th November Planning Committee.
- 5.6 Whilst the comments were received after the officer's committee report was published, this is not unusual and a summary of the Natural England response was provided in the Update Report to Members and verbally by the officer at the 8th November committee meeting. Natural England did not indicate that it had insufficient time to consider the application and did not state that the information it was supplied with was inadequate to enable it to consider the application and conclude that no objection should be raised.
- 5.7 Officers have given full consideration to all of the points raised by Natural England and confirm that the recommended conditions will be attached to any planning permission granted. Ecological protection and a mitigation strategy for the site during and following development will be secured via the negotiation and discharge of these conditions, including the provision and improvement of green infrastructure and habitat connectivity with the Smestow Valley Local Nature Reserve to provide replacement habitat for bird species present on the site, and general corridors for the movement of all wildlife including badgers.
- 5.8 Natural England also made a strong recommendation that a 10m semi-natural habitat buffer should be provided between the Local Nature Reserve boundary and the proposed residential development. Having sought their own ecological advice on this matter, the applicants responded to the Natural England comments on 7th November 2011 and explained that a buffer could not be achieved within the proposed development layout but that the same degree of protection for the Local Nature Reserve could be secured via a combination of physical works and householder education and management. This would include appropriately-specified boundary fencing to protect the trees and hedgerow and allow wildlife movement, and providing neighbouring householders with good-practice guidance on ecological management of the Local Nature Reserve boundary. This can be dealt with by condition.
- 5.9 The argument in favour of this approach is that private garden areas will prevent public access, whereas the provision of an unenclosed buffer between rear garden fences and the Local Nature Reserve would reduce surveillance and good management and potentially invite unauthorised access and nuisance, creating problems for both householders and the Local Nature Reserve.
- 5.10 Officers are content that there does not need to be a 10m buffer zone between the Local Nature Reserve and the residential development. Appropriate conditions will instead be attached to any planning permission granted to ensure the adequate treatment and future management of this boundary.
- 5.11 Members were advised in the verbal report given to 8th November Planning Committee that a commuted sum is no longer considered necessary on the basis that suitable conditions (as recommended by Natural England) are available to secure a package of on-site ecological protection, mitigation and management measures. Officers are satisfied that the on-site and non-financial nature of the ecological measures mean that they can be secured by condition.
- 5.12 A consultation response from the Birmingham and Black Country Wildlife Trust was received on 5th October 2011. The Trust was provided with the statutory 21 day period in which to provide its comments and the Trust itself did not raise any issue in respect of having insufficient time to consider the application.

- 5.13 The Trust's grounds for objection are all addressed within the 8th November Planning Committee report and specifically the location of the development within the Green Belt and its impacts on nature conservation. In addition, specific comments are made with regard to ecological mitigation, the reasons why officers considered that it was not possible to secure the de-culverting of Graislely Brook as part of the application and the question of precedent.
- 5.14 Paragraph 11.89 of the 8th November Planning Committee report states there are not sufficient grounds to refuse the application in respect of loss of habitat, impact on wildlife and the local nature reserve and specifically states that appropriate mitigation measures will be secured to ensure that no unacceptable harm to nature conservation interests will result.
- 5.15 The suggestion of opening up the brook is also made by the Environment Agency and is considered at paragraph 11.112 of the Committee Report.
- 5.16 The Sport England consultation response is reported at Paragraph 9.6 of the 8th November Planning Committee report and confirms that no objection is raised to the application subject to a condition being attached to the planning permission to secure the details of a Community Use Agreement prior to the commencement of development. This has been conditioned and the community use agreement will be submitted prior to the commencement of the development of the school and was reported as such, appearing in the bullet point list of planning condition topics under clause (iv) of the officer recommendation at paragraph 13 of the 8th November Planning Committee report.
- 5.17 There is also an allegation that the Trust's objection that permitting this development would set a precedent for Green Belt development was not fully considered. Officers however clearly set out in some depth the arguments for and against allowing the development in Green Belt terms and apportioning weight to a series of 'very special circumstances'. This is a unique application based on a unique set of site-specific circumstances which taken together amount to compelling very special circumstances deemed sufficient to outweigh the identified harm to the openness of the green belt by reason of inappropriate development. On this basis (following the conclusion at Paragraph 11.77 of the committee report) and given that all planning applications must be assessed on their individual merits, this decision cannot set a damaging green belt precedent.
- 5.18 Officers consider that the points raised in previous letters from the resident and the Smestow Valley Bird Group are adequately addressed within the 8th November Planning Committee report. The Report summarises the contents of the objection from the Smestow Valley Bird Group (paragraph 7.3). There is some overlap between the issues raised by the Group, other objectors and the Birmingham and Black Country Wildlife Trust and these are fully considered at paragraphs 11.85 – 11.91 of the Committee Report, which deals with the issue of ecology.

Determination of the planning application based on inadequate plans and information

- 5.19 Members are advised that officers supplied consultees with relevant application documents and plans and that if consultees were dissatisfied with the degree of information they received and/or required additional information, they were capable of saying so. As no requests for additional information were received from consultees there is no reason to assume they were not content.

Publicity of amendments and revisions made to the planning application during the period of its consideration by officers

- 5.20 Whilst the application proposals have been subject to a number of minor revisions over the course of the determination period, these even when considered in aggregate, are

insubstantial in that they do not materially change the nature and content of the application proposals as first publicised and did not therefore warrant a further round of formal public consultation in every case. Residents were reconsulted on one change to the residential layout whereby two plots and the access road were reconfigured. No objections were received in respect of this specific change.

For the avoidance of doubt, the list of minor revisions made following the registration of the application is set out below for Members' information:

- Amendments to plot layouts and access road within the residential element (revised drawings submitted).
- Amendment to the alignment of the boundary between the school and the residential development (revised drawing submitted).
- Amended landscaping proposals for the school site (revised drawings submitted).
- Amendments to the school building layout (revised drawings submitted).
- Corrected reference to 'new fencing' along part of the western boundary of the upper playing fields removed (revised drawing submitted).
- Detail of the visibility splay for the residential development (new drawing submitted).
- Indicative site sections provided as requested by officers (new drawing submitted).
- Illustrative perspective of the residential development from Compton Road West (new drawing submitted).
- Fire Access Plan submitted (new drawing).

Other nature conservation matters

- 5.21 The Ecological Appraisal submitted is an independent report and was sent to Natural England as part of the consultation process as they are the recognised experts in nature conservation matters and advise local planning authorities, as a statutory consultee, on nature conservation issues. Natural England had no objections to the proposal subject to conditions. There is no reason to conclude that the ecological report submitted with the planning application was inappropriate. It is considered by officers that the content, assessment and conclusions and recommendations of the report are appropriate and that this matter was given serious consideration and due weight in accordance with the guidelines on PPS9.
- 5.22 The remit of charitable bodies associated with the applicants is not material to the determination of the planning application and Members are advised that Officers are satisfied that the nature conservation interests associated with the planning application have been properly considered and will be secured by condition in the grant of planning permission
- 5.23 For the avoidance of doubt, appropriate fencing will be erected between the rear gardens of the proposed housing and boundary of the Smestow Valley Local Nature Reserve. The details of this are indicated on the draft ecological mitigation proposals accompanying this report and the final details of which, will be approved and implemented under the recommended planning conditions.

Works during bird nesting season

- 5.24 For the avoidance of doubt, Members are advised that no site clearance works comprising the removal of trees, hedges or scrub vegetation shall take place during the bird nesting season from March to September, (including the new school) and that this will be secured by condition.

Financial Viability

- 5.25 The planning application was accompanied by a financial viability appraisal (FVA). The case submitted identified that after the contribution of £2.45m the development of

the residential site is financially unviable. The FVA has been assessed independently by the District Valuer who has confirmed that the residential development is financially unviable. Financial viability has been considered at paragraphs 3.22 – 3.24 of this report.

6. Conclusion

- 6.1 Members are asked to consider the application taking into account all the considerations in this update report and the report to the 8th November Planning Committee attached as an appendix.
- 6.2 Should Members decide to approve the application; this will need to be referred to the Secretary of State again for the avoidance of doubt.
- 6.3 The Heads of Terms are now prepared for the Section 106 Agreements, the draft conditions will be finalised shortly, and the further clarification on consultee responses has been set out in this update report.
- 6.4 As fully explained in the 8th November report the proposals would result in “inappropriate development” in the Green Belt as defined by PPG2 and would impact on the openness of the Green Belt. However, the very special circumstances case submitted is convincing. The benefits which will result from the proposed football Academy, would benefit not only local people, but will impact nationally. The education contribution to facilitate the new school and economic and community benefits from the creation of new jobs to boost the local economy and access to the Aldersley facility through the Wolves Community Trust would be significant. On balance, the harm by way of inappropriateness and to the openness of the Green Belt as a result of the new academy, school and housing, would be outweighed by the benefits to sport and education and resultant community benefits from the transfer of Aldersley to the Trust, which constitute very special circumstances and clearly outweigh the harm caused by reason of inappropriateness. The development is therefore in accordance with PPG2, BCCS policy CSP2 and UDP policies G2, G3 and G4.
- 6.5 An unacceptable increase in traffic flows would not result as a consequence of the proposed development, subject to conditions that a Traffic Regulation Order is implemented on Compton Road West, traffic calming measures on the new residential layout and a car park management plan for the Academy. The proposal is in accordance with PPG13, BCCS policies TRAN2 and TRAN4 and UDP policy AM12.
- 6.6 The proposed development would not result in any harm to protected species or wildlife, subject to the proposed mitigation measures in the submitted ecology surveys. The proposal is acceptable and in accordance with BCCS policy ENV1 and UDP policies N9 and D12.
- 6.7 The proposal would result in the loss of trees, and hedgerows but replacement planting is considered acceptable as mitigation and therefore the proposal is considered to be in accordance with BCCS policy ENV1 and UDP policies N6, N7 and D6
- 6.8 The proposed development would not result in any adverse impact on neighbours by reason of overlooking or loss of privacy and is in accordance with UDP policies D7 and H6.
- 6.9 The design of the proposal is in-keeping with its surroundings in terms of scale, massing and appearance. The layout of all aspects is acceptable in urban design terms and would be in accordance with BCCS policies CSP4, ENV2 and ENV3.

- 6.10 The impact on heritage issues has been carefully considered and the proposals seek to preserve and enhance the conservation area and heritage assets, subject to a condition for further archaeological work prior to commencing. The proposal would be in accordance with PPS5, BCCS policy ENV2 and UDP policies HE4 and HE5
- 6.11 The proposed development would not result in any adverse flood risk and the explanation provided by the applicant why the culvert cannot be reopened is reasonable and the proposal would be in accordance with UDP policies EP6 and EP7.

