

Wolverhampton City Council

OPEN DECISION ITEM

Committee / Panel	<u>PLANNING COMMITTEE</u>	Date: 6 th November 2012
Originating Service Group(s)	EDUCATION AND ENTERPRISE	
Contact Officer(s)	STEPHEN ALEXANDER / RICHARD PITT	
Telephone Number(s)	(01902) 555610 / 551674	
Title/Subject Matter	CONSIDERATION OF WHETHER TO MODIFY PLANNING PERMISSION 07/01087/FUL TO REMOVE APPROVAL FOR BLOCK D OF VICTORIA HALLS, CULWELL STREET.	

Recommendation

That Planning Committee resolve not to modify planning permission 07/01087/FUL so as to remove approval for block D of Victoria Halls, Culwell Street.

1 Purpose of Report

- 1.1 To advise the Committee and make a recommendation.

2 Background

- 2.1 Planning application 07/01087/FUL, for the Victoria Halls student accommodation at Culwell Street was considered by Planning Committee on the 4th of March and 15th of April 2008.
- 2.2 Committee delegated authority to the Director to grant planning permission for the development subject to no issues being raised from outstanding consultees, resolution of outstanding issues, negotiation of a section 106 agreement and imposition of necessary conditions. Copies of the Planning Committee report and minutes are attached (Appendix 1)
- 2.3 Planning permission was granted on the 4th of August 2008.
- 2.4 Three of the four blocks proposed as part of the scheme have now been completed and occupied (blocks A, B and C). Only block D remains unbuilt. Block D is the most northerly of the four blocks, located on the opposite side of the improved pedestrian route connecting Culwell Street and Lock Street. Of the four blocks it is located closest to the Liquefied Petroleum Gases (LPG) tanks at Carvers and is situated totally within the Inner Consultation Zone (ICZ) around the tanks. Block D would be the smallest of the blocks (five storeys) and would contain 102 bedrooms. Unlike the rest of the development, block D is intended for post-graduate students and nurses. A small retail shop would be located on the ground floor.
- 2.5 In July 2009 the Health and Safety Executive (HSE) brought a challenge both to the grant of planning permission and the Council's refusal to modify the planning permission so as to remove approval for the unbuilt block D when requested to do so by the HSE. The High Court declined to quash the planning permission and therefore the planning permission was secure in so far as it related to blocks A, B and C. However, the Court found that the Council had erred in several respects.
- 2.6 In addition, the High Court dismissed the HSE's challenge to what the HSE considered was a refusal by the Council to consider whether to modify the permission to remove permission for the unbuilt block D on the 4th of May 2010.
- 2.7 The HSE was unsatisfied with this outcome and subsequently appealed the High Court's decision not to allow their challenge to the Council's decision not to modify the Planning Permission to remove approval for block D.
- 2.8 The Court of Appeal found in favour of the HSE and stated that the decision to refuse to modify the Planning Permission in respect of block D, had been

both irrational and unlawful and therefore ordered the Council to reconsider whether to modify the permission in so far as it related to block D.

- 2.9 The Court of Appeal were divided on whether, in retaking that decision, the Council could have proper regard to the compensation that would be payable when considering modification. The decision was split 2 to 1. The HSE decided to appeal this element of the decision to the Supreme Court. The Council agreed, at the request of HSE, that it would not reconsider the issue of block D until the outcome of the Appeal to the Supreme Court. The appeal was heard on the 13th and 14th of June 2012 and the judgment given on the 18th of July 2012.
- 2.10 The Council was successful in its defence of this appeal and the Supreme Court dismissed the appeal of the HSE and in broad terms agreed with the majority decision of the Court of Appeal. The legal implications for the Committee in retaking this decision are set out more fully below.

Legal Implications

- 2.11 The Council has been ordered to retake the decision on whether it should exercise its power under Section 97 of the Town and Country Planning Act 1990 to modify the planning permission so as to remove the planning permission for block D. This means that the Planning Committee must reconsider the issue and make a decision. It is open to the Committee to come to such a decision as it considers appropriate having had regard to all relevant matters.
- 2.12 In considering the matter before Committee, Councillors can only have regard to that part of the planning permission that has not been built. In this case that is block D. Further, in deciding whether or not to modify the planning permission in so far as it related to block D, they should have regard to whether it is expedient having regard to the development plan and to other material considerations.
- 2.13 In relation to material considerations, the Planning Committee can have proper regard to the likely compensation that would be payable under Section 107 of the Town and Country Planning Act 1990.
- 2.14 The Supreme Court noted, "Section 97 requires the authority to satisfy itself that revocation is expedient and in doing so have regard to the development plan and other material considerations The word "expedient implies no more than that the action should be appropriate in all the circumstances. Where one of those circumstances is the potential liability for compensation, it is hard to see why it should be excluded".
- 2.15 It should be noted that the potential compensation liability is only one of many material considerations to which regard must be had in considering this matter. The potential compensation liability is outlined in this report and a discussion as to the weight it should be afforded in the context of this decision is outlined in the appraisal. [LC/23102012/A]

3 Consultations

3.1 Any responses will be reported to Planning Committee in writing and orally.

4 Appraisal

4.1 The key issues are:

- Regeneration benefits of the scheme including:
 - Compliance with the development plan
 - Economic benefits
 - The provision of high quality architecture and urban design
- Risk from Hazardous Substances
- Financial consequences of modification
- Alternative options
 - Compulsorily purchase
 - Revocation or modification of Hazardous Substance Consent
 - Relocation of LPG tanks by agreement.

Compliance with the development plan

The Black Country Core Strategy

4.2 The Black Country Core Strategy (BCCS) is a strategic planning document to guide the regeneration of the whole of the Black Country for the period to 2026. The Core Strategy largely carries forward the key proposals contained in the Canalside Quarter Implementation Plan (CQIP) and Unitary Development Plan (UDP), identifying the Canalside Quarter as a key regeneration priority within the City Centre. The north-western part of this area, within which Victoria Halls is located, is described on page 21 of Appendix 2 of the Publication Document. It states:

4.3 *'The north-western part of the area is characterised by a mix of businesses and commercial activity and provides a major opportunity to transform the northern approach to the City Centre. The phasing of development will have regard to the need to remove any constraints to the regeneration of sites.'*

Unitary Development Plan

4.4 The Unitary Development Plan (UDP) covers the period 2001-11. This 'old style' development plan was adopted in 2006 and has, in part, been superseded by the Black Country Core Strategy. The plan emphasises the role of Wolverhampton City Centre as a sub-regional centre which provides a range of services. Educational developments, which would include student accommodation, are encouraged.

- 4.5 The site is within the City Centre inset plan. The Plan identifies nine priorities for the City Centre, including the development and consolidation of the University and the enhancement of the Canalside Quarter and its integration with the rest of the City Centre
- 4.6 The UDP was informed by the City Centre Strategy and Action Plan (CCAP), adopted by the Council in October 2006. This includes a programme of specific actions and projects by the Council as well as additional guidance for particular developments. Paragraph 3.126 of the CCAP advises that the early implementation of substantial new developments, as part of the wider regeneration of the Canalside Quarter, would help to install confidence in the prospects for the area, as well as create activity and vibrancy and provide security through much greater usage of the canalside towpaths.

Canalside Quarter Implementation Plan

- 4.7 In July 2000, the Council's Regenerating Wolverhampton Cabinet Team approved and adopted the CQIP as Supplementary Planning Guidance and as a framework for investment in the area. The Implementation Plan was produced by a multi-disciplinary team of consultants led by Taylor Young Urban Design and GVA Grimley. The public consultation carried out as part of the Implementation Plan resulted in over 40 written representations, with overwhelming support for its objectives and vision.
- 4.8 The Canalside Quarter covers an area of some 40 hectares outside the ring road. The CQIP recognises that the area has, "considerable potential with opportunities for a wide range of regeneration initiatives" to create a high quality sustainable mixed use area, building on its historic industrial and transportation character and infrastructure and its location on the edge of the City Centre.
- 4.9 The Plan subdivides the area into four character areas, with the application site located within the Eastern area. The proposals for the Eastern area set out a vision for a newly formed residential and commercial area combining large-scale redevelopment and re-use of historic buildings with a framework which links it into both the City Centre and the adjoining residential community.
- 4.10 The Plan identifies the following development opportunities for the Eastern area:
- Site E6 - Low Level Station site – leisure / commercial options
 - Site E2 - Springfield Brewery and adjoining lands – residential mixed use refurbishment and redevelopment (with some leisure / business elements)
 - Site E5 - Railway cutting north of Wednesfield Road – reclamation for leisure / commercial / business development.
- 4.11 The Victoria Halls site falls mainly within site E5 and the southernmost elements of site E2. Paragraph 5.33 of the Plan refers to the successful

redevelopment of site E5 as complementing the infrastructure works in promoting the major redevelopment and refurbishment of the Springfield Brewery.

- 4.12 The CQIP is seeking to transform the image and market perception of the Canalside Quarter area, addressing key environmental and infrastructure problems, including the LPG facility at Carvers, that are an impediment to securing private sector investment and which will support and deliver the on-going regeneration of the area, with benefits to the City as a whole. The Council has embraced these challenges and, to date, has invested significantly in enhancing the road network and open space in the area.
- 4.13 For these reasons the proposed scheme is in accordance with the adopted development plan and consistent with long-term planning policy aspirations for the area.

Economic benefits

- 4.14 The site of block D is a vacant eyesore in a relatively prominent location. The development of an underutilised city centre fringe, brownfield site, close to public transport, is strongly supported by national planning policy guidance.
- 4.15 The proposal, if built, would provide significant numbers of jobs in the construction phase and on-going employment related to the management of the facility and operation of the shop. This is important given the proximity of the development to surrounding residential neighbourhoods, a number of which are classified as deprived in consideration of the Indices of Social Deprivation.
- 4.16 The proposal could support Wolverhampton University, which is one of the largest in the country, and a very important part of the City's economic and social life. The provision of modern, fully equipped en-suite student housing is something which may help attract students to come and study in Wolverhampton.
- 4.17 The scheme for block D, even if considered in isolation, would have considerable benefits. However, the greatest impact of the development is seen when considering the site in context. The CQIP makes it clear that the area is one which, "suffers badly from a spiral of economic decline, with a lack of investment, site and building dereliction, poor environmental quality and inadequate linkages both within and into the area."
- 4.18 To date, developments within the Canalside Quarter have struggled. Whilst this is due, at least in part, to the global economic downturn, the LPG tanks impose an additional constraint to bringing development forward in this area.
- 4.19 Highlighted as early as 2000 and again through more recent work supporting the Black Country Core Strategy and Jacobs (Appendix 2) the

LPG installation at the Carvers Site has been identified as an impediment to regeneration coming forward in this area of the Canalside Quarter.

- 4.20 The LPG installation acts as a deterrent to regeneration in two ways. Firstly, the HSE Consultation Zones around the Carvers LPG Installation means the HSE will advise against certain development which falls within the middle and inner zones. This creates uncertainty for developers about whether planning permission will be granted at all or would only be granted after protracted discussions, expert advice on risk and a potential planning inquiry. This can make seeking planning permission to develop more problematic, expensive and less commercially palatable. Secondly, the perception of risk created by both the physical presence of the LPG installation and the consultation zones can act as a commercial deterrent to developers to either implement or propose schemes, particularly in the economic downturn when margins are reduced and finance more difficult to obtain.
- 4.21 A decision to remove consent for block D, would therefore serve to compound the existing situation, adding weight to the perception that the tanks are an overwhelming impediment to development in this area and stifling further development for the foreseeable future.
- 4.22 For these reasons the economic consequences of the decision, both in isolation, but more significantly for the wider Canalside Quarter, are considered to be substantial and it is considered that significant weight should be attached to this issue in determining whether to modify the planning permission to remove permission for block D.

The provision of high quality architecture and good urban design

- 4.23 Architecturally the appearance of the proposed building is of a contemporary, bespoke design and would help give the area a strong identity.
- 4.24 The site 'stitches' together the important development sites of Springfield Brewery and Low Level Station, is less than 500m from the proposed Interchange development, a regionally important proposal, and is readily visible from the West Coast Mainline. In addition, the proposal redevelops a vacant eyesore site and will help to break the 'concrete collar' of the City's ring road and aid the expansion of the City Centre to the East.
- 4.25 Locally, block D is also located on an important pedestrian route, between Lock Street and Culwell Street. Currently, there is no convenient route for disabled persons between the two streets, although a ramped access is proposed as part of the proposals for block D. This is a key benefit of the proposed scheme.
- 4.26 In addition, a key urban design objective is to provide continuity and active frontages to the existing streetscape. Currently, the pedestrian route is overlooked by only one block. Whilst this provides some overlooking and natural surveillance, this would be dramatically improved by the construction

of block D. Block D would be positioned hard against the boundary of the site, reinforcing the definition of the street and clearly defining the public and private realms. The majority of the ground floor would be glazed with a small retail shop positioned on the corner of Culwell St and the pedestrian link to Lock Street.

- 4.27 For these reasons the proposed scheme represents a high-quality of design.
- 4.28 It is considered that significant weight should be attached to this issue in determining whether to modify the planning permission so as to remove permission for block D.

Risk from Hazardous Substances

- 4.29 Circular 04/00 'Planning Controls for Hazardous Substances' states that the role of the HSE is to provide local authorities, "with advice on the nature and severity of the risks presented by major hazards to people in the surrounding area, so that those risks can be given due weight, when balanced against other relevant planning considerations...". The HSE does not take into account the benefits, rewards or outcomes of the development as it is not in a position to judge such information.
- 4.30 HSE's safety concerns arise from the proximity of the development to the LPG installation. Block D is located wholly within the Inner Zone for consultation purposes around the Liquefied Petroleum Gases (LPG) tanks at the Carvers site at Little Lane. In such locations, UDP Policy EP10 'Notifiable Installations' states that the Council will pay due regard to advice given by the Health and Safety Executive. The HSE were previously consulted on the proposed development using their PADHI (Planning Advice for Development near Hazardous Installations) system. The outcome of this consultation was that the HSE *advised against* the proposals. Further, detailed risk advice was made available by the HSE to the Court through the legal proceedings.
- 4.31 Where the major hazard involves risk of fire and explosion, HSE sets the Consultation Zones on the basis of a hazard-based approach. HSE applies a "hazard-based" approach applying its "cautious best estimate" of the "Representative Worst Case Major Accident" (i.e in effect, the worst case scenario). In this case, the event modelled is a Boiling Liquid Expanding Vapour Explosion (BLEVE) involving 90% capacity of the vertical 22 te LPG tank. The HSE consider that there is sufficient development inside the Inner and Middle zones to place large numbers of people at the most severe risk from hazardous events at the LPG installation.
- 4.32 Circular 04/00 'Planning Controls for Hazardous Substances', states that the advice from the HSE should not, "be overridden without the most careful consideration". Therefore, the Council commissioned independent reports, which have had regard to the information provided by the HSE and which considered specifically the risk which the LPG tanks at Carvers posed to Victoria Halls (Appendix 2).

- 4.33 In assessing the risk, the independent reports concluded that the HSE's chosen methodology took no account of specific local on and off site issues that reduce likelihood or which mitigate the likely consequence of a major hazard. These include:
- The existence of protective, intumescent, coatings on the fixed tanks and automatic gas detection which enables the operation of water drench facilities over the tanker bay.
 - The downward sloping topography to the East of the tanks and tanker bay leading to the Birmingham Canal. As LPG is heavier than air, in most major hazard scenarios, the gas cloud would tend to sink and be drawn by gravity towards the canal where it would disperse.
 - The retaining wall of the West Coast Mainline, both providing a degree of shelter to block D, whilst also in the event of the LPG overtopping the canal, deflecting gas and further dispersing the cloud.
- 4.34 In addition, the HSE's chosen methodology of off-site risk took no account of measures that could be taken to design and construct block D so as to provide protection. However, it should be noted that no additional measures were required in respect of Block D permission.
- 4.35 The independent report also found that the annualised Individual Risk of death to a hypothetical person in block D is very small, just 49 chances per million (cpm). This is comparable to the individual risk per year of being killed in a land traffic accident (42 cpm), substantially less than the individual risk per year of being killed in any type of accident (195 cpm) and significantly less than the individual risk per year of being killed by cancer (2240 cpm).
- 4.36 In summary, in accordance with Circular 04/00, the Council has most carefully considered the advice of the HSE and fully acknowledges its role as a statutory consultee. The Council has also carefully considered the findings of the independent risk assessments which concluded that the risk posed by the LPG to the occupants of block D is very small, with many other situations in day to day life posing a much greater risk.
- 4.37 It is considered that significant weight should be given to the issue of risk having regard both to the advice of the HSE and the independently commissioned advice in determining whether to modify the planning permission so as to remove approval for block D.

Financial consequences of modification

- 4.38 As detailed above the court has resolved that it is possible for the local planning authority to have regard to the compensation that would be payable when considering to revoke or modify a planning permission. Victoria Halls would be entitled to compensation under the provisions of the

Act if the Committee were minded to modify the existing Planning Permission to remove permission for block D.

- 4.39 The figure for compensation must be calculated in accordance with the provisions prescribed in the Act, having regard to the diminution in land value, resulting from Victoria Halls inability to build block D, and any expenditure incurred in carrying out work which is rendered abortive by the revocation. It does not include the cost of gaining the planning permission which has been revoked. However, any claim could also potentially include a claim for loss of profit.
- 4.40 As block D is unbuilt, the level of compensation is not considered to be very significant. An independent report by Bruton Knowles (Appendix 3), commissioned by the Council, estimates the cost at approximately £200,000 plus expenses and potentially a claim for loss of profit. However, if the matter was contested, which is likely, and went to an inquiry before the Secretary of State and/or subsequently to the Land Tribunal, the final figure could be substantially more, given the legal and professional costs that could be incurred.
- 4.41 While the cost of compensation to the public purse is a consideration which the local planning authority must have regard to, it is not one that on its own should be given significant weight. However, when considered with other considerations, including the positive planning benefits of the proposals and the very small risk posed by the LPG tanks, the case against modification is compelling.

Alternative Options

- 4.42 In undertaking the requirement under Section 97 to retake the decision to modify the planning permission to remove approval for block D, it is necessary to have regard to all other material considerations. In this case this includes a consideration of alternative options which could remove or reduce the risk, albeit low, posed to block D by the LPG tanks. The alternative options considered are outlined below.

Compulsorily Purchase

- 4.43 If there were sound planning reasons and a proposed development, that was financially feasible within a reasonable timeframe, then it is theoretically possible that the Carvers site could be acquired using the Compulsory Purchase Order (CPO) powers under S226 ((1) of the Town and Country Planning Act 1990. However, as it is very likely that this process would be opposed, it would become extremely protracted.
- 4.44 The Council would have to demonstrate that it had tried to acquire the land by private treaty and demonstrate that the legal requirements in the statutory provision and the requirements of the policy advice in circular 04/2006 had been made out in bringing a development forward. This would include demonstrating that there was no planning impediment to a development being delivered, that it would contribute to the achievement of

the promotion or improvement of the economic, social or environmental wellbeing of the area and that the financial mechanisms were in place to deliver it within a reasonable time.

- 4.45 For these reasons, it is considered that the compulsory purchase of the land would not be a realistic or expedient option at this time.

Revocation or modification of Hazardous Substance Consent

- 4.46 Under the Planning (Hazardous Substances) Act 1990 the Council, as Hazardous Substances Authority, has the ability to revoke or modify a Hazardous Substance Consent (HSC) if it is considered expedient to do so having regard to any material considerations.
- 4.47 An order to revoke or modify a HSC would need to be confirmed by the Secretary of State before it takes effect. Where an order is opposed an inquiry could be held before the Secretary of State which could potentially make the matter protracted.
- 4.48 Where an order has been made and confirmed compensation would become payable under the terms of the Planning (Hazardous Substances) Act 1990. The actual figure would depend on whether Carvers could mitigate their losses by relocating or whether the business would be extinguished. In the event that the gas business subsidised the building supplies business and both businesses were extinguished, the figure could be substantial. Any claim would also be potentially subject to additional costs for loss of goodwill, redundancy costs, loss on sale of assets and administrative costs. In addition, it is felt that this option, if resisted (which is likely), could become protracted and necessitate an inquiry which could delay progress for in excess of a year as well as incur additional expert and legal costs. Finally, in the event that the business was extinguished even in part, this would result in the loss of a local employer that would be counterproductive in regenerative terms.
- 4.49 For these reasons, it is not considered that this is an option which could be reasonably pursued.

Relocation of the LPG tanks by agreement

- 4.50 A further option considered for the resolution of the issues surrounding the LPG tanks was whether the Council could seek the voluntary relocation of the tanks to an alternative site.
- 4.51 In September 2010 authority was given to the then Director for Regeneration and Enterprise to enter into discussions with several interested parties to look for a collective resolution of the issues posed by the existence and siting of the LPG installation.

- 4.52 It was considered that there were a number of potential developers who could benefit if they worked together to facilitate the relocation of the moving of the LPG tanks.
- 4.53 Collaborative discussions with affected developers about the relocation of the tanks are active and on-going. An alternative site, not within Wolverhampton, has been found and secured and the funding mechanisms for the relocation are being agreed. The necessary applications for planning permission and hazardous substance consent are to be submitted to the relevant local planning authority shortly. At an Officer level, informal discussions with the relevant local planning authority have strongly suggested that the proposals are likely to be acceptable. If these applications are successful, it is anticipated that the process of relocating the tanks will begin early next year (2013).
- 4.54 Upon relocation to the new site, Carvers have confirmed that they would agree to the revocation of the HSC at the Littles Lane site. Thereafter they would only be able to supply LPG from Littles Lane in limited quantities, below the level requiring a HSC.
- 4.55 It is considered that the significant progress which has been made in relocating the LPG tanks to a more appropriate site can be afforded substantial weight in the determination of this issue.

5.0 Conclusion

- 5.1 The block D development is in accordance with the development plan and will help fulfil long-term regeneration and planning policies for the Canalside Quarter in particular and the city centre as a whole.
- 5.2 Block D is a good urban design and architectural response to a challenging site which will achieve aims of local distinctiveness, vibrancy, vitality and connectivity.
- 5.3 The proposed risk from the LPG tanks have been carefully considered and, notwithstanding the advice of the HSE, for the reasons set out above, our independent assessments have demonstrated that the risk posed to block D by the LPG installation is in fact very small.
- 5.4 Further, there is a very high probability that the LPG tanks will be removed next year to a more appropriate location, permanently reducing the risk of the tanks to the surrounding area.
- 5.5 Block D could represent a much needed investment in the City and would create a number of jobs, both during and after construction. However, the most serious economic impact of this decision is its potential influence on the wider Canalside Quarter. The CQIP makes it clear that it is a long-term plan and that, "not all its elements will be delivered in the short term, but that there needs to be a strong commitment to the overall direction from the

outset". Should planning permission be modified to remove consent for block D, this would be a significant setback for regeneration of the area, adding weight to the perception that the tanks pose an overwhelming impediment to development to this area and shatter investor confidence.

- 5.6 On balance, having taken into account all the planning issues and having carefully considered the views of external and internal consultees, it is considered that the planning and economic benefits of the block D, supported by the imminent relocation of the LPG tanks to a more appropriate location, outweigh the very small risk posed by the LPG tanks. On this basis, it is considered that the existing planning permission for the Victoria Halls, in so far as it relates to block D, should not be modified.
- 5.7 In the unlikely event that, as anticipated in this report, the LPG tanks are not relocated, it remains the view of officers that the positive planning and economic benefits outlined in this report are sufficient to outweigh the very small risk posed by the continued presence of the LPG installation.

6 Financial, Legal Impacts

- 6.1 Modification of the planning permission could result in a compensation claim of at least £200,000 plus expenses. However, given the likelihood of this figure being challenged, the final figure could be substantially more, given the legal and professional costs that could be incurred.
- 6.2 A decision to modify the planning permission would also have a serious economic impact of this decision on the wider Canalside Quarter, adding weight to the perception that the tanks pose an overwhelming impediment to development to this area and shatter investor confidence.
- 6.3 The environmental implications associated with the regeneration of the Canalside Quarter are potentially significant for the future economic and community considerations for this area of the City and will need to be included in the on-going evaluation and development work.

7.0 Background Papers (Appended)

- 7.1 Planning Committee Reports and Minutes 4th of March and 15th of April 2008
- 7.2 Jacobs 5th September 2012 - Off Site Risks to Victoria Hall, Block D, arising from Carver LPG Storage.
- 7.3 Bruton Knowles – Considerations regarding the modification of planning permission Victoria Halls Block D Wolverhampton – October 2012

Block D Victoria Halls

Appendix 1

PLANNING COMMITTEE - 04-Mar-08

APP NO: 07/01087/FUL **WARD:** Heath Town

DATE: 22-Aug-07 **TARGET DATE:** 21-Nov-07

RECEIVED: 01.08.2007

APP TYPE: Full Application

SITE: Land Bounded By Culwell Street Lock Street, Wednesfield Road,
Wolverhampton, West Midlands

PROPOSAL: Erection of student accommodation.