7. **Recommendation**

7.1 That the Interim Director for Education and Enterprise be given delegated authority to grant planning application 11/00828/FUL subject to:-

- (i) Referral to the Secretary of State and no 'call-in'
- (ii) Signing of separate Section 106 Agreements to secure:
 - Delivery of the Academy
 - The payment of the education contribution in instalments
 - A scheme for the delivery of the community facilities at Aldersley through the Wolves Community Trust;
- (iii) Any necessary conditions to include:

Overall

- Phasing plan
- Design of the SUDs area (including signposting/way-marking and information boards)
- Waste management
- Renewable Energy
- Gate to Newbridge Avenue used for bus access only
- Ecological Mitigation and Habitat Management Plan (to include specification, installation and maintenance of appropriate boundary fencing to protect the trees and hedgerows adjacent to the north west boundary of the rear gardens of the dwellings occupying Plot Nos. 18 - 22 and 34 - 38 of the residential development hereby permitted and to prevent informal access to the Smestow Valley Local Nature Reserve and full badger mitigation strategy)
- Environment Protection Plan during construction
- Landscaping (outside of the extent of the school, academy and residential boundaries)

St Edmunds School

- Materials
- Landscaping (to include enhancement of existing tree planting and hedgerows and provision of compensatory replacement tree planting)
- Arboricultural Method Statement
- Ground condition Survey
- Drainage
- Construction Environmental Management Plan (including construction traffic and hours of deliveries)
- Ventilation and extraction details
- External Lighting (including hours of operation)
- Bat and bird boxes, bat bricks in new school building
- Archaeology

- Boundary Treatment
- Community Use Agreement (for St Edmunds School)
- Cycle Parking (St Edmunds School)
- Acoustic fencing
- School Travel Plan
- Traffic Regulation Order Compton Road West
- Car park management plan
- Targeted recruitment and training
- Levels
- Bin stores
- No works affecting trees, shrubs, hedgerows between March and September
- Parking areas laid out and retained for parking

Academy

- Materials
- Landscaping (to include enhancement of existing tree planting and hedgerows and provision of compensatory replacement tree planting)
- Arboricultural Method Statement
- Ground condition Survey
- Drainage
- Construction Environmental Management Plan (including construction traffic and hours of deliveries)
- Ventilation and extraction details
- External Lighting (including hours of operation)
- Bat and bird boxes, bat bricks in new school building
- Boundary Treatment
- Travel Plan
- No loud speaker/public address system
- Car park management plan
- Targeted recruitment and training
- Bin stores
- Parking areas laid out and retained for parking
- No works affecting trees, shrubs, hedgerows between March and September
- Archaeology

Residential Development

- Materials
- Landscaping (to include enhancement of existing tree planting and hedgerows and provision of compensatory replacement tree planting)
- Arboricultural Method Statement
- Ground condition Survey
- Drainage
- Construction Environmental Management Plan (including construction traffic and hours of deliveries)
- Archaeology
- Boundary Treatment
- Residential Travel Plan
- Acoustic glazing (certain plots)
- Traffic calming on access road
- Levels

- Targeted recruitment and training
- No works affecting trees, shrubs, hedgerows between March and September

Case Officer : Mr Stephen Alexander

Telephone No : 01902 555610

Head of Development Control & Building Control – Stephen Alexander



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Planning Application No: 11/00828/FUL

Location	Compton Park, Wolverhampton, WV3 9DU,		
Plan Scale (approx)	1:1250	National Grid Reference	SJ 389187 299366
Plan Printed	12.12.2011	Application Site Area	235193m ²

Appendix A

PLANNING COMMITTEE - 08-Nov-11

APP NO: 11/00828/FUL **WARD:** Park
DATE: 05-Sep-11 **TARGET DATE:** 05-Dec-11
RECEIVED: 25.08.2011
APP TYPE: Full Application

SITE: Compton Park, Wolverhampton, WV3 9DU

PROPOSAL: Demolition of the existing St Edmund's Catholic School & the erection of an indoor training pitch & associated building, the provision of an all-weather football pitch & replacement of the existing flood lights, reorganisation & upgrading of existing pitches, associated staff & parent & visitor parking & the erection of a replacement pavilion & three floodlit tennis courts. Demolition of University halls of residence, buildings & redevelopment to provide replacement school for St Edmund's comprising the conversion, reconfiguration & extension of the retained University buildings together with external sport, recreation areas, car parking & the erection of 55 four & five bedroom two storey dwellings, access roads & open space.

APPLICANT:
Redrow Pic, WWFC, Inspire, W-ton Uni. & The
Archdiocese Of B-Ham
C/o Agent

AGENT:
Mr Graham Love
Turley Associates
1 New York Street
Manchester
M1 4HD

COMMITTEE REPORT:

1. Site Description

- 1.1 The application site is located approximately 2.5km to the west of the City Centre. The site is 23.7 hectares and irregular in shape and comprises the existing University buildings, St Edmund's Catholic School including playing fields and the Wolverhampton Wanderers training facility.
- 1.2 The site is partly bordered by the Staffordshire and Worcestershire Canal and Smestow Brook to the west and Smestow Valley Local Nature Reserve. To the south are residential properties on Compton Road West and the horticulture unit which is part of the City of Wolverhampton College. To the east the site is bounded by residential properties, the playing fields for the college and St Peter's School.
- 1.3 Compton Park is served by an unadopted road which connects Compton Road in the south to Newbridge Avenue in the north. There is no through route along Newbridge Avenue. The gates are only opened to allow public transport access to St Peter's School.
- 1.4 The culverted Graiseley Brook flows east to west across the fields to the south of St Edmund's Catholic School and into Smestow Brook beyond the canal. This area is identified as a flood zone.
- 1.5 The levels across the site are such that the land gently slopes from Compton Road West, from south-west to north east from north east to south-west the land slopes to the valley floor which is the area of the flood zone and culvert.

- 1.6 The site is Green Belt and both the University campus and the St Edmund's Catholic School site are Major Developed Sites in the Green Belt. The site is characterised by open playing fields towards the north of the application site with dense areas of tree planting in the centre. There are large areas of established and mature trees to the south of the site particularly on the land currently occupied by the University. The majority of these are covered by Tree Preservation Orders.
- 1.7 The site is adjacent to the Ash Hill Conservation Area and incorporates within it two small areas which are within the conservation area itself. The first of these is an area of grass and trees on the left hand side of the junction with Compton Road West as you enter the Compton Park access road. In the proposed scheme this is to remain as it is. The second area is a small triangular shaped one. This is part of a larger heavily treed area. In the proposed scheme it is shown to become part of the rear gardens of two of the proposed houses.

2. Application details

- 2.1 St Edmunds School is part of the next phase of BSF funding, for which a funding package is available for the existing site. The University is vacating the Compton Park Campus which provides an opportunity for a sequence of new development proposals, involving the relocation of St Edmund's Catholic School from the current site to the main building of the University; a new indoor training football facility on the site of the vacated St Edmund's Catholic School and 55 new houses on land sold by the university.
 - *St Edmund's Catholic School*
- 2.2 The proposal involves the relocation of St Edmund's Catholic School and Sixth Form to the main university building to the south of Compton Park with the demolition of the halls of residence and management research centre building creating 4211m² of new floor space.
- 2.3 The new school is centred around the existing three storey main building and former business and management learning centre which will form two corners of a new quadrangular school building to be created by the addition of a new – predominantly two storey – wing and sports hall along the western flank. The new teaching block and sports hall would be 10m in height and set 10m away from the west boundary of the new housing development.
- 2.4 The development would comprise new teaching blocks, school chapel, offices, theatre, new sports hall, dining spaces and sixth form with external learning spaces and courtyards. The relocated school will continue to have access to the running track and three unlit grass football pitches adjacent to the canal.
- 2.5 There would be 70 staff car parking spaces provided at the rear of the site, including four disabled spaces. Ten car parking spaces, including four disabled spaces, would be provided on the frontage for visitors. School buses will use the turning facility located at the existing St Edmunds school site.
- 2.6 The buildings would be constructed of brick, ceramic, and various glazing systems and would be consistent with the palette of the retained buildings.
- 2.7 The site contains Category A trees, which are those of high quality and value and Category B trees, which are those of moderate quality and value (Part of BS5837 – Trees in Relation to construction). The proposal would result in the loss of some Category B trees and all but all but one Category A trees will be retained.

- *Wolves Football Academy*

- 2.8 The proposal involves the demolition of the existing St Edmund's Catholic School buildings with the exception of the existing caretaker's house, and the erection of a single and two storey building and a full-size indoor training pitch facility to accommodate a Football Association 'Category One' Academy for Wolverhampton Wanderers Football Club. It also proposes an all-weather 3G football pitch (third generation, state-of-the-art synthetic pitch) within the existing running track centre and refurbishment of the existing floodlights, the reorganisation and upgrading of the pitches on the St Peters School playing field.
- 2.9 The proposal also involves the relocation of Linden Lea Tennis Club from the University to the Academy site which would comprise a replacement pavilion and three floodlit tennis courts.
- 2.10 The indoor pitch would measure 100m x 64m and be constructed of a lightweight steel framed portal truss structure with a maximum height of 12.3m. The building would be covered in a translucent white tensile fabric to allow natural light in to the building and prevent sound reverberation. It would have buff and black brickwork on the gable ends and glazing above. The two storey accommodation block on the north-west side would be constructed of brick with a flat roof and would be 7.6m in height. The single storey building for the groundsmen would be 4m in height.
- 2.11 Access to this site will be from Douglas Turner Way. The hard surfaced area between the running track and the Academy building will accommodate 93 car parking spaces including six disabled spaces. A separate car park for staff would provide 17 car parking spaces and one disabled space. This car park will also serve Linden Lea Tennis Club.
- 2.12 The ground level of the new indoor facility would be 1.4m lower than existing school building with a retaining wall on the south east elevation.

- *New Housing*

- 2.13 The Albrighton and Bantock Halls of Residence, technology unit and glass houses would be demolished to accommodate 55 detached houses directly to the west of the new St Edmunds school. The houses would be a mix of four and five bedroom family houses and would be two storeys in height.
- 2.14 The houses would have a traditional appearance and be constructed of red facing brick, hanging tiles, render and weather boarding.
- 2.15 The development would result in the loss of Category B trees to accommodate the proposed housing layout. The proposal seeks to retain as many trees as possible of high amenity value.
- 2.16 A new access would be created off Compton Park which would be set back 35m from the access with Compton Road West. All parking for the houses would be within the curtilage. The access road would be 5.5m wide and a footpath on one side would be 2m wide.

Other aspects

- 2.17 The development would include a Sustainable Drainage System (SUDs) serving the entire site and comprising a wetland attenuation pond and floodwater storage area inland to the rear of the university campus.

- 2.18 New boundary treatment is proposed for the development. *Academy* - The playing fields would remain open and the existing fence around the running track would be retained. New perimeter fencing is proposed on the south-east boundary facing Compton Park road and south-west along the line of the existing access road to the school car park. *St Edmunds School* – perimeter fencing is proposed to link existing weld mesh fencing with the tennis courts and the tennis courts with the boundary with the new residential development and a small area at the front of the site and would be 2.4m weld mesh. Other fencing is proposed which would be internal 1.2m timber post and rail. *Residential* – The rear boundaries of new fencing would be secured with 1.8m high fencing and in open areas of the site would be 1.8m high screen walls with fence panels.
- 2.19 Access to green space would remain as it is currently with informal pedestrian links across the site from the road to the canal on the west side of the site.

3. **Planning History**

- 3.1 95/1156/FP for Erection of soccer Centre of Excellence building and indoor coaching arena building, all weather pitches, upgrading existing pitches, landscape works and parking. Granted 30.05.1996.

4. **Constraints**

- 4.1 Tettenhall Road Conservation Area
 Conservation Area - Staffs/Worcs & Shropshire Union Canal Conservation
 Conservation Area - Ash Hill Conservation Area
 Flood Zone
 Site of Importance for Nature Conservation
 Mineral Safeguarding Area
 Green Belt
 Recreational Open Space
 Major Developed Site in the Green Belt
 Sites and Monuments Entry - Constraint Name: SMR - Roman road
 Tree Preservation Orders

5. **Relevant policies**

- The Development Plan
 5.1 Wolverhampton's Unitary Development Plan

AM4	Strategic Highway Network
AM9	Provision for Pedestrians
AM10	Provision for Cyclists
AM12	Parking and Servicing Provision
AM14	Minimising the Effect of Traffic on Com.
AM15	Road Safety and Personal Security
C1	Health, Education and Other Community Services
D2	Design Statement
D3	Urban Structure
D4	Urban Grain
D5	Public Realm Public Open Private Space
D6	Townscape and Landscape
D7	Scale - Height
D8	Scale - Massing
D9	Appearance

D10	Community Safety
D12	Nature Conservation and Natural Features
D13	Sustainable Development Natural Energy
D14	The Provision of Public Art
EP1	Pollution Control
EP4	Light Pollution
EP5	Noise Pollution
EP6	Protection of Ground Water, Watercourses, Canals
EP8	Water Supply Arrangements for Development
EP9	Sustainable Drainage Arrangements for Development
G2	Control of Development in the Green Belt
G3	Con. of Dev. Conspicuous from the Green Belt
G4	Major developed sites in the Green Belt
H6	Design of Housing Development
H8	Open Space, Sport and Rec. Req. new Development
H10	Affordable Housing
HE1	Preservation of Local Character and Dist
HE4	Proposals Affecting a Conservation Area
N1	Promotion of Nature Conservation
N6	Protection of Important Hedgerows
N7	The Urban Forest
R2	Open Space, Sport and Rec. Priority Areas
R3	Protection of Open Space, Sport and Recreation
R4	Development Adjacent to Open Spaces
R7	Open Space Requirements for New Develop.
R8	Dual-Use of Open Space, Sport and Recreation
R9	New Open Space, Sport and Recreation Facilities

5.2 Black Country Core Strategy

TRAN2	Managing Transport Impacts of New Development
TRAN4	Creating Coherent Networks for Cycling a
CSP1	The Growth Network
CSP2	Development outside the Growth Network
CSP3	Environmental Infrastructure
CSP4	Place Making
HOU2	Housing density, type and accessibility
EMP1	Providing for Economic Growth and Jobs
EMP5	Improving Access to the Labour Market
ENV1	Nature Conservation
ENV2	Historic Character and Local Distinctive
ENV3	Design Quality
ENV4	Canals
ENV5	Flood Risk, Sustainable Drainage Systems
ENV6	Open Space, Sport and Recreation
ENV7	Renewable Energy
ENV8	Air Quality
WM5	Resource management and new development
MIN1	Managing and Safeguarding mineral resources

Other relevant policies

5.3	PPS1	Delivering Sustainable Development
	PPG2	Green Belt
	PPS3	Housing
	PPS5	Planning for the Historic Environment
	PPS9	Biodiversity and Geological Conservation
	PPG13	Transport
	PPG17	Planning for Open space, Sport and Recreation

- 5.4 Wolverhampton's Supplementary Documents
SPG3 - Residential Development
SPD - Sustainable Communities
- 5.5 Draft National Planning Policy Framework (NPPF) (July 2011)
- 5.6 Policy Statement – Planning for Schools Development (August 2011)

6. Environmental Impact Assessment Regulations

- 6.1 The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2011 require that where certain proposals are likely to have significant effects upon the environment, it is necessary to provide a formal "Environmental Impact Assessment" to accompany the planning application.
- 6.2 The application does not fall within Schedule 1 but within Schedule 2 development being an Urban Development project exceeding 0.5 ha. However, having regard to the characteristics of the development, its location and potential impact, officers are of the opinion that the proposal does not require an Environmental Impact Assessment (EIA). In coming to this decision the officers have taken account of the selection criteria set out in Schedule 3 to the Regulations including the characteristics of the development, location of development and characteristics of the potential impact.
- 6.3 The "screening opinion" of the Local Planning Authority is therefore that a formal Environmental Impact Assessment is not required in this instance as the development is unlikely to have a significant effect on the environment as defined by the above Regulations and case law.

7. Publicity

- 7.1 Forty letters and one petition of objection have been received. A summary of their concerns are set out below:-
 - Loss of green space
 - Loss of trees
 - Unacceptable Impact on nature/wildlife
 - Increase in traffic congestion as a result of new housing
 - Detrimental impact on the conservation area
 - Inappropriate housing mix – should include affordable housing
 - Contrary to the objectives of planning policy on green belt
 - Unacceptable building of houses in the green belt
 - No competitive bidding for university land
 - Build on brownfield sites before green belt
 - Poor design of academy building
 - Abuse of the use of the gate to Newbridge Avenue by St Peters School
 - Job creation figures exaggerated
 - Density of housing out of character with the area
 - Noise and disturbance to residents
 - Continued pedestrian access to the Barley Field
 - Glare from new floodlighting
 - Limited benefits for the community
 - Increased risk of flooding
 - Large number of houses out of character in this 'green' location

- Overbearing impact on proximity of new houses to properties in Compton Road West
- 7.2 Two objections have been received on behalf of Smestow Valley Bird Group who are concerned that the proposed development would impact on local bird life by destroying habitats which currently encourage a wide variety of bird life and also detrimental impact on the nature reserve.
- 7.3 Twenty individual letters of support have been received from local residents. In addition, 368 letters of support have been received from residents/parents/teachers associated with St Edmunds School and Linden Lea Tennis Club. The letters received support the proposal on the following grounds:-
- New Academy is attractive to talented local young players
 - Traffic congestion cant get any worse
 - Ecological issues considered
 - Introduction of wetland to contribute to wildlife habitat
 - Economic/employment benefits
 - Invigorate the local economy as a result of much needed investment
 - Overall has a positive impact on the City
 - If the University leave the site, the buildings would become an eyesore
 - Removal of unattractive St Edmunds School building
 - New homes an asset to the area
 - Reduced traffic compared to if University in full use
 - Loss of small area of green belt is small price to pay for such a development opportunity
 - Retention of Linden Lea Tennis Club within the site is a community benefit
 - Significant benefits in terms of educational facilities
- 7.4 A public consultation event including an exhibition and a meeting was held by the applicants in July and September. Over 800 letters of support have been received via the Wolves website 'molineux pride' from Wolves supporters, Compton residents, St Edmunds school pupils and parents, university students and citizens of Wolverhampton.

8. **Internal consultees**

- 8.1 **Archaeology** – The submitted desk based assessment identified the potential for the discovery of buried archaeological remains. Accordingly there should be a further phase of archaeological evaluation of the site by geophysical survey in areas of open land. This can be secured by condition.
- 8.2 **Environmental Services – Noise Assessment** – The submitted report is acceptable and the recommended conclusions and mitigation measures in the report should be applied as conditions. These include the following:-
- Demolition and construction method statement
 - Limit operational hours during demolition and construction
 - Limit noise emitted from plant and machinery
 - Limit access times for deliveries and collection of goods and refuse collection
 - No internal or external loud speaker/public address systems
 - All habitable rooms facing onto or at right angles to the access road and to Compton Road West shall be fitted with standard thermal double-glazing units with trickle vents
 - Acoustic fence to mitigate against noise from external play areas at St Edmunds

- 8.3 *Land contamination* – recommend a condition that a ground investigation to clarify both the soil and groundwater conditions prior to the start of any development.
- 8.4 *Air Quality* - The air quality assessment is acceptable and any consent should include a condition for a demolition and construction method statement.
- 8.5 *External lighting* – There are no adverse comments to make on the submitted external lighting assessment. An assessment of the existing tennis court lighting should be completed and can be submitted under a condition. A condition should be included in respect of the operating times for the lighting of the tennis courts and the Academy.
- 8.6 **Landscape** – agree with the details, methodology and conclusions of the landscape and visual impact assessment. There are numerous trees of high amenity value on the site and a large number would be removed to enable the development. These trees are a very significant feature in the locality and form an intrinsic part of the landscape character of the area.
- 8.7 It is welcomed that almost all Category A trees on the housing site and all Category A trees on the new school site are shown to be retained. The only Category A tree on the Academy site is an Oak and it is not clear if this is to be retained.
- 8.8 It is regrettable that trees with a particularly high landscape value are proposed to be removed - which include a Narrow-Leaf Ash (Cat A) and seven Atlas Cedars, two common Beech and one Copper Beach (Cat B) from the housing site and several Category B trees on the new school site including two Oaks and a Lime. It is not clear if trees T47-T52 are to be removed or retained. These are a significant group of trees along the boundary of the site which would soften the appearance of the remodelled school from the open space areas to the north and north-east. Clarification is required.
- 8.9 The inclusion of all significant deciduous and broadleaf hedgerows within the housing layout for retention is welcomed.
- 8.10 The proposed residential layout would impact on trees. Some rear gardens are small compared to the footprint of the house and large mature trees are shown to be retained on some plots (in particular plot 13 and plots 19-21). Some plots have been created at the expense of losing significant trees (plots 12, 53, 54 and 55).
- 8.11 Full specification and detailed landscape plans can be conditioned but planting areas and species need to be agreed at an early stage.
- 8.12 The Sustainable Urban Drainage (SUDS) flood water retention area at the north-west end of the site has good potential to deliver benefits, including bio-diversity, features to be enjoyed by informal recreational users and a valuable learning resource for St Edmund's Catholic School. Provision of boardwalks would facilitate this use
- 8.13 **Nature Conservation** – In general the conclusions of the Ecological Appraisal are satisfactory. Bats have been identified within the existing St Edmund's Catholic School building and use the site for foraging and commuting. Badgers in 'outlier' sets are present in three areas and 31 notable species of birds have been seen.
- 8.14 *Impact on fauna* - The loss of a small pipistrelle roost at the St Edmunds site would have negligible impact. The impact on bats from the loss of the continuity of hedgerow is not clear and clarification is required. The impact on birds is minor with the only negative impact being on the spotted flycatcher and minor potential positive impacts on a few species such as barn owl, house sparrow and kestrel and negligible impacts on most other notable species.

- 8.15 Disturbance to badger setts 1 one and 2 is expected during construction and the need for the destruction of sett 3 is anticipated, as it falls within an area required for vehicle access to new housing. A licence is required from Natural England and a method statement will be agreed which does not form part of the planning process.
- 8.16 The loss of about 50 trees across the whole development would have a moderate effect on the local resource in ecological terms. Full mitigation is expected in areas of the site where space allows, with native trees selected for compensatory planting. This can be conditioned.
- 8.17 The impact on the Local Nature Reserve would be negligible with the exception of the proximity of the new housing (plots 18-21 and 34 – 38) to the boundary where plantation woodland backs onto proposed rear gardens. No direct access would limit any negative impact. The choice of boundary treatment is important in limiting loss of native vegetation. A condition to prevent occupiers erecting rear fencing or means of enclosure is necessary.
- 8.18 *Mitigation and Enhancements* – A commuted sum is proposed to mitigate possible impacts on the local nature reserve. Conditions to minimise impact on breeding birds by preventing tree and vegetation removal during the bird breeding season, detailed planting and new bird boxes should be included. The recommendations in the Jacobs bat survey is that the new school building and Academy should incorporate features to provide roosting opportunities for bats, both to compensate for those lost but also to enhance the variety of roosting habitat available.
- 8.19 The long term protection and management of habitats to protect valuable wildlife species can be secured through a habitat management plan which can be conditioned.
- 8.20 **Tree Officers** - A high proportion of the existing mature trees on this site are covered by a Tree Preservation Order (The Wolverhampton – Wolverhampton University, Compton Road West – Tree Preservation Order: 1992, file ref. 02/2/342).
- 8.21 The periphery of the housing site (north-west and north-east boundaries) is bounded by substantial lengths of hedgerow, within which are several specimens of ultimately forest-sized trees, of native/naturalised species, of varying age category – ranging from semi-mature to mature age.
- 8.22 Taking a long-term view there is generally potential conflict between ultimately forest-sized trees situated within rear gardens, in close proximity to proposed dwellings, particularly to the north-west and north-east boundaries. (The relative orientation of the trees and houses would result in the rear gardens being densely shaded). There may be pressure to fell further trees in the future by householders experiencing problems.
- 8.23 Critical to the successful retention of the trees is total adherence to the protective/precautionary measures described in the Arboricultural Method Statement, prepared by Arbtch, document dated September, 2011, which should be required by condition.
- 8.24 **Leisure and Cultural Services** - The application adjoins the Council owned Local Nature Reserve (LNR) under the operation of Leisure and Community (Parks). The application site currently provides important pedestrian links for local people into the Smestow Valley – although the applicants state there is no public right of way. Given the absence/deficiency of other recreational open space in this part of the City this application does not propose any new provision just incidental "design" space despite increasing recreational open space need through increased residents. The application should therefore look to secure and enhance permanent accessway(s) into the adjoining LNR by their integration into the design of the development. This can be conditioned.