APPLICANT:

Victoria Hall Ltd
9 Clifford Street
London
W15 2LD

AGENT:

AIMS Ltd
Epic House
4 Barling Way
Nuneaton
CV10 7RH

COMMITTEE REPORT:

1 Site Description

- 1.1 The application relates to an elongated, rectilinear, piece of land situated to the north-west of the City centre, approximately 0.7hectares in size (175m long and 38m wide).
- 1.2 Located to the north of this site is Springfield Brewery, with the Low level station redevelopment to the south, although this is separated from the site by the Wednesfield Road, which is a major arterial route in the City. To the East of the site are Culwell St and a Council depot facility. Lock St and the railway line form the west boundary of the site.
- 1.3 The site is bi-sected by a footbridge which links Culwell Street and Lock St. It is well used by pedestrians as it provides a relatively direct link for individuals in Heath Town who wish to access the City Centre via Broad St Basin and visa versa. Bollards are positioned at the junction of Lock St and Wednesfield Road thus preventing access by general vehicular traffic.
- 1.4 The site previously formed part of the track bed for trains arriving at and departing from the low level station. Since the closure of the low level station and the removal of the tracks, the site has remained vacant. Due to the previous use of the site, some parts are significantly below that of the surrounding street levels. In particular, Lock St is approximately 10m above the ground level of site.

2 Application details

- 2.1 The scheme was initially received in August 2007 but there were significant concerns regarding this submission. In particular, there was a lack of justification for the proposed design including an explanation of how it had evolved from an understanding of the local character and historic context of the area. It was also considered that proposal did not sufficiently improve the pedestrian routes through and surrounding the site.

- 2.2 The proposal which is now under consideration is significantly amended and follows extensive discussions with the developers and their architectural advisors.
- 2.3 The proposal is for a scheme of student accommodation with ancillary office and management facilities. The residential units would primarily be arranged in 4-5 person flats with en-suite study bedrooms, shared lounge and kitchen facilities.
- 2.4 The proposal takes the form of four blocks. Block A, situated nearest to Wednesfield Road, is the tallest of the four blocks at 25 storeys high (76.5m).
- 2.5 Block B would contain ten storeys and have a maximum height of 31.5m.
- 2.6 Block C would be eight storeys with a maximum height of 25m. The ground floor of block C would contain the management office, reception, security office and communal launderette.
- 2.7 Block D would be erected to the far east of the site and would contain a small retail unit and 102 residential units intended for postgraduate/nursing accommodation. The building would be five storeys and a maximum height of 16 metres.
- 2.8 Due to the changes in levels across the site, the proposal is designed to 'front' both Culwell St and Lock St. The integration with Lock St is generated through the introduction with a deck platform, underneath which parking would be provided. In total, 26 spaces including 2 disabled spaces would be included.

3 Relevant policies

3.1 National Guidance

PPS1 – Delivering Sustainable Development
 PPS 3- Housing
 PPS6 – Planning for Town Centres
 PPG13 – Transport
 PPG15 – Planning and the Historic Environment
 PPG17 – Planning for Open Space, Sport and Recreation
 PPG24 – Planning and Noise

3.2 UDP Policies

D1 – Design Quality
 D3 – Urban Structure
 D4 – Urban Grain
 D5 – Public Realm
 D6 – Townscape and Landscape
 D7 – Scale – Height
 D8 – Scale – Massing
 D9 – Appearance
 D10 – Community Safety
 D11 – Access for people with disabilities
 D13 – Sustainable Development
 D14 – Public Art
 EP1 – Pollution Control
 EP3 – Air Pollution
 EP4 – Light Pollution
 EP5 – Noise Pollution
 EP9 – Sustainable Drainage Arrangements for Development
 EP11 – Development on Contaminated or Unstable land

EP14 – Waste Management Facilities
HE1 – Preservation of Local Character and Distinctiveness
HE4 - Proposals Affecting a Conservation Area
HE13 – Development Affecting a Listed Building
HE22 – Protection and Enhancement of the Canal Network
R1 – Local Standards for Open Space, Sport and Recreation Facilities
R7 – Open Space Requirements for New Development
H1 – Housing
H6 – Design of Housing Development
H8 – Open Space and Recreation Requirements for New Housing Developments.
H9 – Housing Density and Mix
H10 – Affordable Housing
AM1 – Access, Mobility and New Development
AM5 – Protection of Highway Improvement Lines
AM 7 – Travel Plans
AM9 – Provision for Pedestrians
AM10 – Provision for Cyclists
AM12 – Parking for Servicing Provision
AM15 – Road Safety and Personal Security
CC3 – City Centre Housing
CC4 – City Centre Environment
CC5 – City Centre Access and Mobility
CC12 – Canalside Quarter

3.3 Supplementary Planning Guidance

SPG16 – Public Art

3.4 Other Documents

Wolverhampton Canalside Quarter Implementation Plan 2000
CABE/English Heritage – Guidance on Tall Buildings 2007

4 Publicity and Neighbour notification

4.1 The application was advertised via Press and Site Notices and direct notification was sent to neighbouring properties. No letters of objection have been received.

5 Internal Consultees

5.1 Building Control – Comments awaited on amended proposal.

5.2 Leisure Services – Comments awaited on amended proposal.

5.3 Environmental Services – Comments awaited on amended proposal.

5.4 Conservation – Comments awaited on amended proposal.

5.5 Transportation – Comments awaited on amended proposal.

5.6 Conservation – Comments awaited on amended proposal.

5.7 Planning Policy – Comments awaited on amended proposal.

6 **External Consultees**

- 6.1 Severn Trent – Comments awaited on amended proposal.
- 6.2 Network Rail – Comments awaited on amended proposal.
- 6.3 MADE – Comments awaited on amended proposal.
- 6.4 Police – Comments awaited on amended proposal.

7 **Appraisal**

7.1 The key issues in determining this application are:

- The acceptability and need of the proposed use
- Height, massing, design and external appearance
- Transportation and movement
- Environment matters
- Planning contributions

The acceptability and need of the proposed use

7.2 This site forms part of the wider Canalside Quarter plan, which intends to improve the image of that area, linkages to and within it and introduce sustainable, mixed-use schemes.

7.3 Within this overall framework the application site has a particular allocation in the UDP – Policy CC12(i). This relates to Springfield Brewery and the adjoining land. The aim of this policy is to create a residential led, mixed-use scheme, with some small scale retail use which relates to a local need.

7.4 It is considered that the proposal for student accommodation with ancillary office/management facilities and a small retail unit, accords with the adopted policy for the site.

7.5 In total the scheme proposes approximately 240 apartments with a total of 870 bedspaces. The applicants state in their supporting documents that, “most of the student housing in Wolverhampton is limited, and ageing. Much of the purpose built stocks lack en-suite facilities. Many students occupy multi-occupation homes around the city.”

7.6 The proposals are therefore aimed at meeting the apparent higher expectations for accommodation which are now sought by students and their families. The scheme also has the potential of releasing existing student accommodation into the general market.

Design, massing, design & external appearance

7.7 As previously mentioned the application follows extensive discussions with the developers and their architectural advisors.

7.8 The site occupies a prominent position, adjacent to the Wednesfield Road which is a main arterial route in the City. It is also highly visible by those travelling along the West Coast mainline which a major national transport route. This strategic location means that any development of the site must be of a high quality and size suitable for such a gateway into the City Centre.

7.9 The proposal would result in a series of buildings of significant size and height. Policy D7: Scale-Height states that, “Buildings should be of a height which helps achieves a strong sense of place, relates positively to its surroundings and the local topography

and does not detract from important views and landmarks". The developers are currently working on 3-d massing proposals which illustrate the proposals in relation to their context and also justify the chosen massing.

- 7.10 Guidance from English Heritage and CABI on tall buildings state the importance of the silhouette of a building and in particular the design of the top of the tall when considering the effect of a proposal on the skyline. Preliminary sketches illustrate the proposed scheme as it would appear in relation to the existing cityscape and also in relation to indicative proposals for the nearby interchange scheme.
- 7.11 A significant alteration from the initially submitted proposal is the decision to split the scheme into individual blocks, rather than one homogenous mass. This has the benefit of allowing for views, from the east of the site, of the listed viaduct and city centre behind it to the west, to be largely retained.
- 7.12 The overall architectural appearance of the proposals is a contemporary one and this is welcomed. The proposed materials will be crucial in achieving a high-quality build. At this stage the final treatments of the elevations are being explored. Although the use of sto render, various forms metal cladding and grey brick are, amongst others, suggested. It will necessary to demonstrate that the chosen materials are satisfactorily robust, ease to maintain and will weather appropriately. It is also felt the materials should provide a subtle contrast to the dark blue engineering brick of the railway viaduct.
- 7.13 In addition, a key aspiration for the successful redevelopment of this site is the meaningful integration of Lock St. With regard to this issue it is considered the design proposal responds well. The introduction of a deck platform to Lock St means that the street will have social functional as opposed to solely dealing with pedestrian movement. The deck has the additional benefits of increasing the amount of open space which is available on the site and also hiding the car park from view.
- 7.14 A primary concern with this proposal is the street level experience for people moving around and through the site. Although the building does not provide a continuous built frontage to Culwell St, it is considered that the uses which do front it, namely the management suite/reception and retail unit, coupled with a high quality landscaping scheme, would provide a satisfactory level of animation and vitality to the street. The position of the management suite and retail unit, on the corner of the pedestrian route joining Culwell St and Lock St, will also allow for a good level of natural surveillance to this route.

Transportation and movement

- 7.15 Another key aspiration for this site is the creation of an improved link between Culwell St and Lock St. As previously mentioned the existing route is popular, but due to the nature of the footbridge it makes access for the disabled and cyclists extremely challenging. The scheme offers the possibility to improve the existing, unattractive passage, into the city centre.
- 7.16 The proposed link is relatively direct and would allow individuals a clear view of their destination. The change in levels between Lock St and the site would be dealt with by a relatively shallow flight of steps. In addition, a ramp would also be provided to aid movement.
- 7.17 Formal assessment of the transportation matters of the proposal are to be received. However, due to proximity of the site to the city centre, university, train and bus stations and the nature of the occupiers of the scheme, it is not considered that a substantial level of car parking would need to be provided. In addition, although Lock St would remain closed to vehicular traffic for the majority of the time, it could be used to ease parking pressure on peak days, for example at the start and end of terms.

Environment Issues

- 7.18 Although the area is likely to change significant over the coming years, the site is currently located within an area of mixed industrial and commercial uses.
- 7.19 There are particular noise issues surrounding the proposed location of bedrooms and their proximity to Culwell St depot and the high level station. A noise report accompanied the initial proposal assessed noise from the Wednesfield Road, together with the elevated aspect of the railway viaduct and glazing specifications, based on closed windows. However, the report should also include an assessment with the windows open. If the level of disturbance of noise when windows are open is considered unacceptable, then mechanical ventilation solutions should be investigated.
- 7.20 The submitted report also makes no mention of special measures which may be necessary to reduce levels of structure borne noise and vibration.
- 7.21 Furthermore, due to the proposal scale of the development is also important to consider the microclimatic impacts of the scheme. Reassurance is still being sought on this matter and the developers have stated that information will be provided shortly.
- 7.22 Additionally, the site is located within the vicinity (approx 100m to the west) of the Cavers Depot, which is classified as a Hazardous Premises. All applications which are located in such proximity are to be referred to the Health and Safety Executive for comment. An electronically generated response from the Heath & Safety Executive website, states that they advise against the proposal in this location. Although, this advice is not mandatory, it should not be overridden without careful consideration.
- 7.23 Taking the above matters into account it clear that more detailed surveys and assessments are required.

Planning contributions

Open Space & Recreation

- 7.24 With such an expected level of student accommodation included in this application, there will a demand on the open space within the area. The nearest open space to the site is the Broad Street basin, approx 1ha in size. This is a pocket park which serves the recreation needs of employees, visitors and shoppers within the city centre. However, it is not considered that this space, on its own, could accommodate the recreational needs of the future occupants and therefore additional on-site provision needs to be created.
- 7.25 The proposed design has resulted in the built form occupying a relatively minor footprint of the overall site. This coupled with the deck to Lock St means that a significant amount of open space is provided on the site. The concept behind the illustrated space is that is should be as flexible as possible in order to respond the needs of the student population. It will be essential that a high quality landscaping scheme is implemented which includes the creation of sports facilities. It is likely that this will be predominantly hard landscaping to reflect the urban and previously industrial nature of the site.