- 8.25 The location of the attenuation pond is noted and will provide a welcome site to encourage greater biodiversity in the area particularly for supporting/enhancing existing as well as different types of wildlife to this area. It is important that the pond has permanent clear/direct paths to aid safety of users into the Smestow Valley, with interpretation boards providing awareness of local flora and fauna created by the pond in keeping with the area and helping to inform users.
- 8.26 **Transportation Development - Site Location/Accessibility** -The site could be considered to be reasonably accessible by public transport being served by buses from Compton Road
- 8.27 The site access from Compton Park to Compton Road has good visibility in both directions. Within the site the access to the proposed new residential development from Compton Park has yet to be confirmed. If the applicant is to use the existing access point that currently accesses the University Campus then visibility is good but it is located very close to the main site access providing only a short distance for queuing traffic and the potential for traffic queuing on Compton Road or along Compton Park blocking the access to the residential development. An alternative access, further into the site has more recently been proposed by the applicants, which would overcome the queuing issue but is unlikely to achieve the appropriate visibility splay due to the proximity of mature trees in this location. A suggested solution to this would be to install some speed reduction measures in the vicinity to 'calm' traffic in the area thereby allowing a reduced visibility requirement.
- 8.28 A Traffic Regulation Order on Compton Road West is required as the school is closer to Compton Road and consequently the potential for dropping off pupils on Compton Road is much greater.
- 8.29 A detailed review of the applicant's Transport Assessment and supplementary traffic surveys and assessments received (received 21st October 2011) has been undertaken that concludes that the traffic impact from the proposed development is similar or less than that arising from the current and previous use of the site when the University was fully operational as well as the Wolverhampton Wanderers Training Facility and St Edmunds School. This is broadly confirmed by the supplementary traffic counts undertaken in October 2011.
- 8.30 The applicants have undertaken a detailed analysis of the Compton Park / Compton Road junction and the Linden Lea junction with Compton Road that demonstrates that both junctions would operate within capacity with limited traffic queues at peak times.
- 8.31 The traffic impact from the proposed development is therefore considered to be acceptable.
- 8.32 *Parking Issues* - The proposed development includes 110 spaces for the residential element, which is in accordance with the Council's planning policy and is considered to be acceptable.
- 8.33 The car parks proposed to serve the school and the football academy are considered to be acceptable for the day to day operation of the proposed developments as detailed in the transport assessment. However, there is some concern that there may be occasions when activity at the football training facility coincides with school opening hours and the demand for parking would exceed supply leading to on-street parking. This concern is reinforced by a reference to the potential for 500 visitors at times to the Academy. Suggested measures that might serve to mitigate against this potential problem could include the adoption of the whole length of Compton Park so allowing the highways authority to manage parking. Also, a planning condition requiring a car park management plan for the training facility and Academy could be imposed. This

would cover the management of on-site car parking generally, but especially during events attracting significant spectators. A car park management plan can be conditioned.

- 8.34 The adoption of Compton Park as a public highway has been a desire for the schools and University here for some time to allow better management of parking and improved maintenance of the carriageway. As noted above this would also be desirable to manage future car parking demand, should this be required. Adoption of Compton Park up to and including the access to the residential development would be a requirement and the applicants for the residential development would be required to enter into a S278 / S38 Agreement with the City Council prior to construction commencing.
- 8.35 Boundary treatments throughout the development should be conditioned to ensure appropriate visibility is achieved and maintained
- 8.36 *St Edmunds School – drop-off* - Drop off provision for the relocated St Edmund's Catholic School site would remain in its current location within the bus turn around point. The proposals include provision of a footpath across the grassed area as a means of pedestrian access from the drop off point to the new school. There are some concerns as to whether the drop off area is in the most convenient location and that parents may choose to drop off on Compton Park causing local traffic congestion.
- 8.37 Although not part of the proposals, access arrangements to St Peter's School remain as existing. It should be noted that access to the school via the gated access off Newbridge Crescent should be restricted to emergency access only to avoid potential short cuts through the Compton Park site and to prevent amenity/parking issues for residents of Newbridge Crescent.
- 8.38 **Strategic Asset Management** – No comments as strategic asset management are involved in the negotiations on behalf of the Council as landowner, for the land transactions required between the partners.

9. External Consultees

- 9.1 **Fire Service** – The access for fire service appears satisfactory for the academy. The accesses for the residential development do not appear satisfactory due to the length of the dead-end. This information has been passed to the applicant who has not yet responded.
- 9.2 **British Waterways** – require that proposed lighting safeguards the integrity of the waterway. British Waterways state that the development should not result in an increased risk of surface water overtopping the canal. British Waterways recommends S106 contributions to enhance the existing canal towpath and improvements to the existing access points in the vicinity of the former railway bridge.
- 9.3 **Severn Trent Water** – No objection
- 9.4 **Wildlife Trust for Birmingham and the Black Country** – objects to the proposals because of its location in the green belt, the harmful nature of the development and the conservation precedent that could be set without sufficient measures to enhance, restore and add to the natural environment and the proposed nature conservation impacts. The Trust is also disappointed that the opportunity to break out Graiseley Brook from the culvert has not been taken.
- 9.5 **Centro** – Welcomes the travel plan submitted for the school and recommends that the developer signs up to Residential TravelWise

- 9.6 **Sport England** – Sport England does not wish to raise an objection to this application, subject to a condition that a Community Use Agreement is submitted prior to commencement of development. This can be conditioned.
- 9.7 **Environment Agency** – objects to the proposal but would reconsider if the applicant was to propose to naturalize the Graiseley Brook and de-culverting undertaken in conjunction with proposals to create a wetland habitat, SuDs and other sustainable features.
- 9.8 **Police - Local and Neighbourhood Arrangements, Natural England,** – comments awaited.

10. Legal Implications

- 10.1 General legal implications are set out at the beginning of the schedule of planning applications.

Conservation of Species Protected by Law

- 10.2 The Local Planning Authority is a competent authority for the purposes of the Habitat Regulations and the planning authority is under a duty to have regard to the Habitats Directive in the exercise of its functions. Planning authorities should give due weight to the presence of protected species on a development site and to reflect these requirements in reaching planning decisions. Under S39 of the Habitats Regulations bats are European protected species.
- 10.3 Paragraph 99 of Circular 06/2005 'Biodiversity and Geological Conservation - Statutory Obligation' and the impact within the planning system should be noted. It is essential that the presence or otherwise of protected species and the extent that they may be affected by the proposed development is established before the planning permission is granted. Otherwise all the relevant material considerations may not have been addressed before making the decision. The need to carry out ecological surveys should only be left to planning conditions in exceptional circumstances.
- 10.4 Badgers are protected under the Protection of Badgers Act 1992. Disturbing a badger sett, adversely affecting foraging territory, links between them, or significantly increasing the risk of road or rail casualties is a material planning consideration.
- 10.5 Members should note that as detailed in the report the application will need to be referred to the Secretary of State for consideration as to whether it should be called in for his determination. This is because this application constitutes inappropriate development in the green belt and referral is required by the The Town and Country Planning (Consultation) (England) Direction 2009. Where the application is referred, the planning authority cannot determine the application until the expiration of 21 days after the requisite information has been provided to the Secretary of State, or until the Secretary of State has confirmed he does not wish to "call in" the application, if earlier.
- 10.6 When an application is situated in or affects the setting of a Conservation Area, by virtue of S72 and S73 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering the application and exercising their powers in relation to any buildings or other land in or adjacent to a Conservation Area, the Local Planning Authority must ensure that special attention is paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area, it should also have regard to any representations ensuing from the publicity required under S73 of the Act. [LD/31102011/U]

11. Appraisal

11.1 The key issues are: -

- Green Belt
 - *Impact on Green Belt from the Proposal*
 - *Very Special Circumstances*
 - *Enabling development - Housing*
- Transportation
- Ecology
- Landscaping and trees
- Impact on neighbours
- Design Quality
- Impact on Heritage Assets
- Flood Risk
- Playing Fields
- Noise issues
- Planning Obligations
- Other matters

Green Belt

11.2 PPG2 – Green Belts states that the fundamental aim of green belt policy is to prevent urban sprawl by keeping land permanently open; the most important attribute of green belts is their openness. There are five purposes of including land within the Green Belt, to check the unrestricted sprawl of urban areas; to prevent neighbouring towns from merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

11.3 The construction of new buildings inside a green belt is inappropriate unless it is for the following purposes:-

- Agricultural or forestry;
- Essential facilities for outdoor sport and recreation or cemeteries and other uses of land which preserve the openness of the Green Belt;
- Limited infilling or redevelopment of major existing developed sites;
- Limited extension, alteration or replacement of existing dwellings.

11.4 There is a general presumption against inappropriate development which is by definition, harmful to the green belt. Such development should not be approved, except in very special circumstances. It is for the applicant to show why permission should be granted. PPG2 states:-

'Very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness and any other harm is clearly outweighed by other considerations. In view of the presumption against inappropriate development, the Secretary of State will attach substantial weight to the harm to the Green Belt when considering any planning application'.

11.5 PPG2 is likely to be replaced by the National Planning Policy framework which is currently a draft document and therefore should be afforded limited weight. The draft National Planning Policy Framework (NPPF) states that *'very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations'*

- 11.6 The majority of the green belt within north-west Wolverhampton is essentially a linear feature. It follows the route of the Staffordshire and Worcestershire Canal corridor and widens at several locations to connect a network of broadly open spaces otherwise contained within the surrounding urban area of Wolverhampton.
- 11.7 The 1993 UDP Inspector recognised that the character of the green belt as a series of green wedges made it particularly significant as a break within a very large built up area. The approach of maintaining a tightly drawn green belt was considered reasonable and that long term development needs would be best served by the re-use of urban land. In a review of Wolverhampton's UDP and Green Belt in 2005 the Inspector accepted the purpose of large existing buildings located in the green belt and designated St Edmunds School and part of the University Campus as separate 'Major Developed Sites' in the green belt.

Impact on Green Belt from the Proposal

- 11.8 The applicants acknowledge in their submission that their proposals consist of inappropriate development by accepting that there is a need to demonstrate very special circumstances to justify the proposed development within the Green Belt. (Planning Statement paragraph 1.7)
- 11.9 The first component of the development which impacts on the Green Belt is the demolition of an existing school building and its replacement with a new indoor football pitch and associated parking. The new built form would extend outside the major developed site boundary and therefore by definition would be inappropriate development.
- 11.10 The second component of the proposal which impacts on the green belt is the extension to the retained university buildings which would fall within the major developed site boundary. However, the proposed extensions would result in a more than 10% increase over and above the original developed area of the site. The proposal is therefore contrary to UDP policy G4 – Major Developed Sites in the Green Belt.
- 11.11 The third component of the proposal which impacts on the Green Belt is the construction of 55 new homes to the west of the university. Twenty percent of this development would be located within the existing university 'major developed site' boundary, where halls of residence will be demolished, and 80% would be located in Green Belt outside the 'major developed site' boundary. Both the element within the university major developed site boundary and the element outside would be inappropriate development.
- 11.12 Having established that three components of the proposal constitute 'inappropriate development' in the Green Belt as set out in PPG2 and the adopted UDP, the determination process must involve:-
- (i) a determination as to whether each component is of itself, harmful to the green belt;
 - (ii) a determination of the extent of any harm;
 - (iii) an assessment of the "very special circumstances" put forward by the applicant (the burden of proving such rests with the applicant)
 - (iv) a determination of whether such very special circumstances "clearly" outweigh any harm caused by reason of both inappropriateness and any other identified harm.