Affordable Housing

- 7.26 UDP Policy makes it clear that the Council will seek to negotiate the provision of an element of affordable housing on all suitable private sector housing developments larger than one hectare or comprising 25 dwellings or more.
- 7.27 The proposals for accommodation within Blocks A-C are unlike traditional forms of student accommodation and more akin to a serviced apartment schemes with 4-5 bedrooms and communal kitchen and bathrooms facilities forming self-contained units.

- 7.28 The national picture with regard to whether a contribution towards affordable housing on this type of scheme is unclear. Some authorities regard student accommodation as serving a specific need and something which is regulated by other services. Additionally, students, tend to be far more transient and often need accommodation for a temporary period only. Thus the need for student accommodation can be assessed separately to other housing needs.
- 7.29 Other authorities state that where student accommodation units, are self-contained, they will be treated as normal housing and expected to contribute to affordable housing provision. Advice is still being sought on this matter.
- 7.30 With regard to the type of accommodation within Block D the situation appears clearer. The units are self-contained 'micro-flats' with en-suite and kitchen facilities aimed at post-graduate students and nurses. There are no shared communal facilities. In these circumstances it is considered that a requirement for a contribution towards affordable housing will be necessary.

Other Matters

- 7.31 In addition to the above issues, the scale of the scheme means that it falls within the policy requiring a per-cent-for-art provision. Financial assistance will also be required for alterations to the highway network which are deemed necessary as a result of the scheme.

8 Conclusion

- 8.1 The site is located in a prominent position, at an entrance to the City Centre, and adjacent to an important national transportation route. It also occupies a strategic location within the canalside quarter redevelopment, with the potential to integrate the schemes at Springfield Brewery and low level station schemes.
- 8.2 The redevelopment of the site offers the potential for a distinctive new building on the Wolverhampton skyline and also the improvement of existing links through and beyond the site. The scheme proposed has the potential to be a landmark scheme but it is important that this is not to the detriment of future occupiers of the proposal or those which surround it, either now or in the future. Further investigation with regard to this matter is still required. It is also recognised that tall buildings are expensive to build, and it is important that a high standard of architectural quality is required and that is not diluted through the detailed design and construction processes.
- 8.3 The applicants state that the project will represent an investment of circa £45 million by Victoria Halls Limited (VHL) over the next three years. It will directly employ over 500 people during the construction of the development, with further employment for local suppliers and ancillary service companies during construction.
- 8.4 Following completion of the build twelve full time jobs will be created, with the equivalent of a further 20 full time employees needed for off-site support functions.
- 8.5 Overall, it is considered that the proposal has the potential to continue the regeneration of the City Centre and is welcomed. However, despite being acceptable in general terms, there are a number of points of detail – including environmental matters, materials, architectural treatment and highway issues which require further information to be provided

9 Recommendation

9.1 Grant delegated authority subject to:

1. No major issues being raised from outstanding consultees
2. The satisfactory resolution of those outstanding issues raised in this report
3. The signing of a S106 agreement to include:
 - Targeted recruitment and training
 - Restriction of occupancy of the scheme
 - Contribution towards open space and recreation
 - Affordable housing
 - Highway works
 - Public art

4. Conditions are recommended to cover:

Conditions to include:

- Submission of materials
- Submission of architectural details
- Exterior of building to be completed in accordance with plans before occupation
- No additions to exterior of the building
- Cycle/Motorcycle storage details
- Refuse Storage details
- Scheme for the lighting of exterior of the buildings
- Landscaping Strategy
- Public Art Strategy
- Drainage
- Car Park Management Plan
- Management plan for servicing the development including
- Details of management plan agreement, including the supervision and welfare support/provision for the student occupiers, and also a strict system of control over the keeping of motor vehicles by the occupiers of the development ,
- Security/CCTV measures
- Methodology for assessing television reception
- Methodology for dealing with contamination of the site
- Details of improvement to public highway (278 Agreement)
- No A3, A4, A5 uses.

Case Officer : Richard Pitt

Telephone No : 551674

Head of Development Control – Stephen Alexander



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Planning Application No: 07/01087/FUL

Location	Land Bounded By Culwell Street Lock Street, Wednesfield Road, Wolverhampton, West Midlands		
Plan Scale (approx)	1:2500	National Grid Reference	SJ 391891 299080
Plan Printed	20.02.2008	Application Site Area	6804m ²

That planning application 06/01300/FUL be refused on the grounds that the applicants have declined to make full provision for affordable housing, public open space, contribution towards the provision of a bridge over the canal, without adequate justification, contrary to policies H8, H10, D3, AM9 and AM10, of the Wolverhampton Unitary Development Plan.

(NOTE: Councillor Holdcroft declared a prejudicial interest at agenda item 2 and left the meeting during consideration of the application.)

Planning Application 07/01087/FUL – Land Bounded by Culwell Street, Lock Street, Wednesfield Road, Wolverhampton: Erection of Student Accommodation

The Section Leader reported that a financial contribution in respect public open space was required, approximately £700,000. The applicants are concerned that the S106 requirements could undermine financial viability of the development therefore they intend to submit a Financial Viability Appraisal (FVA). They confirm that occupancy will be restricted to full-time students, on that basis there would be no affordable housing requirement. The Section Leader then confirmed that in view of the updates the recommendation be amended as follows:-

9.1.2 Additional outstanding issues:-

- A safety audit for the proposed roundabout.
- Details of arrangements for service vehicles .
- Comments of Environment Agency regarding possible air pollution from incinerator.
- Refuse storage arrangements.

9.1.3 Amended S106 requirements:-

- Add – Environmental improvements, particularly Lock Street and pedestrian route to University.
- Add – Occupancy restricted to full-time students.
- Add – Travel Plan (to include car park management).
- Add to 'contribution towards open space and recreation' – 'unless a relaxation of the normal requirement is justified by a financial viability appraisal.
- Delete – Affordable Housing.

9.1.4 Additional conditions:-

- Noise survey and mitigation.
- Air quality (if necessary).
- Details of plant and equipment.
- Delete - Car Park Management Plan condition.

In respect of the issue of air quality and the scheme, the Head of Development Control clarified that it was not a major issue of concern and had only been raised because of the height of the proposed tower.

In noting the report and officers' comments, Members were unanimous in welcoming what they believed would be a brilliant and iconic scheme for the City, which would serve to enhance existing regeneration projects in that area, notwithstanding the financial investment and provision of jobs for the City.

Councillor John Rowley commended the applicants' comments outlined in paragraph 7.5 of the report, in respect of student accommodation, and suggested that consideration be given to the provision of safe walking routes, as part of the scheme. He also referred to the recent site visit undertaken by the Committee and to the blue brick wall situated at the back of the application site, and suggested that a modest contribution from the developers may be used to improve this area of the site.

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Resolved:-

That the Director for Sustainable Communities be authorised to approve planning application 07/01087/FUL subject to no major issues being raised from outstanding consultees, the satisfactory resolution of the outstanding issues raised in the report, the signing of a S106 Agreement, as set out in the report and subject to amendments reported by the Section Leader, as well as the conditions set out in the report and additional amendments and conditions reported by the Section Leader.

Planning Application 07/01727/FUL – The Bungalow, Wenlock Avenue, Wolverhampton: Erection of 2 Dwellings

The Section Leader reported that amended plans had been received which addressed outstanding issues, therefore the recommendation be changed to grant.

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Resolved:-

That planning application 07/01727/FUL be approved with conditions to include submission of sample materials, landscape and boundary details, remove p.d (extensions) and operational hours during construction phase.

Planning Application 08/00063/OUT – 73 and Land Rear of 69 to 77 Compton Road, Wolverhampton: Demolition of 73 Compton Road and Erection of 14 Houses, Access Road and Associated Works.(Outline Application)

The Section Leader reported the receipt of a further petition against the application, containing 169 signatures, as well as a further 3 letters of objection. He advised that the applicant had tried to address various issues of concern, however a TPO tree on the site was still of concern. Natural England still need to consider amended plans with particular regard to a badger mitigation strategy, and the Environment Agency had no objections subject to standard conditions. The Section Leader, Transportation Development

Committee Report

APP NO: 07/01087/FUL **WARD:** Heath Town
DATE: **TARGET DATE:** 21-Nov-07
RECEIVED: 22-Aug-07
APP TYPE: Full Application

SITE: Land bounded by Culwell Street, Lock Street, Wednesfield Road, Wolverhampton.

PROPOSAL: Erection of student accommodation and A1 shop.

APPLICANT:

Victoria Hall Ltd
9 Clifford Street
London
W15 2LD

AGENT:

AIMS Ltd
Epic House
4 Barling Way
Nuneaton
CV10 7RH

REPORT:

1 Purpose of Report

1.1 To update Committee and make a recommendation.

2 Background

2.1 This application was reported to Planning Committee on the 4th of March 2008. The Committee report is appended. The minutes are on page 7 of the minutes before Committee.

2.2 Committee resolved to delegate authority to the Director to grant planning permission subject to the satisfactory resolution of outstanding issues, the imposition of conditions and a Section 106 agreement to secure:

- Contribution towards open space and recreation, unless a relaxation of the normal requirement is justified by a financial viability appraisal.
- Environmental improvements, particularly to Lock Street and pedestrian route to University.
- Public Art
- Restriction of occupancy of the scheme to full-time students
- Necessary highway works
- Targeted recruitment and training.

3 Updating

3.1 On 4th March Committee were told verbally that the applicants were concerned that the section 106 requirements could undermine the financial viability of the development. They subsequently submitted a financial viability

appraisal and a section 106 offer which includes:

- £250,000 financial contribution towards public open space
- On-site provision of a multi-use games area, cost £70,000
- CCTV and lighting to Lock Street and Improved pedestrian route to the University via Lock Street (through tunnel under railway).

3.2 Their offer is therefore short to the sum of £341,495 for public open space (£661,495 requirement, less their offer of £250,000 financial contribution and on-site provision costing £70,000) and they are not able to provide any public art.

4. **Policy**

UDP Policy H8

4.1 UDP policy H8 'Open Space, Sport and Recreation Requirements for New Housing Developments' requires that any housing development of 10 dwellings or more will be required to contribute towards the provision and /or enhancement of open space, sport and recreation facilities sufficient to serve new residents.

4.2 Wolverhampton does not have a policy which excludes student accommodation from the H8 requirement. It is considered that the residents of such a policy would have a requirement for open space, sport and recreation facilities beyond those limited facilities provided by the university. It is therefore reasonable for the development to contribute as previously recommended. The required contribution is £661,495, which reflects the high occupancy rates of student accommodation, but also that they are in occupation for only 8 months of the year.

Financial Viability

4.3 UDP Policy IMR2 states that planning obligations will be negotiated with developers to secure the good planning of an area. In determining the scale of benefits regard will be had to a range of factors including the type and location of the development and the economic viability of the scheme. The applicants have submitted a financial viability appraisal in order to demonstrate that the levels of contribution being sought would make the scheme financially unviable, the appraisal has been assessed for the Council by the District Valuer.

4.4 The DV agreed that the proposed build cost appeared to accurately reflect the likely build cost of the scheme. They also identified two areas where development costs could be reduced. They are:

- The land value
- S106 contributions

4.5 The vendor has confirmed that it is not prepared to reduce the price of land.

5. **Appraisal**

5.1 The site is in a prominent gateway location, on a major arterial route into the city centre, very close to the railway station. There are numerous constraints

associated with the site, in particular:

- Narrow width between Culwell Street and Lock Street
- Levels difference between Culwell Street and Lock Street
- Overshadowing and lack of outlook because of Wednesfield Road and Lock Street viaduct
- Noise from traffic, railway line and station tannoy
- Carver blast zone
- Site bisected by public footpath
- Contamination

This is a very significant and unique site in terms of its location, prominence and constraints. The appropriate uses for this site are limited and a viable alternative to the proposed student housing seems highly unlikely, particularly in the current economic climate.