- 11.13 *Impact on Openness (Scale/Massing)* - The applicant has provided quantitative figures in respect of the amount of development which would take place outside the 'major developed site' boundary (see paragraphs 11.11 and 11.12) and therefore which would impact on openness. However, consideration must also be given to the scale and massing of these proposals, to provide a qualitative judgement of how the development would impact on openness.
- 11.14 The proposed Academy will be built in a location where there are currently large scale buildings. The Academy buildings will not be any higher, at any point, than the highest St Edmund's Catholic School building. This will be achieved by lowering the ground level by 1.4m and providing a retaining wall on the east elevation. The views from the east and west demonstrate the scale and bulk of the new building. The range in height of the existing school buildings, from single storey to three storeys, allows views beyond the building of the landscape of Smestow Valley, which would be removed by the creation of one large Academy building, the equivalent of three storeys in height and the full width of the existing buildings. This is considered to result in some harm to openness.
- 11.15 The proposed extension to the university buildings to provide the new school would not exceed the height of the existing highest building on the site. The existing university buildings (which extend to the proposed housing site) are already defined as a 'major developed site' within the green belt. The new buildings would occupy an area of Compton Park which already has large scale buildings. At present, particularly when looking south-west from the top of the bank near the existing school site, the university buildings are spread out, with the highest buildings located towards the front of the site near Compton Road West. The new extension would create a solid mass in the centre of the site, at a greater height than parts of the existing buildings, but not greater than the highest building. The impact on the openness from this point of view will therefore be limited.
- 11.16 The proposed new housing would be located in an area of Compton Park which is not currently accessible to the public. The area is currently open with a substantial number of mature trees and single storey outbuildings. Part of the area is clearly visible from the public domain on Compton Road West and from the entrance to Compton Park. It is less visible from other viewpoints around the site by virtue of a heavy bank of trees on the north-west and north-east boundaries. The area is visible from residential properties in Compton Road West backing on to the site.
- 11.17 The character of this area will change as a result of the removal of trees. The proposed dwellings would be two storeys in height and the majority would be located out of public view. But the character of the area will change such that the primarily wooded and green appearance at present would be replaced, from some viewpoints, with a landscape composed primarily of buildings. The plots closest to Compton Road West would have a particular impact in this respect. Currently there are not many buildings and the space will be replaced with lots of new buildings which will be harmful to openness. The proposed housing would therefore have an adverse impact on the openness of the Green Belt.
- 11.18 Paragraph 1.7 of PPG2 informs the approach to the determination of a Green Belt application:-

"The purposes of including land in the Green Belts are of paramount importance to their continued protection, and should take precedence over land use objectives"

The two purposes of including land at Compton Park in the Green Belt through the UDP process were:

1. To prevent neighbouring towns from merging into one another; and

2. To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 11.19 The Academy and school proposals would be constructed mainly within major developed sites. The new housing would be in a part of the site which is not publicly accessible and is mostly not visible but by introducing significant new buildings on open land which would go against the first purpose to prevent towns from merging.
- 11.20 The Academy, whilst being inappropriate development, is located primarily within the 'major developed site' boundary and could not be said to result in harm to the urban regeneration purpose of the green belt. The same is true of the university building extension. However, the provision of 55 new homes in the green belt is clearly contrary to original intentions to encourage new development, particularly housing, in urban locations. It is therefore considered that the housing component of the proposed development would result in harm to the urban regeneration purpose of the Green Belt.
- 11.21 For the reasons identified above, it is concluded that the development would result in harm to the openness of the green belt and to its urban regeneration purpose.
- 11.22 *Impact on Visual Amenity* - PPG2 also highlights that the visual amenity of the Green Belt should not be injured by proposals for development within or conspicuous from it which, although they would not prejudice the purposes of including land within the Green Belt, might be visually detrimental by reason of their siting, materials or design.
- 11.23 The proposals for the Academy and new St Edmund's Catholic School site have been designed to limit visual impacts on the green belt. The Academy would adopt a low horizontal profile and off-white roof covering to minimise contrast against the prevailing sky and would be located on the existing major developed site. The new school site would use existing and new buildings of a height not greater than the existing and would use materials to match the existing. For these reasons, these components of the development are not considered to cause visual harm to the green belt.
- 11.24 The housing is designed to be two storeys in height and of a design in-keeping with the character of the area in terms of its use of traditional materials. The housing would be located in a part of the site which is visible from outside the site but in many respects is well hidden by virtue of the topography and significant tree coverage. But the character of the area will change such that the primarily wooded and green appearance at present would be replaced, from some viewpoints, with a landscape composed primarily of buildings. The plots closest to Compton Road West would have a particular impact in this respect. Currently there are not many buildings and the space will be replaced with lots of new buildings including plots closest to Compton Road West which would result in harm to the openness of the green belt.
- 11.25 Replacement floodlights are proposed around the running track. These are not likely to have any more of an impact than the existing floodlighting. Facilities which are essential for outdoor sport and recreation and which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it are appropriate development in the Green Belt. Therefore, subject to no detrimental impact on wildlife, the proposed floodlighting is not considered to result in harm to the green belt.
- 11.26 The conclusion is that the new housing would result in visual harm to the green belt by reason of its siting.

Very Special Circumstances

- 11.27 Both the courts, and appeal decisions have indicated that material considerations can cover a wide range of matters. Even if the material considerations do not carry significant weight individually, they can when taken together, be capable of amounting to very special circumstances.
- 11.28 The very special circumstances case presented consists of:-
- (i) The need for Wolverhampton Wanderers Academy;
 - (ii) Educational benefits from the redevelopment of St Edmund's Catholic School;
 - (iii) The socio-economic benefits;
 - (iv) The harm if the development is not facilitated;
 - (v) The fall-back position.
- 11.29 **Wolverhampton Wanderers Academy** – The case submitted states that there is a requirement for the proposed Academy facility, in order to maintain the position of the football club at the highest standard. Without it the Academy would fail to attract the best young players and so the Wolves would find it harder to meet FA requirements for 8 'home grown' players within their squad. The Football Association (FA) also has minimum requirements for Premier League clubs in terms of facilities and Elite Player Performance Plan (EPPP). It has been acknowledged in other Academy developments that such sporting facilities have significant benefit and that "*Football is an important component of the leisure industry*". In addition to the Club's individual need and as a result of the requirements of the FA, there is a national need for the facility to develop quality home grown talent for the national squad.
- 11.30 The football club currently uses the indoor facilities at Aldersley Stadium which is inadequate because of lack of space. In addition there is a demise in the condition of the facility due to over use and subsequently this has reduced the quality of the learning experience for students. A study of alternative sites has been conducted (predominantly within Wolverhampton and South Staffordshire) and it concludes that there are no alternative locations that would be 'fit for purpose'. Officers' would accord with this view. The City football team should not be expected to train away from its home town and the absence of a superior alternative site is a very special circumstance that can be afforded significant weight.
- 11.31 The relocation of the proposed facility elsewhere within the Compton Park site has been considered, and the outcome is that there would be no other appropriate location within the site where the facility would not be wholly 'inappropriate development'. There is a benefit from the opportunity that has arisen for the Academy to be sited on the St Edmund's Catholic School site after the school has relocated that would result in a reduced impact on the green belt.
- 11.32 There are several precedent Academy planning decisions. In particular, planning permission for an Academy centre was refused in Sunderland in 1999. The site was located in the Green Belt and the decision was subsequently appealed. The Inspector concluded that the significant benefits to the development of football both regionally and nationally and significant benefits to the profile of the borough were given significant weight as very special circumstances.
- 11.33 PPG17 sets out guidance for planning for open space, sport and recreation. It refers to the governments objectives for improving such facilities and states that '*open spaces, sports and recreation facilities have a vital role to play in promoting healthy living and preventing illness*'. It also refers to the need for such facilities to be easily accessible.

- 11.34 **Redevelopment of St Edmund's Catholic School** - The case for cross funding as part of the very special circumstances case are that Wolverhampton Wanderers are to acquire the St Edmund's school site to develop the Academy contributing (indirectly) £2.5m to the school relocation. Redrow Homes would acquire the University site to facilitate a gift of a new site (land and buildings) for the relocation of St Edmund's School, development of 55 homes and a £2.5m education contribution to relocate the school.
- 11.35 There is already in place a BSF funding package of £7.9m which would enable extension and refurbishment of the existing St Edmunds School site. As part of the very special circumstances case the additional capital investment of £5m will deliver significantly enhanced facilities to the new school that comprise part-refurbished and extended university buildings providing over 4000m² of new floorspace.
- 11.36 Additional information has been submitted which demonstrates how the additional £5m would result in a markedly different educational provision to that contemplated under the existing BSF funding of £7.9m
- 11.37 The proposed option would include over four times the amount of new purpose-built accommodation compared to the original BSF option. It would provide the ability to deliver far more flexible and adaptable spaces that would be more responsive to evolving teaching and learning practices. It will deliver the transformational agenda underpinning the BSF programme with purpose built spaces which cannot be achieved on the existing site because the age and layout of the building structure limits the ability to be flexible, thereby undermining the objectives of the BSF programme.
- 11.38 The benefits afforded the new school location in terms of educational improvements, when compared with the proposals for the existing site, can be given considerable weight.
- 11.39 **Socio-economic benefits** – The key aspects of this part of the very special circumstances case comprise:-
- local economic benefit resulting from the continued operation and enhancement of the football academy to a higher status;
 - Aldersley village improvement being transferred to the Wolverhampton Community Trust;
 - reinvestment in Wolverhampton University as a consequence of the capital receipt of £5m;
 - the benefits of the improved facilities at St Edmund's Catholic School
- 11.40 The socio-economic benefits of the very special circumstances can be considered to contribute to the case. The statement submitted states that the Academy will continue to employ 17 full time members of staff and 24 casual staff and that the combined investment value of the combined Compton Park development, is estimated to bring 150 full time construction jobs and over 250 indirect jobs. Economic benefits can be afforded weight as a material consideration. However, the continued employment of staff at the Academy (it does not state how many staff are currently employed) is not a significant socio-economic benefit. The creation of jobs as a benefit of the overall scheme is important as a material consideration but is not considered to constitute very special circumstances.
- 11.41 Part of the benefits include the transfer of the ownership and management of the Aldersley facility to the Wolverhampton Community Trust under a Deed of Variation to the existing lease. The Trust is a charity funded by WWFC, through the Morgan Foundation and Wolverhampton Aid (the community donation arm of the football club). The proposal would be to give the trust exclusive and unrestricted use of the facility. The asset transfer (if the indoor dome were constructed today) would be £1m.

- 11.42 The benefits afforded the transfer of this facility to the community can only be given significant weight as a very special circumstance if the continued and long term use and details of how these will be delivered can be secured through a Section 106 Agreement. Otherwise, the benefits can be given little weight. The applicant has confirmed that the use of the facility by the public, managed by Wolves Community Trust is being delivered through an amendment to the existing Academy lease of Aldersley between the football club and City council which is a legally binding arrangement and does not need a parallel obligation in a Section 106 Agreement. It is officers view, that this does not amount to a justification to not have the benefit in an obligation and therefore, without being secured through a S106 planning agreement, can be given little weight.
- 11.43 The reinvestment of the monies obtained as a result of the £5m capital receipt is an aspect that can be considered. The proposal is for the University to re-invest the capital receipt in the City Centre and the Applied Sciences Building. The applicants state that this will result in further investment and strengthen the University's ability to attract and retain students, benefiting the City as a whole through increased student investment, student expenditure, local job creation and graduate retention. Whilst this would be welcome, little weight can be given to this aspect.
- 11.44 There is a long period of time before these benefits can be realised, taking into account that the exact use of the funding has to be agreed, planning permission obtained and work actually commenced on site. To give this aspect sufficient weight, the funding would have to be secured for this purpose. It is not possible to do this (as the University would be unable to offer a guarantee and would therefore be reluctant to sign up to a Section 106 Agreement) and therefore, while this can be afforded some weight it is not significant.
- 11.45 The benefits of the improved facilities at the relocated St Edmunds school site have already been considered at paragraph 11.37.
- 11.46 **Harm arising from not facilitating the Development** – The applicant states that if planning permission were not granted for the proposals, the Academy would remain on its split site using out-dated facilities and the club would be downgraded in terms of its academy quality and its ability to identify, recruit and grow new elite players.
- 11.47 Regarding the school, without the £5m it would remain on its current site. The funding package of £7.9m would pay for the refurbishment of their existing building and 1000sqm extension. This development would be contrary to Green Belt policy.
- 11.48 If the school remained on its current site, the Academy proposed would not be able to take place. Without improved facilities it seems likely that the Academy would not attract the best young players and so the Wolves would find it harder to meet FA requirements for 8 'home grown' players within their squad. The club would also lose the potential financial benefits of avoiding having to buy so many players.
- 11.49 The only other alternative option for the Wolves would be to build the Academy building elsewhere within Compton Park. Officers recognise that difficulties may arise from this alternative option, in terms of the submission of an alternative planning application, which would take time and may not necessarily be successful. The significant benefits from the proposed Academy would not be realised, which would be an opportunity missed, particularly as the Academy would have a considerable positive impact on the City as a whole.
- 11.50 **Fall-back position** – The applicant has identified in its submission that there is a 'fall-back' position for the University site should planning permission not be granted for the

proposal. Specialist development and redevelopment of the existing floor space or redevelopment of the same would give rise to alternative forms of development.