- 5.2 It is recognised that the scheme is one which represents a very good design solution to a site which has numerous constraints and that considerable time and effort has been put in to producing such a proposal. Indeed, it is hoped that the proposal for student accommodation could be considered an exemplar of its type. The quality of the architectural detailing will be very important and it is vital that the proposed materials and details of the architectural elements are of the high quality required by the Council's design policies.
- 5.3 It is considered that the submitted scheme is one which would help strengthen and diversify the City's economy, by creating jobs both during construction and after, 'stitch' together the developments at Springfield Brewery and Low Level Station and also redevelop a vacant eyesore. The importance of this prominent site to act as a landmark and support the regeneration of the wider area should not be underestimated nor should the positive impact it can have on the image of the City.
- 5.4 The application is also a unique case in that it proposes student accommodation on a convenient site within walking distance of the university. Another factor is that the proposal is likely to free up existing private student accommodation to potentially be made available to others in housing need in the City. Also the increase in the number of people walking in the area will deter crime.
- 5.5 The requirements for particular planning contributions obviously need to be carefully balanced against the importance of achieving key regeneration aims.
- 5.6 In conclusion, it is considered that the proposed high quality buildings on a very difficult yet prominent site will create a positive landmark that has the potential to substantially improve the image of the City and the scheme should be welcomed. The proposed use and buildings will generate a range of benefits identified above. Committee are therefore asked to support the proposal from Victoria Halls as, on balance, the benefits of a high quality, unique scheme on a very difficult site outweigh the shortfall in the provision of planning contributions sought by Policy H8.

6. Recommendation

Grant permission subject to:

- Resolution of outstanding issues:
 - Submission of satisfactory amended plans of the 'tower' block.
 - A safety audit for the proposed roundabout
- Section 106 agreement to secure:
 - Contribution of £250,000 (BCIS indexed) towards off site provision and/or enhancement of POS.
 - On-site provision of a multi-use games area, cost £70,000.
 - CCTV and lighting to Lock Street and Improved pedestrian route to the University via Lock Street (through tunnel under railway).
 - Restriction of occupancy of the scheme to full-time students
 - Necessary highway works
 - Targeted recruitment and training
- Conditions to include:
 - Submission of materials
 - Submission of architectural details
 - Development should adhere to the principles in the D&A statement submitted on the 4th of March 2008.
 - Exterior of building to be completed in accordance with plans before occupation
 - No additions to exterior of the building, including plant, without permission.
 - Cycle/Motorcycle storage details
 - Refuse Storage details
 - Scheme for the lighting of exterior of the buildings
 - Landscaping Strategy – implemented prior
 - Drainage
 - Car Park Management Plan
 - Management plan for servicing the development including
 - Security/CCTV measures
 - Methodology for assessing television reception
 - Details of improvement to public highway (278 Agreement)
 - Retail unit restricted to A1 convenience goods.

PLANNING COMMITTEE - 04-Mar-08

<u>APP NO:</u>	07/01087/FUL	<u>WARD:</u>	Heath Town
<u>DATE:</u>	22-Aug-07	<u>TARGET DATE:</u>	21-Nov-07
<u>RECEIVED:</u>	01.08.2007		
<u>APP TYPE:</u>	Full Application		

SITE: Land Bounded By Culwell Street Lock Street, Wednesfield Road, Wolverhampton, West Midlands

PROPOSAL: Erection of student accommodation.

APPLICANT:
Victoria Hall Ltd
9 Clifford Street
London
W15 2LD

AGENT:
AIMS Ltd
Epic House
4 Barling Way
Nuneaton
CV10 7RH

COMMITTEE REPORT:

1 Site Description

- 1.1 The application relates to an elongated, rectilinear, piece of land situated to the north-west of the City centre, approximately 0.7hectares in size (175m long and 38m wide).
- 1.2 Located to the north of this site is Springfield Brewery, with the Low level station redevelopment to the south, although this is separated from the site by the Wednesfield Road, which is a major arterial route in the City. To the East of the site are Culwell St and a Council depot facility. Lock St and the railway line form the west boundary of the site.
- 1.3 The site is bi-sected by a footbridge which links Culwell Street and Lock St. It is well used by pedestrians as it provides a relatively direct link for individuals in Heath Town who wish to access the City Centre via Broad St Basin and visa versa. Bollards are positioned at the junction of Lock St and Wednesfield Road thus preventing access by general vehicular traffic.
- 1.4 The site previously formed part of the track bed for trains arriving at and departing from the low level station. Since the closure of the low level station and the removal of the tracks, the site has remained vacant. Due to the previous use of the site, some parts are significantly below that of the surrounding street levels. In particular, Lock St is approximately 10m above the ground level of site.

2 Application details

- 2.1 The scheme was initially received in August 2007 but there were significant concerns regarding this submission. In particular, there was a lack of justification for the proposed design including an explanation of how it had evolved from an understanding of the local character and historic context of the area. It was also considered that proposal did not sufficiently improve the pedestrian routes through and surrounding the site.

- 2.2 The proposal which is now under consideration is significantly amended and follows extensive discussions with the developers and their architectural advisors.
- 2.3 The proposal is for a scheme of student accommodation with ancillary office and management facilities. The residential units would primarily be arranged in 4-5 person flats with en-suite study bedrooms, shared lounge and kitchen facilities.
- 2.4 The proposal takes the form of four blocks. Block A, situated nearest to Wednesfield Road, is the tallest of the four blocks at 25 storeys high (76.5m).
- 2.5 Block B would contain ten storeys and have a maximum height of 31.5m.
- 2.6 Block C would be eight storeys with a maximum height of 25m. The ground floor of block C would contain the management office, reception, security office and communal launderette.
- 2.7 Block D would be erected to the far east of the site and would contain a small retail unit and 102 residential units intended for postgraduate/nursing accommodation. The building would be five storeys and a maximum height of 16 metres.
- 2.8 Due to the changes in levels across the site, the proposal is designed to 'front' both Culwell St and Lock St. The integration with Lock St is generated through the introduction with a deck platform, underneath which parking would be provided. In total, 26 spaces including 2 disabled spaces would be included.

3 Relevant policies

3.1 National Guidance

PPS1 – Delivering Sustainable Development
 PPS 3- Housing
 PPS6 – Planning for Town Centres
 PPG13 – Transport
 PPG15 – Planning and the Historic Environment
 PPG17 – Planning for Open Space, Sport and Recreation
 PPG24 – Planning and Noise

3.2 UDP Policies

D1 – Design Quality
 D3 – Urban Structure
 D4 – Urban Grain
 D5 – Public Realm
 D6 – Townscape and Landscape
 D7 – Scale – Height
 D8 – Scale – Massing
 D9 – Appearance
 D10 – Community Safety
 D11 – Access for people with disabilities
 D13 – Sustainable Development
 D14 – Public Art
 EP1 – Pollution Control
 EP3 – Air Pollution
 EP4 – Light Pollution
 EP5 – Noise Pollution
 EP9 – Sustainable Drainage Arrangements for Development
 EP11 – Development on Contaminated or Unstable land

- EP14 – Waste Management Facilities
- HE1 – Preservation of Local Character and Distinctiveness
- HE4 - Proposals Affecting a Conservation Area
- HE13 – Development Affecting a Listed Building
- HE22 – Protection and Enhancement of the Canal Network
- R1 – Local Standards for Open Space, Sport and Recreation Facilities
- R7 – Open Space Requirements for New Development
- H1 – Housing
- H6 – Design of Housing Development
- H8 – Open Space and Recreation Requirements for New Housing Developments.
- H9 – Housing Density and Mix
- H10 – Affordable Housing
- AM1 – Access, Mobility and New Development
- AM5 – Protection of Highway Improvement Lines
- AM 7 – Travel Plans
- AM9 – Provision for Pedestrians
- AM10 – Provision for Cyclists
- AM12 – Parking for Servicing Provision
- AM15 – Road Safety and Personal Security
- CC3 – City Centre Housing
- CC4 – City Centre Environment
- CC5 – City Centre Access and Mobility
- CC12 – Canalside Quarter

3.3 Supplementary Planning Guidance

SPG16 – Public Art

3.4 Other Documents

Wolverhampton Canalside Quarter Implementation Plan 2000
 CABE/English Heritage – Guidance on Tall Buildings 2007

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 - 7.4 It is considered that the proposal for student accommodation with ancillary office/management facilities and a small retail unit, accords with the adopted policy for the site.
 - 7.5 In total the scheme proposes approximately 240 apartments with a total of 870 bedspaces. The applicants state in their supporting documents that, “most of the student housing in Wolverhampton is limited, and ageing. Much of the purpose built stocks lack en-suite facilities. Many students occupy multi-occupation homes around the city.”
 - 7.6 The proposals are therefore aimed at meeting the apparent higher expectations for accommodation which are now sought by students and their families. The scheme also has the potential of releasing existing student accommodation into the general market.
- ### **Design, massing, design & external appearance**
- 7.7 As previously mentioned the application follows extensive discussions with the developers and their architectural advisors.
 - 7.8 The site occupies a prominent position, adjacent to the Wednesfield Road which is a main arterial route in the City. It is also highly visible by those travelling along the West Coast mainline which a major national transport route. This strategic location means that any development of the site must be of a high quality and size suitable for such a gateway into the City Centre.
 - 7.9 The proposal would result in a series of buildings of significant size and height. Policy D7: Scale-Height states that, “Buildings should be of a height which helps achieves a strong sense of place, relates positively to its surroundings and the local topography

and does not detract from important views and landmarks". The developers are currently working on 3-d massing proposals which illustrate the proposals in relation to their context and also justify the chosen massing.

- 7.10 Guidance from English Heritage and CABA on tall buildings state the importance of the silhouette of a building and in particular the design of the top of the tall when considering the effect of a proposal on the skyline. Preliminary sketches illustrate the proposed scheme as it would appear in relation to the existing cityscape and also in relation to indicative proposals for the nearby interchange scheme.
- 7.11 A significant alteration from the initially submitted proposal is the decision to split the scheme into individual blocks, rather than one homogenous mass. This has the benefit of allowing for views, from the east of the site, of the listed viaduct and city centre behind it to the west, to be largely retained.
- 7.12 The overall architectural appearance of the proposals is a contemporary one and this is welcomed. The proposed materials will be crucial in achieving a high-quality build. At this stage the final treatments of the elevations are being explored. Although the use of stone render, various forms metal cladding and grey brick are, amongst others, suggested. It will necessary to demonstrate that the chosen materials are satisfactorily robust, ease to maintain and will weather appropriately. It is also felt the materials should provide a subtle contrast to the dark blue engineering brick of the railway viaduct.
- 7.13 In addition, a key aspiration for the successful redevelopment of this site is the meaningful integration of Lock St. With regard to this issue it is considered the design proposal responds well. The introduction of a deck platform to Lock St means that the street will have social functional as opposed to solely dealing with pedestrian movement. The deck has the additional benefits of increasing the amount of open space which is available on the site and also hiding the car park from view.
- 7.14 A primary concern with this proposal is the street level experience for people moving around and through the site. Although the building does not provide a continuous built frontage to Culwell St, it is considered that the uses which do front it, namely the management suite/reception and retail unit, coupled with a high quality landscaping scheme, would provide a satisfactory level of animation and vitality to the street. The position of the management suite and retail unit, on the corner of the pedestrian route joining Culwell St and Lock St, will also allow for a good level of natural surveillance to this route.

Transportation and movement

- 7.15 Another key aspiration for this site is the creation of an improved link between Culwell St and Lock St. As previously mentioned the existing route is popular, but due to the nature of the footbridge it makes access for the disabled and cyclists extremely challenging. The scheme offers the possibility to improve the existing, unattractive passage, into the city centre.
- 7.16 The proposed link is relatively direct and would allow individuals a clear view of their destination. The change in levels between Lock St and the site would be dealt with by a relatively shallow flight of steps. In addition, a ramp would also be provided to aid movement.
- 7.17 Formal assessment of the transportation matters of the proposal are to be received. However, due to proximity of the site to the city centre, university, train and bus stations and the nature of the occupiers of the scheme, it is not considered that a substantial level of car parking would need to be provided. In addition, although Lock St would remain closed to vehicular traffic for the majority of the time, it could be used to ease parking pressure on peak days, for example at the start and end of terms.