- 11.51 As a means to maximise a capital receipt, the applicant claims that the university site, because of its location, would be sought after by speculative commercial and/or residential developers if the proposed development does not go ahead. As a major developed site, there is limited development which could take place which would not result in inappropriate development. Therefore this aspect of the socio-economic benefits is given little weight as a very special circumstance.

Enabling Development

- 11.52 The proposal would comprise 'cross-funding' or 'enabling development'. Enabling development is development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out, and which could otherwise not be achieved. Enabling development is not a statutory term, but was confirmed as a legitimate planning tool in 1988 (R v. Westminster City Council ex parte Monahan) and is a 'material consideration' in the determination of planning applications.
- 11.53 It is of the essence of enabling development that a scheme that would otherwise be unacceptable in planning terms is necessary to generate the funds needed to secure the benefits proposed and is entirely appropriate to require applicants to provide financial evidence to the local planning authority to support such a claim. The applicant has submitted a case for very special circumstances and a financial viability appraisal.
- 11.54 In order to cross-fund the benefits it is necessary to introduce a component which can generate returns capable of reinvesting in the school. This vehicle is the open-market housing.
- 11.55 Housing – Notwithstanding the enabling role of the proposed housing development it is necessary to confirm that the proposed site is suitable for residential development.
- 11.56 The proposed 55 new homes would contribute to the maintenance of a five year supply of deliverable housing land within Wolverhampton in accordance with BCCS policy HOU2. The Strategic Housing Market Assessment for the West Midlands (July 2008) identifies a lack of 'top-end' houses as a contribution to the mix and balance of housing stock available. It is therefore considered that the proposed housing type/mix is not inappropriate in this location (subject to other material considerations and relevant policies).
- 11.57 The proposed housing site would be 3.24 hectares and the proposed density would be 17 dwellings per hectare. BCCS policy HOU2 states that all development should aim to achieve a minimum net density of 35 dwellings per hectare. The proposal would be significantly less. However, the green belt location and high landscape quality of the site means a lower than normal density is acceptable.
- 11.58 In accordance with BCCS policy HOU3 – Delivering Affordable Housing, housing developments of 15 houses or more should provide 25% affordable housing unless it is financially unviable to do so. The proposal fulfils an enabling role in the delivery of the new replacement St Edmund's Catholic School. It is the applicants view that the number of houses proposed is the minimum required to generate sufficient sales value to provide the education contribution of £2.5m to gap-fund the delivery of the school. Therefore it would not be viable to provide affordable housing unless the number of houses is increased, which would have a greater impact on the openness of the green belt and may jeopardise the prospect of securing planning permission for the whole Compton Park.

- 11.59 Supplementary Planning Document – Affordable Housing states that it is possible to relax planning obligations if a development proposal is not financially viable. The Financial Viability Appraisal has been assessed in a draft report by the District Valuer, which concludes that the site is financially unviable in that there is no surplus over and above the land price and proposed education contribution. However it is heavily caveated with Special Assumptions which are considered at 11.60 and the Planning Obligations Section. It is recommended that affordable housing will not be required subject to those considerations
- 11.60 There is a possibility that if house prices alter, or the actual development costs reduce in comparison to the viability appraisal figures and assumptions that this could significantly affect the ability to generate an additional surplus over and above and is therefore strongly advised by the District Valuer that a clawback, review mechanism or overage provision should be applied. Such a clawback should be secured via a Section 106 Agreement.
- 11.61 An outline application was determined at appeal (ref APP/B1930/A/10/2142127 – Beaumont School and Land at Winches Farm, St Albans) in May 2011 for the erection of 75 dwellings to fund improvements to a school. The Inspector found that the application as a whole comprised inappropriate development that was harmful to the openness of the Green Belt. The Very Special Circumstances submitted included educational need, community use, academy status and housing (as the enabling role) and were considered to be sufficient.

Summary of Very Special Circumstances

- 11.62 The very special circumstances submitted by the applicant have been considered and assessed.
- 11.63 The strength and weight afforded the very special circumstances lies with the ability to secure them. The New School is a BSF funded programme and in accordance with its funding regime, planning permission has to be secured by a certain date. It is unlikely that the school development would not go ahead, particularly as there is a legally binding contract between all parties that the school will go ahead within a certain timeframe, once the university site is vacated. It is not deemed necessary to secure the development of the new school site through a Section 106 Agreement.
- 11.64 Similarly, the Academy has significant weight as a very special circumstance but only as long as it goes ahead. The applicant has been asked to provide the following which should be secured through a Section 106 Agreement:-
- a timeframe for delivery of the Academy;
 - details of the facility at Aldersley in terms of public availability and funding mechanism to ensure long term availability;
 - education contribution required prior to commencement of residential development.
- 11.65 To summarise the very special circumstances the following table shows the weight which has been attributed to each element. The very special circumstances need to outweigh the harm caused by reason of inappropriateness.

<u>Very Special Circumstances</u>	<u>Weight afforded</u>
New Academy – benefits for sport	Significant weight
New School – benefits for education	Significant weight
Socio-economic benefits:- -Local economic benefits -Aldersley Village	Little weight Little weight
- Re-investment in the University	No weight – cannot be secured
-Benefits of improved facilities at the new St Edmunds school site	Little weight – no additional weight (already considered)
Harm if development not facilitated	Considerable weight to the Academy not going ahead and subsequent loss of benefits. Less weight for the school as, although the educational benefits are recognised, the 'fall-back' for the school is policy compliant.
'Fall back' position	No weight

- 11.66 In this case, all aspects of the very special circumstances case are relevant and have been appraised as individual elements. It is however important that the merits of this case are seen as a whole; where one or two circumstances are considered weak individually, when put together with the other weaker elements, could be said to have more weight.
- 11.67 For example, the benefits associated with the Academy provide a compelling case to demonstrate the existence of very special circumstances, but if all others were, in the opinion of officers considered to fail, could the case for very special circumstances rest on the benefits alone? The conclusion in this respect is that it can.

Conclusion of Green Belt Case

- 11.68 Whilst there are components of the overall development proposal that would be consistent with PPG2 Green Belts (in particular, the open playing fields), the significant built form would plainly represent "inappropriate development" and should therefore be refused on its face as being contrary to PPG2 – Green Belts, BCCS policy CPS2 and UDP policies G2, G3 and G4, should very special circumstances not exist to justify a departure.
- 11.69 PPG2 states that planning permission should be refused unless very special circumstances outweigh the harm caused by the inappropriate development.
- 11.70 There are significant merits in the case submitted which present a clear set of circumstances which are very special.. The main benefit would be the Academy centre for the football club. PPG17 states that sport and recreation are important components of civilised life and participation can help improve the individual's health and sense of well-being and promotion of sporting excellence can help foster civic and national pride. In addition, there would be every prospect of the proposed facility benefiting the sport generally by attracting potential professional sportsmen and improving them to a standard whereby they could make a national contribution. It is also important to take into account the complete lack of suitable alternative locations for the facility. It is the judgement of officers that these benefits hold considerable weight and are very special circumstances.

- 11.71 It is acknowledged that the failure of the Academy to go-ahead and the realisation of the benefits identified above have considerable weight. The implementation of the Academy is dependant however, on the relocation of St Edmunds School to the university site.
- 11.72 A significant case has been submitted for the new school. The planning policy statement issued in August 2011 sets out the Governments' commitment to support the development of state-funded schools and their delivery through planning. The statement sets out their commitment to ensuring there is sufficient provision to meet growing demand, increased choice and opportunity to raise educational standards.
- 11.73 On balance, the benefits of the new school when compared with the fall-back of remaining on the existing site and having a refurbishment and extension cannot compare to the significant improvement in facilities which would be derived as a result of moving to the new site. It is therefore considered that these benefits hold considerable weight as very special circumstances.
- 11.74 The transfer of the Aldersley facility to the 'Community Trust' will be a benefit to the local community and subject to being secured over a long term period, can be given significant weight as a very special circumstance.
- 11.75 The overall development would result in new jobs which is a significant material consideration, particularly in the current economic climate. These benefits can only be fully realised if the whole development goes ahead. So while not considered as very special circumstances, this is a significant benefit which would be lost should the development not go ahead.
- 11.76 The new housing is identified as inappropriate development. There are some merits in the provision of new housing, although these would not constitute very special circumstances. There is a need for large detached houses in the City, and particularly in this location.
- 11.77 Officers have concluded, therefore, that the harm to the openness of the green belt as a result of the new academy, school and housing, would be clearly outweighed by the benefits to sport and education and resultant community benefits from the transfer of Aldersley to the Trust. This constitutes very special circumstances and clearly outweighs the harm caused by reason of inappropriateness of the development.

Transportation

- 11.78 *Site Access/Visibility* - The site access from Compton Park to Compton Road has good visibility in both directions. Additional Traffic Regulation orders are however recommended to discourage on-street parking on Compton Road considered to be more likely than existing due to the relocation of St Edmunds School closer to Compton Road junction. The revised layout indicates that the access for the new residential development would be located further into the site, which would overcome the queuing issue but is unlikely to achieve the appropriate visibility splay due to the proximity of mature trees.. A suggested solution to this would be to install some speed reduction measures in the vicinity to 'calm' traffic in the area so allowing a reduced visibility requirement.
- 11.79 *Transport Assessment Review* - A detailed review of the applicant's Transport Assessment and supplementary traffic surveys and assessments has been undertaken that concludes that the traffic impact from the proposed development is similar or less than that arising from the current and previous use of the site when the University was fully operational as well as the Wolverhampton Wanderers Training Facility and St Edmunds School. This is broadly confirmed by the supplementary traffic counts undertaken in October 2011. The applicants have undertaken a detailed

analysis of the Compton Park / Compton Road junction and the Linden Lea junction with Compton Road that demonstrates that both junctions would operate within capacity with limited traffic queues at peak times. The traffic impact from the proposed development is therefore considered to be acceptable.

11.80 *Parking Issues* - The proposed development includes 110 spaces for the residential element, which is in accordance with the Council's planning policy and is considered to be acceptable. The car parks proposed to serve the school and the football Academy are as follows:

- 70 spaces to the rear of St Edmunds School and a further ten spaces on the school frontage;
- 17 spaces for staff parking and a further 93 spaces for the Academy.

This level is considered to be acceptable for the day to day operation of the proposed developments as detailed in the Transport Assessment, however, there is some concern that there may be occasions when activity at the football training facility coincides with school opening hours and the demand for parking would exceed supply, leading to on-street parking. This concern is reinforced by a reference to the potential for 500 visitors at times to the Academy. Suggested measures that might serve to mitigate against this potential problem could include the adoption of the whole length of Compton Park so allowing the highways authority to manage parking. Also, a planning condition requiring a car park management plan for the training facility and Academy could be imposed that would cover the management of on-site car parking generally, but especially during events attracting significant spectators.

11.81 *Residential Layout* - Some issues of detail including provision of footways and traffic calming arrangements are still to be agreed; however the general road layout would be broadly acceptable.

11.82 The lengths and widths of driveways to some plots do not meet with WCC recommended dimensions but meet other acceptable standards of garage parking.

11.83 *St Edmund's Catholic School* – The drop off provision for the relocated St Edmund's Catholic School site would remain in its current location within the bus turn around point. The proposals include provision of a footpath across the grassed area as a means of pedestrian access from the drop off point to the new school. The drop off area is not the most convenient location and that parents may choose to drop off on Compton Park Road. This can be prevented with the implementation of a traffic regulation order on Compton Road West.

11.84 *St Peter's School* – although not part of the proposals, access arrangements to St Peter's School remain as existing. It should be noted that access to the school via the gated access off Newbridge Crescent should be restricted to public transport and emergency access only to avoid potential short cuts through the Compton Park site and to prevent amenity/parking issues for residents of Newbridge Crescent. A condition on a previous application attempted to manage this issue but does not appear to be effective in doing so. It would be reasonable and relevant to apply a more robust condition to deal with this issue.

Ecology

11.85 Circular 06/2005 to PPS9 states that "*the presence of protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat*". UDP policy N9 requires that where there is a strong indication that a site is used by protected species an application must be accompanied by an ecological survey and impact assessment, details of how the development will accommodate the needs of those

protected species and how any harm will be mitigated. The results of the submitted ecological survey show that the site is inhabited by bats.

- 11.86 Circular 06/2005 states that the presence of a protected species is a material consideration when a planning authority is considering a development proposal and the surveys must be conducted before the grant of planning permission. The bat survey undertaken identifies a small roost in the St Edmund's Catholic School building. The proposed mitigation includes measures in the new school building and proposed Academy such as bat boxes, and bat bricks to encourage roosting opportunities and to enhance the variety of roosting habitat available. This can be conditioned
- 11.87 The badger survey has identified three setts, of which one would be closed if the proposal were to go ahead. The badger survey identifies little evidence of foraging within the habitat which is to be lost to the residential development. As mitigation, new foraging resources will be provided through creation of new habitats associated with the SUDS and new native tree and shrub planting including fruit and nut bearing species and corridors of movement would be retained through the site. It is considered therefore that the proposed development would not result in harm or stress to badgers as a result of the development. A licence is required from Natural England and, subject to the proposed mitigation measures, the proposal is considered to accord with UDP policy N9 and PPS9.
- 11.88 The proposed development is expected to have varying degrees of impact on certain bird species. The spotted flycatcher would be affected by the loss of woodland which would reduce nesting and roosting and foraging resources. The impact on 27 other bird species is negligible and, other than during construction, the development would have a positive impact for barn owls, starlings and house sparrows. As mitigation measures to avoid disturbance to breeding birds, vegetation would be removed prior to the bird-breeding season (March-September inclusive). This can be conditioned.
- 11.89 The ecological appraisal states that the impact on the Local Nature Reserve is considered negligible with the exception of the proximity of the new housing (plots 18-21 and 34 – 38) to the boundary where plantation woodland backs on to proposed rear gardens. No direct access would limit any negative impact and the choice of boundary treatment is important in limiting loss of native vegetation. Officers agree with the conclusions of the report and a condition to prevent occupiers erecting rear fencing or means of enclosure is necessary. Having considered the views of residents, the Wildlife Trust and Smestow Valley Bird Group, in respect of loss of habitat, impact on wildlife and the local nature reserve it is not considered that there are sufficient reasons to refuse the application. A commuted sum is proposed to mitigate possible impacts on the local nature reserve but this is a recommendation in the ecological appraisal and has not been offered as a Section 106 obligation. This matter will be negotiated with the applicant.
- 11.90 The Sustainable Drainage System (SUDs) created in the western half of the site is a positive measure and would be designed to enhance foraging and nesting opportunities for wildlife, including birds. This is supported by BCCS policy ENV1 and Policy D12 as it will link to Smestow Valley Local Nature Reserve. A full design of the SUDs area should be conditioned.
- 11.91 The comments of Natural England were still outstanding at the time of writing this report.

Landscaping and Trees

- 11.92 The proposal will result in the removal of trees. UDP policy N7 seeks to preserve, enhance and extend the urban forest. The landscape principles are generally sound and the proposed additional tree planting across the site will mitigate the loss of some

trees. The proposal would seek to retain landscape features including mature trees and hedgerows where possible and create new habitats including the SUDS pond which would be in accordance with UDP policies N7, D6 and D12.

Impact on neighbours

- 11.93 Residential properties most likely to be affected by the proposals adjoin the site on the south west boundary. The likely impact on residents from the transportation issues has already been considered in the transportation section of this report.
- 11.94 Residents on the north side of Compton Road West would adjoin the proposed residential development. The levels in this part of the site and outside the site change significantly. The land slopes down from south-west to north east. There is a distance of 16m from a three storey block of flats (57 Compton Road West) to the boundary with proposed plot 54. The proposed house design would have no windows to habitable rooms overlooking this property, and sectional drawings submitted (although not wholly accurate) indicate that there would be a distance of 20m between the rear projecting gable (a glazed bay feature) and the side gable of the proposed new house. Provision of accurate levels and agreement to them can be conditioned if necessary, this issue could also be resolved through provision of accurate drawings demonstrating finished levels before any permission is issued. It is considered that these distances, when also taking into account the levels, would not result in any unreasonable loss of amenity to residents in these properties. The outlook for residents in these flats, would be adversely affected by the proposed development as a whole as a result of the loss of trees, however distances between principle windows and matters of privacy and overlooking have been fully considered and the development is in compliance with supplementary planning guidance in this regard.

Design Quality

- 11.95 PPS1 states that, "*good design is indivisible from good planning*" and that development should create or reinforce local distinctiveness. It also states that good design should contribute positively to making better places for people and that design which fails to take the opportunities available for improving the character and quality of the area should not be accepted. This is supported by BCCS policies CSP4 and ENV3 which encourages all new development to be of a high quality which contributes to "creating a strong sense of place".
- 11.96 *The Academy* – The proposed new indoor pitch has gently curved eaves and the roof pitch rises slightly to a curved ridge, the height of which is approximately 12.3m. This would be no more than the existing school. The building has been designed to limit impact on the green belt and, in design terms, this scale and height is acceptable.
- 11.97 The new academy would be constructed from a mix of modern and traditional materials. The building would be functional if not exceptional in its architectural appearance and would be visually cohesive with the existing training building. It is therefore considered acceptable.
- 11.98 The building is in the same position as the existing building which is a good opportunity to re-use the existing built up area rather than the green spaces. The car parking would be located behind the building and therefore obscured from view from the Compton Park access road, which means the building would not be dominated by parking.
- 11.99 *St Edmund's Catholic School* – The proposed new buildings would be two storeys in height. This responds to the existing buildings which are a mix of single, two and three storey with a variety of roof shapes. On the west side of the site the new two storey teaching block and sports hall would be situated 10m from the rear boundaries of the

new housing development. There would be classroom windows on this elevation and a distance of between 20m and 25m between the rear elevations of new properties. This is acceptable and would be unlikely to result in overlooking or loss of privacy, particularly as existing trees would be retained and the boundary would be heavily landscaped to soften its impact on the openness of the green belt

- 11.100 The new building have would a flat roof to reduce its bulk and massing but when compared to the existing buildings would not appear out of place.
- 11.101 A small area of parking is proposed on the frontage but this will be significantly landscaped and the main staff car park would be at the rear of the site and would not result in any detrimental visual impact on the new building.
- 11.102 *Residential* – The proposed layout is an appropriate density and is designed to have a minimum impact on its surroundings with areas of open space and retained trees at key corners and road junctions within the layout. The houses would be two storeys in height which would reduce impact on its surroundings.
- 11.103 There is a single access road entering the site from Compton Park off which a number of private drives are served before the road forms a loop within the widest part of the site. This enables safe and secure layout with all the houses having a frontage onto the street
- 11.104 The houses are traditional in appearance and designed to create a mix of features including gabled elements, traditional brick detailing. stone cills, barge boards, finials and created ridge tiles.
- 11.105 Subject to materials being submitted (to be secured by condition) the proposal would be in accordance with BCCS policy CPS2 and ENV3 and UDP policies D3, D4, D5, D6, D7, D8, D9 and D10 and the residential development includes UDP policy H6.

Impact on Heritage Assets

- 11.106 The application site is partly in Ash Hill Conservation Area and is adjacent to Tettenhall Road Conservation Area and Staffs and Worcestershire Canal Conservation Area. Other Heritage Assets include The Cedars, Compton Road West, Bridge over Staffs and Worcestershire Canal (Meccano Bridge), Kingswinford Branch Railway and there is also potential for archaeological findings.
- 11.107 The built form elements of the proposal would not be located within the Ash Hill Conservation Area however an assessment needs to be made of the impact of the proposal on the Conservation Area which includes 'the Cedars'. The housing development adjoins the boundary with the Ash Hill Conservation Area but the low density of the layout and traditional appearance of the dwellings is considered acceptable and would preserve and enhance the conservation area in accordance with PPS5, BCCS policy ENV2 and UDP policies HE3 and HE4. The Cedars is not listed but is a building of value, culturally more than architecturally. The proposals would not result an adverse impact on The Cedars.
- 11.108 It is not considered that the proposals would impact on the Tettenhall Road or Staffs and Worcestershire Canal conservation areas due to the distance from the proposal. Although there is a glimpsed view of the 'Meccano Bridge' and Branch Railway the character of these views would be unchanged by the proposals.
- 11.109 Archaeological interests have been identified in the desk top study and an archaeological watching brief can be conditioned prior to commencement of development to safeguard any heritage assets.

Flood Risk

- 11.110 A flood risk assessment has been provided with the application as the site is over one hectare and includes areas of flood risk zone 3. Flood risk arises due to the existence of the culverted Graiseley Brook through the site, running along the boundary between the existing St Edmunds School and University sites, down to the Smestow Brook. Flood risk would therefore affect buildings on the eastern edge of the proposed school. The proposal is also required to provide run-off equivalent to greenfield rates in line with BCCS policy ENV5. A sustainable drainage system (SUDs) is proposed to serve the housing and school sites, which, together with other drainage and flood protection measures incorporated into the development, will sufficiently mitigate flood risk and ensure that the development is compliant with policy ENV5 regarding run-off rates.
- 11.111 The new SUDS feature consists of a large pond, which will have a boardwalk across it, and links to the adjoining culvert. The SUDS feature will be located on land forming part of the school site.
- 11.112 The Environment Agency has objected to the proposals as it does not take the opportunity to reopen the culvert which runs through the site. The applicant has provided an explanation why it would be unreasonable to do so and could jeopardise the development as a whole. Therefore on balance, the negative benefits of not opening up the culvert are considered to be outweighed by the benefits to sport and education which would result should the development go ahead.

Playing fields

- 11.113 The application would result in changes to the type and scale of sporting provision currently available at the site. There would be a loss of playing field and a loss of current tennis provision. However, the scheme also proposes significant investment into other provision at the site and this would also facilitate greater community access to the existing indoor football facility at Aldersley Leisure Village.
- 11.114 Furthermore, the proposals provide the opportunity to agree community access arrangements to the sporting provision associated with St Edmunds School and St Peters School. Collectively, the perceived potential sporting benefits of the proposed scheme are considered to outweigh the likely sporting detriment resulting from the playing field and tennis court loss. This being the case, Sport England considers that this application can be considered to be in accordance with exception E5 of their playing fields policy and has recommended a condition that details of a community use agreement are submitted prior to commencement of the development.

Noise Issues

- 11.115 The noise report recommends acoustic fencing on certain parts of the residential development to prevent noise from the tennis courts for St Edmunds School and to prevent excessive noise from traffic on Compton Road West and Compton Park. The residential layout has been amended and a 1.8m high brick wall is proposed which would provide adequate attenuation for the rear garden of plot 2 and is acceptable.