Environment Issues

- 7.18 Although the area is likely to change significantly over the coming years, the site is currently located within an area of mixed industrial and commercial uses.
- 7.19 There are particular noise issues surrounding the proposed location of bedrooms and their proximity to Culwell St depot and the high level station. A noise report accompanied the initial proposal assessed noise from the Wednesfield Road, together with the elevated aspect of the railway viaduct and glazing specifications, based on closed windows. However, the report should also include an assessment with the windows open. If the level of disturbance of noise when windows are open is considered unacceptable, then mechanical ventilation solutions should be investigated.
- 7.20 The submitted report also makes no mention of special measures which may be necessary to reduce levels of structure borne noise and vibration.
- 7.21 Furthermore, due to the proposal scale of the development it is also important to consider the microclimatic impacts of the scheme. Reassurance is still being sought on this matter and the developers have stated that information will be provided shortly.
- 7.22 Additionally, the site is located within the vicinity (approx 100m to the west) of the Cavers Depot, which is classified as a Hazardous Premises. All applications which are located in such proximity are to be referred to the Health and Safety Executive for comment. An electronically generated response from the Health & Safety Executive website, states that they advise against the proposal in this location. Although, this advice is not mandatory, it should not be overridden without careful consideration.
- 7.23 Taking the above matters into account it is clear that more detailed surveys and assessments are required.

Planning contributions

Open Space & Recreation

- 7.24 With such an expected level of student accommodation included in this application, there will be a demand on the open space within the area. The nearest open space to the site is the Broad Street basin, approx 1ha in size. This is a pocket park which serves the recreation needs of employees, visitors and shoppers within the city centre. However, it is not considered that this space, on its own, could accommodate the recreational needs of the future occupants and therefore additional on-site provision needs to be created.
- 7.25 The proposed design has resulted in the built form occupying a relatively minor footprint of the overall site. This coupled with the deck to Lock St means that a significant amount of open space is provided on the site. The concept behind the illustrated space is that it should be as flexible as possible in order to respond to the needs of the student population. It will be essential that a high quality landscaping scheme is implemented which includes the creation of sports facilities. It is likely that this will be predominantly hard landscaping to reflect the urban and previously industrial nature of the site.

Affordable Housing

- 7.26 UDP Policy makes it clear that the Council will seek to negotiate the provision of an element of affordable housing on all suitable private sector housing developments larger than one hectare or comprising 25 dwellings or more.
- 7.27 The proposals for accommodation within Blocks A-C are unlike traditional forms of student accommodation and more akin to serviced apartment schemes with 4-5 bedrooms and communal kitchen and bathrooms facilities forming self-contained units.

- 7.28 The national picture with regard to whether a contribution towards affordable housing on this type of scheme is unclear. Some authorities regard student accommodation as serving a specific need and something which is regulated by other services. Additionally, students, tend to be far more transient and often need accommodation for a temporary period only. Thus the need for student accommodation can be assessed separately to other housing needs.
- 7.29 Other authorities state that where student accommodation units, are self-contained, they will be treated as normal housing and expected to contribute to affordable housing provision. Advice is still being sought on this matter.
- 7.30 With regard to the type of accommodation within Block D the situation appears clearer. The units are self-contained 'micro-flats' with en-suite and kitchen facilities aimed at post-graduate students and nurses. There are no shared communal facilities. In these circumstances it is considered that a requirement for a contribution towards affordable housing will be necessary.

Other Matters

- 7.31 In addition to the above issues, the scale of the scheme means that it falls within the policy requiring a per-cent-for-art provision. Financial assistance will also be required for alterations to the highway network which are deemed necessary as a result of the scheme.

8 Conclusion

- 8.1 The site is located in a prominent position, at an entrance to the City Centre, and adjacent to an important national transportation route. It also occupies a strategic location within the canalside quarter redevelopment, with the potential to integrate the schemes at Springfield Brewery and low level station schemes.
- 8.2 The redevelopment of the site offers the potential for a distinctive new building on the Wolverhampton skyline and also the improvement of existing links through and beyond the site. The scheme proposed has the potential to be a landmark scheme but it is important that this is not to the detriment of future occupiers of the proposal or those which surround it, either now or in the future. Further investigation with regard to this matter is still required. It is also recognised that tall buildings are expensive to build, and it is important that a high standard of architectural quality is required and that is not diluted through the detailed design and construction processes.
- 8.3 The applicants state that the project will represent an investment of circa £45 million by Victoria Halls Limited (VHL) over the next three years. It will directly employ over 500 people during the construction of the development, with further employment for local suppliers and ancillary service companies during construction.
- 8.4 Following completion of the build twelve full time jobs will be created, with the equivalent of a further 20 full time employees needed for off-site support functions.
- 8.5 Overall, it is considered that the proposal has the potential to continue the regeneration of the City Centre and is welcomed. However, despite being acceptable in general terms, there are a number of points of detail – including environmental matters, materials, architectural treatment and highway issues which require further information to be provided

9 Recommendation

9.1 Grant delegated authority subject to:

1. No major issues being raised from outstanding consultees
2. The satisfactory resolution of those outstanding issues raised in this report
3. The signing of a S106 agreement to include:
 - Targeted recruitment and training
 - Restriction of occupancy of the scheme
 - Contribution towards open space and recreation
 - Affordable housing
 - Highway works
 - Public art

4. Conditions are recommended to cover:

Conditions to include:

- Submission of materials
- Submission of architectural details
- Exterior of building to be completed in accordance with plans before occupation
- No additions to exterior of the building
- Cycle/Motorcycle storage details
- Refuse Storage details
- Scheme for the lighting of exterior of the buildings
- Landscaping Strategy
- Public Art Strategy
- Drainage
- Car Park Management Plan
- Management plan for servicing the development including
- Details of management plan agreement, including the supervision and welfare support/provision for the student occupiers, and also a strict system of control over the keeping of motor vehicles by the occupiers of the development ,
- Security/CCTV measures
- Methodology for assessing television reception
- Methodology for dealing with contamination of the site
- Details of improvement to public highway (278 Agreement)
- No A3, A4, A5 uses.

Case Officer : Richard Pitt

Telephone No : 551674

Head of Development Control – Stephen Alexander



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Planning Application No: 07/01087/FUL

Location	Land Bounded By Culwell Street Lock Street, Wednesfield Road, Wolverhampton, West Midlands		
Plan Scale (approx)	1:2500	National Grid Reference	SJ 391891 299080
Plan Printed	20.02.2008	Application Site Area	6804m ²

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Resolved:-

That the under-mentioned applications be dealt with as follows:-

Planning Application 07/01087/FUL – Land Bounded by Culwell Street, Lock Street, Wednesfield Road, Wolverhampton: Erection of Student Accommodation (Appendix 77)

In presenting the report, the Director for Sustainable Communities apologised for the late despatch of the report, which in many respects was due to further and extensive ongoing discussions between the applicant and planners to try to address unresolved issues. The Director then proceeded to report that as a result of recent discussions it was necessary to make the following updates/amendments:

(a) In respect of paragraph 3.1 of the report, improved pedestrian access is not being offered, however the Council could choose to improve the pedestrian route from the £250,000 public open space contribution – Lock Street is adjacent to the canal basin earmarked for the cash. Therefore the third bullet point of the paragraph “improved pedestrian route to university via Lock Street (through tunnel under railway)” should be deleted.

(b) Satisfactory amended plans of the tower block have now been received.

(c) In respect of required conditions, the Car Park Management Plan be amended “to include parking demand management”, with an additional condition for the provision of a Travel Plan. Plus the inclusion of a new condition “Access details, to include a Stage 1 Road Safety Audit, to be provided prior to commencement and provision of approved access and any necessary highway works prior to occupation.

Finally, the recommendation to the report be amended to grant subject to the completion of the S106 agreement and conditions.

In noting the Director’s comments and points outlined in the report, Members; who had welcomed the application when it had first been submitted for their consideration, indicated that the updates they had received today had done nothing to deter them from continuing to support the application. They were mindful that the application site was in an awkward position and had proven difficult to attract investment, and as a result had lain empty for far too long. The only concern they had was that it was imperative that improvements to the footpath were undertaken and that Railtrack should be contacted with regard to improving the condition of the boundary wall, which was in a poor state of disrepair, would detract from the proposed scheme. In respect of points outlined in paragraph 3.2 of the report, they noted that it was sometimes difficult for developers to come up with large sums of money and welcomed the reasonable approach by the local planning authority in this case.

In response to Members' questions, the Head of Development Control confirmed that satisfactory amended plans had been received however it was important that very high quality materials and elements of architectural design be secured by the suggested conditions requiring detailed drawings.

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Resolved:-

That the Director for Sustainable Communities be authorised to approve planning application 07/01087/FUL subject to the resolution of outstanding issues, completion of the Section 106 agreement and conditions, as outlined in paragraph 6 of the recommendation to the report, in addition to the updates/amendments, additional conditions and new conditions, reported verbally at the meeting.

Planning Application 08/00300/OUT – 76 Wrottesley Road, Wolverhampton: Erection of a Detached Dwelling and Detached Double Garage

On a point of accuracy the Section Leader referred to paragraph 8.4 of the report and advised that 2007 should read 2006.

Mr R Webb, a neighbour, attended the meeting and voiced his and local residents' objections to the application. He applauded how during the past 20 year period, this Committee and Council had consistently refused numerous applications for back land development along Wrottesley Road, and in doing so, had served to protect large executive homes and gardens and with it, the unique ambience of the road and area. Sadly during this time, a number of applications, whilst vehemently opposed and refused by this Committee, had subsequently been allowed on appeal, by the Planning Inspectorate in Bristol. Mr Webb reminded the Committee that this was the fifth application on this site for this type of development and he urged the Committee to be consistent once again, and in supporting the concerns of local residents, Ward Councillors and the local MP, refuse the application.

In responding, the Section Leader maintained that Members should consider the application very carefully, and that all things considered, and given the history of similar appeals on this site and others nearby, which had been overturned by the Planning Inspectorate, it would be difficult to find valid planning guidelines and reasons to support refusal of the application. He strongly emphasised that the application was not back land development and that there was site frontage on to the road. He was also mindful that the applicant had listened very carefully to the advice given by Development Control, and that the recommendation to approve the application remains unchanged.

A lengthy, heated and detailed discussion ensued on the pros and cons of the application, showing a clear split between those Members in favour of the application and those against.

Whilst noting the Section Leader's comments, certain Members held the view that this was back land development and were totally opposed to the proposal. They were mindful that there were not enough executive homes

Block D Victoria Halls

Appendix 2

Off Site Risks to Victoria Hall Block D, arising from Carver LPG storage

1 Introduction

This report considers the off site risks exported to Block D of the Victoria Hall student village if and when constructed, and other potential developments in the Canalside Quarter, arising from the storage of Liquefied Petroleum Gases ('LPG') and associated operations at the Carver (Wolverhampton) Ltd site at Littles Lane.

We have been instructed to

- Provide a concise, free standing summary report on the risks to Block D.
- Describe the potential impact of the LPG facility might have on local regeneration projects and the perception that such a facility can create.

Block D if constructed will be to the North of the existing Blocks A-C, at a gap site bounded by the West Coast Mainline, Lock Street and Grimstone Street.

2 Carver LPG storage

The Carver site has Hazardous Substances Consent for 90 tonnes ('te') of LPG. This defines it as a "lower tier" site under the Control of Major Accident Hazards Regulations 1999 ('COMAH'), such that any planning applications within three Consultation Zones must be referred to the Health & Safety Executive ('HSE') for comment.

Where the major hazard involves risk of fire and explosion, HSE sets the Consultation Zones on the basis of a hazard-based approach, HSE applies a "hazard-based" approach applying its "*cautious best estimate*" of the "*Representative Worst Case Major Accident*" (i.e. in effect, the worst case scenario).

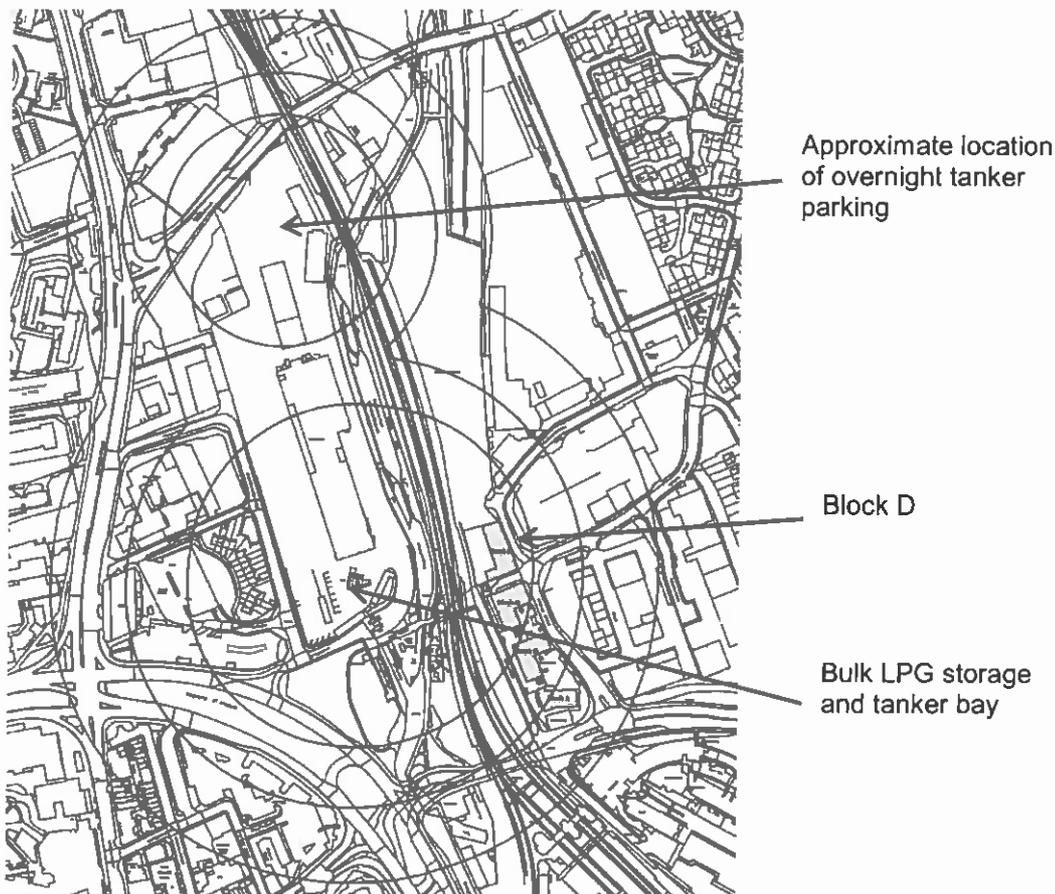


Figure 1 – Consultation Zones around Carver site

The *Representative Worst Case Major Accident* informing the Consultation Zones set around the Carver site is a Boiling Liquid Expanding Vapour Explosion ('BLEVE'). To the South the zones are informed by a "hot" BLEVE of 90% of the contents of a vertical 22 tonne tank, when exposed to heat. This is one of three fixed tanks each protected by an intumescent coating (among other safeguards). When exposed to a flame such a coating forms a char, which is a poor thermal conductor so delaying heating of the tank beneath, thence reducing the probability of a BLEVE. To the North, the Consultation Zones are informed by a BLEVE involving an LPG road tanker which is parked overnight towards the North end of the site.

The probability a hot BLEVE increases sharply when a tank or tanker is less full – in contrast, with less fuel the consequence diminishes considerably.

After commissioning a Quantified Risk Assessment ('QRA') by DNV to assess the ease of using QRA to assess major hazard flammability risks, the Buncefield Major Incident Investigation Board ('MIIB') recommended that HSE move towards a more consistent application of a "risk-based" approach to land use planning around major hazards, an approach which HSE already adopts where the hazard is one of toxicity. Quantified Risk Assessment ('QRA') is widely used in Europe to assess fire and explosion risks associated with major hazards.

Where HSE applies a risk-based approach it sets the Consultation Zones, where the Individual Risk ('IR') of a "dangerous dose or worse" to a hypothetical person is 10 chances per million ('cpm') per year (Inner Zone), 1 cpm per year (Middle Zone) and 0.3 cpm per year (Outer Zone). For the purposes of major hazards storing flammable materials the risk of a "dangerous dose or worse" approximates to the risk of death (which is the consequence routinely used in QRA tools).

"Reducing risks, protecting people" ('R2P2'), sets out a framework for "decision taking by HSE which would ensure consistency and coherence across the full range of risks falling within the scope" of the Health and Safety at Work etc Act 1974.

The framework recognises that the level of risk may vary from what is the "Broadly acceptable region", through a "Tolerable region" (where the risks should be reduced to "As Low As Reasonably Practicable" – "ALARP") and, into an "Unacceptable region". HSE's views as to the boundaries between these regions as regards individual risk of death per year for members of the public as follows:

- boundary between the Tolerable and Unacceptable – for members of the public who have a risk imposed on them "in the wider interest of society" this limit is judged to be at 1 in 10000, i.e. 100 cpm.
- boundary between the Tolerable and the Broadly Acceptable – "HSE believes that an individual risk of death of one in a million per annum" (*i.e. 1 cpm - where the Middle Consultation Zone is often set for the purposes of land use planning*) "corresponds to a very low level of risk and should be used as a guideline for the boundary between the broadly acceptable and tolerable regions".

We have previously reported on the off site risks exported to the overall Victoria Hall development in a QRA (July 2010), using the same QRA methodology as that in the DNV QRA for MIIB, which methodology has been prescribed since 2006 by the Dutch counterpart to HSE.

Our QRA assessed a number of potential major hazard scenarios, some of which are much more probable than a BLEVE of a fixed tank, but generally associated with less severe off site consequences. For example, two 7 tonne LPG road tankers which park adjacent to the fixed tanks were found to contribute 37% of the overall risk profile, largely as neither has an intumescent coating (which would be expensive to retrofit, but which is now a prescribed requirement for LPG tankers in the Netherlands).

The QRA made a number of recommendations as to how the off site risk profile (at the South end of the site) could be reduced in Options 1 (relatively straight forward) and 2 (more costly additional precautions). For example, simply amending Hazardous Substances Consent to require the two 7 tonne tankers to be parked off site, to the North of the site, or to be parked empty overnight would reduce the overall risk profile around the Carver site by over one third.

Option A would include

- Replace 4 inch diameter hose, used for loading and unloading with a 2" diameter (un)loading arm.
- Improve fixed tank impact protection against road tankers.
- No overnight loaded parking near the fixed tanks of either of the 7 tonne road tankers.

The annualised Individual Risk of death to a hypothetical person at Victoria Hall (assuming 50% day time occupancy) for the existing situation and if Options 1 and 2 were to be implemented were found to be as follows:

Location	Individual Risk (death per year)		
	Existing situation	Option 1	Option 2
Hall D	49 cpm	7.0 cpm	4.0 cpm
Hall C	34 cpm	5.0 cpm	3.0 cpm
Hall B	7.9 cpm	2.0 cpm	1.3 cpm
Hall A	2.1 cpm	0.7 cpm	0.5 cpm

Table 1 – Offsite Individual Risks at Victoria Halls

The Dutch QRA methodology is conservative (and excepting intumescent coating) neither this methodology nor HSE's assessment of the off site risks takes account of specific local on and off site issues that reduce the likelihood or which mitigate the likely consequences of various major hazard scenarios. These issues include:

- Intumescent coatings on the fixed tanks, thence reducing the probability of a BLEVE ten fold (or more) – it is perhaps noteworthy that the major fire at the Littles Lane site did not impact on the integrity of the LPG tanks, as both Carver staff and West Midlands Fire Service would have the opportunity to take steps to prevent the fixed tanks from overheating.
- Automatic gas detection, enabling the operation of water drench facilities over the tanker bay.
- Downward sloping topography to the East of the fixed tanks and tanker bay leading to the Birmingham Canal. As LPG is heavier than air, in most major hazard scenarios involving discharge of LPG to the East, any resultant gas cloud would tend to sink and be drawn by gravity towards the canal where gas would disperse north and south.
- The retaining wall of the West Coast Mainline, both providing a degree of shelter to Block D, whilst also in the event of LPG overtopping the canal, deflecting gas and further dispersing a gas cloud.

In addition, HSE's assessment of off site risk takes no account of measures that could be taken to design and construct Block D so as to provide protection against blast and thermal radiation.

Our report on semi-quantified risk assessment (December 2010) took account of such issues.

Whilst HSE still advises against the construction of Victoria Hall Block D, the overall conclusions in reports by Arup (October 2009) and Jacobs are that the major hazards risks to those who would occupy Block D are extremely small, particularly if considered in the context of other Individual Risks of death. The need for decision makers to consider context is recognised in R2P2. The following indicators of Individual Risk are derived the Annual Abstracts of Statistics 2010, a 2009 Health Protection Agency report and HSE statistics for 2010/11 and are comparable (but more up to date) to causes of death set out in R2P2.

Cause of Death - UK	Individual Risk per Year
Cancer	2240 cpm
All types of accidents	195 cpm
Land traffic accidents	42 cpm
Asbestos and Mesothelioma	39 cpm
Accidental poisoning	23 cpm
Lung cancer caused by radon in buildings	17 cpm
Fatal accidents to workers 2010/11 – Great Britain excludes Northern Ireland	
All workers	6 cpm
Manufacturing	10 cpm
Construction	23 cpm
Mining and Quarrying	32 cpm
Waste collection, treatment, disposals and materials recovery	87 cpm
Agriculture, forestry and fishing	99 cpm

Table 2 – Causes of Death

Block D is considerably smaller than the other three blocks. Taking into account other existing occupancy, such as housing on Great Western Street, Peel Centre Retail Park, and road and rail traffic, any increase in “incremental Societal Risk” would also be small if Block D is constructed.

3 Impact on Local Regeneration

When consulted about a proposed development within the Consultation Zones around a major hazard, the application of HSE’s methodology, “PADHI” (“Planning Advice for Developments near Hazardous Installations”) generates a response to the Land Use Planning Authority of “Advise Against” (‘AA’) or “Do not Advise Against” (‘DAA’).

PADHI uses two inputs to a decision matrix to enable a response of AA or DAA. These are which of the three Consultation Zone(s) that the proposed development would lie in, and which of four “Sensitivity Levels” the development falls under (where the most sensitive development is Sensitivity Level 4).

As example, Block D would be Level 3 if considered in isolation from the student village as a whole. The following matrix generates HSE’s advice.

Level of Sensitivity	Inner Zone	Middle Zone	Outer Zone
1	DAA	DAA	DAA
2	AA	DAA	DAA
3	AA	AA	DAA
4	AA	AA	AA

Where a planning authority is minded to grant permission, despite an AA response, then HSE’s stated policy (www.hse.gov.uk/landuseplanning/advice.htm#callinpolicy and www.hse.gov.uk/foi/internalops/hid_circs/technical_general/spc-tech-gen-49.htm) is that if it is satisfied that the authority has given the most careful consideration to HSE’s advice, then HSE is unlikely to request call-in (a request which HSE has only made five times in 30 years).

In practice, if a development is only one level of sensitivity above that which would generate a DAA PADHI response, then HSE would be very unlikely to request call-in. This would be the case with Victoria Hall Block D if Option 1 risk mitigation measures were to be implemented.

Nevertheless, repeated AA advice, extending to HSE strongly objecting to recent developments near the Carver site (e.g. the signalised gyratory improvement scheme at Stafford Street/Cannock Road and the redevelopment of Peel Centre Retail Park), is liable to create a perception that acts as a deterrent to developments in the locality – in simplistic terms, whilst the major hazard remains at Littles Lane, it is easier for developers to invest elsewhere.

Clearly relocation of the bulk LPG storage and tanker parking from Littles Lane would enhance prospects for the Canalside regeneration in all directions, subject to the assumption that Hazardous Substances Consent would be amended to reflect this – unless this is done, then HSE would assume that the current situation could revert.

Relocation of bulk tanks and tanker parking would not necessitate relocation of other activities at the site, such as cylinder filling and storage, and autogas filling, as these contribute a very limited proportion of the offsite risk profile.

4 Summary

In conclusion, the risk posed by LPG to the occupants of Block D is very small with options available to reduce this risk even further. Additionally, Block D is relatively small and on this basis only marginally impacts upon the wider societal risk; many other factors in day to day life pose a much greater risk to life.

It is recognised however that perceptions associated with the presence of the LPG facility will create additional steps in the planning process, potentially deter investors and developers and thereby hinder regeneration. As such its retention in this key location remains an issue for WCC.