Planning Obligations

- 11.116 The planning obligations required for this development include affordable housing, off-site open space contribution, public art and 10% renewable energy. The applicant has offered a £2.5m contribution to the relocation of the new school in lieu of all normal section 106 contributions. The waiving of Section 106 contributions has been accepted on other housing developments within the City during the recent economic downturn, and where a site is financially unviable.

- 11.117 The District Valuer's (DV) Report (although in draft) confirms that the site is financially unviable, and, it is, on balance, acceptable that the benefits which would be afforded the new school outweigh the fact that normal planning obligations cannot be met and the education contribution is accepted in lieu of all other planning obligations.
- 11.118 However, the DV report is heavily caveated with Special Assumptions and 'strongly advises' that a clawback, review mechanism or overage provision should be applied to enable planning obligations to be secured in addition to the £2.5m financial contribution, in the event of additional surplus being generated from the residential development. Where the Council has agreed to mitigate planning obligations, a 'clawback' obligation should be incorporated within the Section 106 agreement to ensure that, if the subsequent development benefits from changes in market conditions so that profits exceed projected levels at the date of the Financial Viability Appraisal, an agreed share of that additional profitability / windfall will be paid towards the provision of planning obligations including affordable housing which would be prioritised towards offsite provision in this instance to accord with the Supplementary Planning Document – Affordable Housing principles.
- 11.119 The District Valuer's report when finalised will become the subject of further negotiations between the Local Planning Authority and the applicants, but will have in effect determined an agreed land price, education contribution sum and acceptable Developers profit return for this scheme
- 11.120 The above mentioned requirements together with the other planning obligation requirements referred to in this report comply with the tests in the Circular 5/2005 in that they are necessary to make the development acceptable in planning terms, directly relate to the development and are fairly and reasonably related in scale and kind to the development.

Other matters

- 11.121 **Renewable Energy** - BCCS policy ENV7 'Renewable Energy' includes the requirement for developments of over ten dwellings or 1,000m² non-residential floorspace to incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion. This requirement can be conditioned.
- 11.122 **Waste** - BCCS policies WM1 'Sustainable Waste and Resource Management' and WM5 'Resource Management and New Development' encourages developments, like that proposed as part of this application, to address waste as a resource and to minimise waste as far as possible. It is considered that these requirements can be conditioned through the submission of a Site Waste Management Plan on any approval.
- 11.123 **Minerals** - The proposal site is located within a BCCS Mineral Safeguarding Area. BCCS policy MIN1 requires developers to explore the potential for mineral extraction prior to development for sites of over 0.5 ha in the Green Belt, and to submit information to demonstrate that mineral resources will not be needlessly sterilised by the development. No information has been provided. However, the development is considered to provide benefits which clearly outweigh the harm caused to the Green Belt and also prior extraction would result in abnormal delays which would jeopardise the viability of the development as BSF funding is dependent upon the need to be on site by April. The overriding need for the development outweighs the need to safeguard the mineral resources present on the site and the development is therefore in accordance with policy MIN1.

11.124 **British Waterways** - The additional request by British Waterways for the proposed development to contribute funding to improve the surface of the canal towpath over a distance of 1.43km between Tettenhall Old Bridge and Compton Bridge, is unreasonable and would not satisfy the tests of Regulation 122 of the Community Infrastructure Levy Regulations 2010 of being i) necessary to make to the development acceptable in planning terms; ii) directly related to the development; and iii) fairly and reasonably related to the scale and kind to the development, nor those of Circular 05/2005.

12. Conclusion

- 12.1 The proposals would result in "inappropriate development" in the Green Belt as defined by PPG2 and would impact on the openness of the Green Belt. The very special circumstances case submitted is convincing. The benefits which will result from the proposed football Academy, would benefit not only local people, but will impact nationally. The economic and community benefits from the creation of new jobs to boost the local economy and access to the Aldersley facility through the Wolves Trust would be significant. On balance, the harm to the openness of the green belt as a result of the new academy, school and housing, would be outweighed by the benefits to sport and education and resultant community benefits from the transfer of Aldersley to the Trust, which constitute very special circumstances and clearly outweigh the harm caused by reason of inappropriateness. The development is therefore in accordance with PPG2, BCCS policy CSP2 and UDP policies G2, G3 and G4
- 12.2 An unacceptable increase in traffic flows would not result as a consequence of the proposed development, subject to conditions that a Traffic Regulation Order is implemented on Compton Road West, traffic calming measures on the new residential layout and a car park management plan for the Academy. The proposal is in accordance with PPG13, BCCS policies TRAN2 and TRAN4 and UDP policy AM12.
- 12.3 The proposed development would not result in any harm to protected species or wildlife, subject to the proposed mitigation measures in the submitted ecology surveys. The proposal is acceptable subject to no overriding objection from Natural England; the proposal is in accordance with BCCS policy ENV1 and UDP policies N9 and D12.
- 12.4 The proposal would result in the loss of trees, and hedgerows but replacement planting is considered acceptable as mitigation and therefore the proposal is considered to be in accordance with BCCS policy ENV1 and UDP policies N6, N7 and D6
- 12.5 The proposed development would not result in any adverse impact on neighbours by reason of overlooking or loss of privacy and is in accordance with UDP policies D7 and H6.
- 12.6 The design of the proposal is in-keeping with its surroundings in terms of scale, massing and appearance. The layout of all aspects is acceptable in urban design terms and would be in accordance with BCCS policies CSP4, ENV2 and ENV3.
- 12.7 The impact on heritage issues has been carefully considered and the proposals preserve and enhance the conservation area and heritage assets, subject to a condition for further archaeological work prior to commencing. The proposal would be in accordance with PPS5, BCCS policy ENV2 and UDP policies HE4 and HE5
- 12.8 The proposed development would not result in any adverse flood risk and the explanation provided by the applicant why the culvert cannot be reopened is reasonable and the proposal would be in accordance with UDP policies EP6 and EP7.

13. Recommendation

13.1 That the Interim Director for Education and Enterprise be given delegated authority to grant planning application 11/00828/FUL subject to:-

- (i) No overriding objection from Natural England and the Fire Officer;
- (ii) Referral and no call-in by the Secretary of State;
- (iii) Negotiation and signing of a Section 106 Agreement to secure delivery of the Academy, and the payment of the education contribution prior to commencement of the houses and a clawback mechanism to secure future potential development surplus as contribution to off-site Affordable Housing as a result of the District Valuer's report and advice.
- (iv) Any necessary conditions to include:-
 - Habitat management plan (including during construction)
 - Materials
 - Remove PD rights for rear boundary fencing (plots 18-22 and 34-38)
 - Landscaping (including hard and soft features in the SUDs area)
 - External Lighting (including hours of operation)
 - Bat boxes, bat bricks in new school building and Academy
 - Archaeology
 - Arboricultural Method Statement
 - Gate to Newbridge Avenue used for bus access only
 - Boundary Treatment
 - Waste management
 - Community Use Agreement
 - Site investigation report
 - Cycle Parking (St Edmunds School)
 - Drainage
 - Measures to protect residents during construction
 - No loud speaker/public address system
 - Renewable energy
 - Ventilation and extraction details
 - Acoustic glazing
 - Acoustic fencing
 - Residential Travelwise
 - Traffic calming on access road
 - Travel Plans implemented
 - Traffic Regulation Order Compton Road West
 - Car park management plan
 - Targeted recruitment and training
 - Levels
 - Footpath links
 - Bin stores

Case Officer : Mr Stephen Alexander

Telephone No : 01902 555608

Head of Development Control & Building Control – Stephen Alexander

PART I - OPEN ITEMS
(Open to Press and Public)

104 **Apologies for Absence**

Apologies for absence were received from Councillor Simkins

Declarations of Interest

105 The following interests were declared:-

<u>Agenda Item No</u>	<u>Subject</u>	<u>Councillor</u>	<u>Interest</u>
7	Planning Application 11/00828/FUL	Mrs Mills	Personal – Member of the BSF Member Steering Group
7	Planning Application 11/00828/FUL	Councillor Yardley	Personal – season ticket holder Wolverhampton Wanderers FC
7	Planning application 11/00887/FUL	Councillor Mrs Findlay	Personal – knows the applicant
7	Planning application 11/00887/FUL	Councillor Hardacre	Prejudicial– knows the applicant

Minutes

106 Resolved:-
That the minutes of the meeting held on October 2011 be approved as a correct record

Matters Arising

107 None

Schedule of Outstanding Minutes (Appendix 30)

108 Resolved that the schedule of outstanding minutes be noted.

Schedule of Planning Applications (Appendix 31)

The Interim Strategic Director for Education and Enterprise submitted a report which set out a schedule of planning applications to be determined by the Committee.

Planning Application 11/00828/FUL Compton Park, Wolverhampton

The Head of Development and Building Control reported, inter alia, that since the report had been written

- The City of Wolverhampton College and Paul Uppal MP had indicated their support for the proposals.
- No objections had been received from the Police and Natural England.
- The transfer of the Aldersley facility to the community could now be given significant weight as the applicant has agreed that the details of how this will be delivered will be secured through the S106 obligation.
- The education contribution payable by Redrow in respect of the housing site should read £2.45m which would be payable in instalments
- A commuted sum was no longer necessary as a package of on-site physical mitigation measures would be secured through a Section 106 obligation.

Mr Phillips spoke in opposition to the application.

Mr Best spoke in support of the application.

Members considered the application. There was recognition that the proposal was "inappropriate development" in the Green belt by definition in PPG2 and the potential harm to the green needed to be considered carefully. There was agreement that the very special circumstances detailed in the report were sufficient to outweigh the harm that may be caused.

Concern was expressed that the amenities of existing residents should be protected during construction and members were informed this could be achieved by the use of appropriate conditions which could be enforced.

- 109 Resolved that the Interim Director for Education and Enterprise be given delegated authority to grant planning application 11/00828/FUL subject to:-
- (i) No overriding objection from the Fire Officer;
 - (ii) Referral and no call-in by the Secretary of State;
 - (iii) Negotiation and signing of a Section 106 Agreement to secure
 - Delivery of the Academy
 - The payment of the education contribution payable in instalments
 - A clawback mechanism to secure future potential development surplus as contribution to off-site Affordable Housing as a result of the District Valuer's report and advice
 - Details of the delivery of the community facilities at Aldersley .
 - (iv) Any necessary conditions to include:-
 - Habitat management plan (including during construction)
 - Materials
 - Remove PD rights for rear boundary fencing (plots 18-22 and 34-38)

- Landscaping (including hard and soft features in the SUDs area)
- External Lighting (including hours of operation)
- Bat boxes, bat bricks in new school building and Academy
- Archaeology
- Arboricultural Method Statement
- Gate to Newbridge Avenue used for bus access only
- Boundary Treatment
- Waste management
- Community Use Agreement
- Site investigation report
- Cycle Parking (St Edmunds School)
- Drainage
- Measures to protect residents during construction
- No loud speaker/public address system
- Renewable energy
- Ventilation and extraction details
- Acoustic glazing
- Acoustic fencing
- Residential Travelwise
- Traffic calming on access road
- Travel Plans implemented
- Traffic Regulation Order Compton Road West
- Car park management plan
- Targeted recruitment and training
- Levels
- Footpath links
 - Bin stores
- Construction traffic
- Hours of deliveries during construction
- Signposting and information boards at the wetland habitat
- Community Use Agreement (for St Edmunds School)

Planning Application 11/00887/FUL 10 Broad Street, Wolverhampton

Having declared interests Councillors Mrs Findlay and Hardacre left the meeting and took no part in the consideration of this item

Mr Sharma spoke in support of the application. He stated that he had not applied for a solid type of shutter as suggested in the report.

The Head of Development and Building Control clarified that the application was for a solid shutter and no amended plans had been received.

Members were in agreement that to assist with consideration of the planning merits of the case, to allow the applicant time to clarify the type of shutter he was applying for and in order to fully understand the security arrangements already in place at the premises it would be appropriate for the Committee to visit the site.