Block D Victoria Halls

Appendix 3

**Considerations regarding the potential claim for
Modification of Planning Permission
Victoria Hall Block D,
Wolverhampton**

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Manager
Regeneration

Date of Report 15th October 2012

BK Ref: JN501523/ISP/MK/RH

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- 1 **Executive Summary**
- 2 **Terms of Instruction**
- 3 **Context**
- 4 **Key Considerations**
- 5 **Heads of Claim**
- 6 **Diminution of Land Value**
- 7 **Recommendations**

Appendices

- | | |
|---------------------|--|
| Appendix One | Bruton Knowles Scoping Document |
| Appendix Two | Development Appraisal |

1 Executive Summary

- 1.1** This report deals with the issue of the obstruction to regeneration of the Canalside Quarter due to the Zones of Influence, which emanate from hazardous substance consent of LPG storage tanks at the Carvers site in Littles Lane.
- 1.2** This report explores the consequences of revoking the planning permission for Victoria Hall Block D which are located within the zones of Influence and the likely claim for compensation which the City Council may receive from Victoria Hall should they be unable to proceed with the development.
- 1.3** This report details the Heads of Claim under the headings diminution, expenses and loss of profit and considers the elements of claim within each of these.
- 1.4** It is considered that if the planning permission is modified the land will suffer some degree of diminution in value and the City Council is likely to receive a claim for the costs which have been incurred by Victoria Hall.

2 Terms of Instruction

- 2.1 Bruton Knowles act on behalf of Wolverhampton City Council Property Services by way of a tri-partite agreement with Jacobs.**
- 2.2 Instructions were confirmed in an email dated 24th August 2012 from Kevin Moore, attached to which was the scoping document prepared for Bruton Knowles. Reference 2, Victoria Hall Block D of this document refers to a previous letter which was written by Bruton Knowles in November 2010. A report is now required by Wolverhampton City Council which refreshes the advice previously provided. (See Appendix One).**
- 2.3 This report falls outside the RICS Valuation Standards.**

3. Context

- 3.1 Victoria Hall Block D is the fourth block of student accommodation to be built at the Victoria Hall Development situated at Culwell Street in Wolverhampton. Blocks A, B and C have been constructed, however Block D has yet to be built.
- 3.2 In 2008 The Health & Safety Executive brought forward legal action as the Local Planning Authority had allowed the Hall (Blocks A-C) to be built within the blast zone of the LPG storage tanks at the Carvers site within the Zones of Influence (Blast Zones).
- 3.3 The court held that it was not appropriate to quash the permission owing to the undue delay by the claimant in bringing the proceedings. Consequently the planning permission remained valid and that the Interested party was entitled to put it into effect.
- 3.4 To date construction has not commenced for Block D and this report considers the consequences should Wolverhampton City Council modify the planning permission for Block D.

4. Key Considerations

- 4.1 Should the City Council consider it appropriate to modify the Planning Permission a claim for compensation from the land owner is anticipated. Once planning permission had been granted any modification of the permission prior to completion of the development leaves the applicant able to claim compensation from the Local Planning Authority.
- 4.2 The Local Planning Authority has the power to modify the planning permission under Section 97 of The Town & Country Planning Act 1990 (as amended) provided that the development is not complete. Compensation is claimable by the applicant under Section 107 of the Act and is in respect of expenditure rendered abortive by the order and for any other loss or damage directly attributable to the modification of the planning permission.
- 4.3 Victoria Hall obtained planning permission for 4 blocks of student accommodation on its site at Culwell Street, Block D being the fourth and final block to be built. Should the planning permission for this block be modified the claim for compensation should be based on the expenditure incurred following the grant of planning permission and loss/damages based upon the inability to build the scheme. The loss will be based upon the diminution in value of the land which Victoria Hall owns.

4.4 Diminution of value will therefore be the difference between the upper figure the land with the benefit of a planning consent for a 100 studio block of accommodation and retail shop and a reduced land value of the land in its current state or with the potential for uses which do not conflict with the Zones of Influence.

5. Heads of Claim

5.1 Any claim for compensation for the modification of the planning permission will be based upon:

- **Diminution in the value of the land.**
- **Expenditure** incurred in carrying out work which is rendered abortive by the modification save for the cost of gaining the planning permission which has been modified.
- **Loss of Profit**

6. Diminution of Land Value

6.1 The principle of diminution in land value will be established by the likely difference in value between the land with planning permission for the block of accommodation proposed under the subject of planning permission and alternative uses which would be deemed acceptable in this location, subject to the Zones of Influence. In order to provide advice on this we have undertaken a valuation of the land value of the plot with the benefit of the planning permission for 100 studio units and a retail shop on the ground floor.

6.2 Our appraisal has been undertaken on the basis of the planning permission in place for 100 student studios. It is anticipated that these would be made available on the basis of £115 per week for 48 weeks of the year subject to a discount for management of the unit of £1,500 per annum. Say that the rental is higher for studios due to their size and specification over student clusters. Research shows that student accommodation costs on average in the region of £35,000 per unit to construct, in addition to road and site works. We have undertaken the valuation on the basis of 15% profit on cost, which is the minimum which will be required by funders at present. The result of this appraisal details the residual land value of £256,000. (See Appendix 2)

- 6.3 In undertaking this appraisal we have compared the sums included with alternative student accommodation in Wolverhampton and to a certain extent further afield. We consider that the sum of £115 per week for the studio rental is in line with other accommodation available within the city at Chambers 51 in Lichfield Street.
- 6.4 On considering the result of the appraisal we have also sought information regarding a site in Wellington Road, Perry Barr, which was being sold by Eddisons in 2011. The site has planning permission for 103 student studios and was in receivership, therefore the bank was marketing this site for sale. We understand that although the site did not sell ultimately due to the previous owner restructuring their debt, the highest offer from the marketing process for the site was £425,000, which relates to an approximate value of £800,000 per acre, which when compared with the site at Victoria Hall of 0.34 acres supports the result of the appraisal which we have undertaken.
- 6.5 The University of Wolverhampton currently has a total of 23,000 students attending over four campuses. The University currently provides 2,000 student bed spaces with a further c.1,200 new bed spaces being provided by third parties over the past three years. Over recent years overseas applications have declined however domestic applications have increased, although a significant number are for part-time or locally based students. This means that the current supply of student accommodation is more than satisfying demand with the University commenting that Victoria Hall was only half occupied last year.
- 6.6 The alternative land value without the benefit of student accommodation and in line with its location within the Zone of Influence would be calculated on the basis of a non residential planning consent for a commercial use. This could be an ancillary use for Victoria Hall, such as car parking or sport facilities. Or for a third party as external storage or an industrial use. These uses would obviously be subject to planning permission, however for the purposes of this exercise we have considered that the lowest value used would be for open storage which therefore produces the worst case scenario with regards to likely diminution of value. On the basis of an Income in the region of £20,000 per acre for external storage, this would relate to £6,800 per annum as a rental income at a yield of 8%, which is considered to be good, this would equate to a freehold value of £85,000.
- 6.7 On the basis of the above we consider that the maximum diminution in value would therefore be in region of £171,000.

6.8 Expenditure

6.9 With regard to the claim for expenditure, this will be unknown until a claim is received. Any claim will have to be for expenditure incurred on site following the grant of planning permission. Any sums claimed will also have to be fully justified and the claimant will have to demonstrate that they have mitigated their losses.

6.10 Loss of Profit

6.11 A claim for loss of profit may also be expected from Victoria Hall for the loss of income which would have been received from the scheme once operational.

7. Recommendations

- 7.1 On the basis of our report we consider that should the planning permission be modified for the student accommodation at Block D Victoria Hall the developers would have a claim based upon:
- Diminution in Value
 - Expenditure
 - Loss of profit
- 7.2 Diminution in the value of land is based upon the difference in land value with planning permission for student accommodation to that of storage land. As detailed we consider that the claim could be in the region of £150,000 to £200,000 for reduction in land value.
- 7.3 In addition there may be there maybe expenses which have been incurred after the grant of planning permission, which the Local Planning Authority would have to reimburse the developers for. At present this is unclear of what these would be without any discussions or a claim being presented by Victoria Hall.
- 7.4 There may also be a claim for loss of profit from Victoria Hall, however until a claim is received it is not possible to predict what this is likely to be.
- 7.5 In consideration of the above should the modification of the planning permission take place Wolverhampton City Council should be prepared for negotiations for compensation in the region of £150,000 to £200,000 for diminution in land value plus allowances for expenditure and loss of profit.

We trust that this report is satisfactory for your immediate purposes but, should you require any further clarification, we shall be pleased to hear from you. We would reiterate that neither the whole nor any part of this Report may be included in any published document, circular or statement nor published in any way without our written approval of the form and context in which it may appear.



Ian S Platt BSc (Hons) MRICS
RICS Registered Valuer
For and on behalf of
Bruton Knowles

Appendix One

Bruton Knowles Scoping Document

BK'S SCOPING COMMISSION – CANALSIDE QUARTER.

Date: August 2012

This commission will require Bruton Knowles (BK) to provide three concise valuation reports on behalf of Wolverhampton City Council (WCC). WCC will need to have regard to the financial consequences of the exercise of its powers in respect individual remedies and will be included in both Cabinet and Planning Committee reports. The scope of this commission (including appraisals) is detailed as follows:

1. **Carver's Site at Little's Lane** - If the HzSC granted to Carvers was revoked, what level of compensation would be required to compensate Carvers? What could be reasonably agreed between the parties? BK's previous report of 11 November 2010 assumed compensation based on depreciation in land value, disturbance losses and cost/expenses incurred to comply with the revocation and achieve extinguishment of the storage and retail sales of LPG.

BK should review all previous information and discuss with WCC whether the LPG trading accounts previously submitted by Carvers in December 2011 are sufficient to make an assessment of compensation payable or whether further information should be sought from Carvers.

2. **Victoria Halls Block D** – a refreshed report is required for: (i) If the current planning consent for Block D was revoked, what level of statutory compensation will be payable under s107 Town and Country Planning Act 1990 (reproduced overleaf). The report should make clear likely heads of claim. (ii) What figure could be reasonably settled between parties? BK's previous report of 24 November 2010 assumed a negative land value of £660,000 due to lack of viability to build out Victoria Halls due to prevailing market conditions and occupancy rates at that point in time.

BK should consider the current and likely future demand for student accommodation in the City and whether this and the establishment of the principle of development of the site through the grant of planning permission gives rise to any hope value for the site notwithstanding any current lack of developer return for the specific development.

3. **Consortium Ownerships within the Hazardous Consultation Zones** – A refreshed valuation report is required of each holding affected by the HSE consultation zone on the basis of the HzSC remaining or revoked. This will be in the form of comparing *existing use values* with potential net land values. BK provided WCC a report (with valuations and appraisals) on the 9 November 2011, based on 12 separate landing holdings affected by the HSE consultation zones.

Appendix Two

Development Appraisal

APPRAISAL SUMMARY

BRUTON KNOWLES

Wolverhampton

Summary Appraisal for Phase 1

REVENUE

Rental Area Summary

	Units	ft ²	Rate ft ²	Initial MRV/Unit	Net Rent at Sale	Initial MRV
Student Studios	100			£4,020	402,000	402,000
Retail Unit	1	1,301	£12.00	£15,612	15,612	15,612
Totals	101	1,301			417,612	417,612

Investment Valuation

Student Studios						
Current Rent	402,000	YP @	7.5000%	13.3333	5,360,000	
Retail Unit						
Market Rent	15,612	YP @	6.5000%	15.3846		
(0yrs 6mths Rent Free)		PV 0yrs 6mths @	6.5000%	0.9690	232,740	
					5,592,740	

NET REALISATION

5,592,740

OUTLAY

ACQUISITION COSTS

Residualised Price			256,101		256,101
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CONSTRUCTION COSTS

Construction	Units	Unit Amount	Cost	
Student Studios	100 un	£35,000	3,500,000	
	ft ²	Rate ft ²	Cost	
Retail Unit	1,301	£70.00	91,070	3,591,070
Contingency		5.00%	179,554	
Road/Site Works			340,425	
				519,979
Other Construction				
External Drainage			38,342	
				38,342

PROFESSIONAL FEES

All fees	8.00%	290,353		290,353
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MARKETING & LETTING

Letting Agent Fee	10.00%	1,561		
Letting Legal Fee	5.00%	781		
				2,342

Additional Costs

FINANCE

Debit Rate 7.00% Credit Rate 7.00% (Nominal)				
Land			16,829	
Construction			148,235	
Total Finance Cost				165,065

TOTAL COSTS

4,863,251

PROFIT

729,489

Performance Measures

Profit on Cost%	15.00%
Profit on GDV%	13.04%
Profit on NDV%	13.04%
Development Yield% (on Rent)	11.67%
Equivalent Yield% (Nominal)	7.46%
Equivalent Yield% (True)	7.82%

IRR 34.43%

Rent Cover 1 yr 9 mths
Profit Erosion (finance rate 7.000%) 2 yrs