

**Committee:** 2nd July 2008    **Ward:** Tipton Green  
DC/08/49278

<b>Mintworth Transport Ltd</b> C/o RPS Planning & Development - Mr Paul Hill Highfield House 5 Ridgeway Quinton Business Park	<b>Demolition of industrial units to enable vehicular access into the site, regrading of the site and stabilisation of the old mine workings, residential development of up to 300 dwellings comprising access alterations onto Coneygre Road and Burnt Tree Road and erection of a landscaped acoustic bund (outline application).</b> Newcomen Drive Open Space Newcomen Drive Tipton
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**Date Valid Application Received** 18th March 2008

**1. Recommendations**

Subject to: -

- (i) Subject to the completion of a Section 106 Agreement regarding improvements to Burnt Tree Island; and,
- (ii) Referral to the full Council and then to the Secretary of State under departure procedures.

**OUTLINE APPROVAL** with the following conditions: -

- (a) Approval of the remaining reserved matters [layout, scale, appearance and landscaping];
- (b) The protection of the public sewers and the culverted watercourse that cross the site and the pumping station next to the south western boundary;
- (c) The retention of some of the existing tree planting

and the implementation of additional planting next to the boundaries with properties fronting Calley Close, Barney Close and Newcomen Drive;

- (d) No new roads or private drives off Newcomen Drive;
- (e) The implementation of the proposed highways works;
- (f) Submission, approval and implementation of a detailed reclamation scheme;
- (g) Approval of site levels if different to those shown;
- (h) Implementation of an approved scheme to mitigate disturbance from mud, noise and dust during the development of the site;
- (i) Approval of drainage details;
- (j) Submission and approval of an updated noise survey and the implementation of mitigation measures incorporating (inter alia) a 2m high acoustic barrier on top of the noise bund;
- (k) No dwellings above 3-storeys;
- (l) All trees planted being extra heavy standards;
- (m) Compliance with Policies H7 [Amenity of New Housing], DC9 [Provision of Community Open Space and Play space in Residential Areas] and H9 [Affordable Housing] of the Sandwell UDP; and,
- (n) Implementation of an approved residential travel plan.

## **2. Observations**

This application was reported to your Committee on 2<sup>nd</sup> July and members resolved to visit the site.

### **A. The Key Determining Issues**

This is an application for outline planning permission to develop a 9.16 hectares site to the north west of Coneygree Road for residential purposes. The proposal involves the infilling of numerous mine workings and shafts; the re-grading of the site; the formation of a new access to the site from Burnt Tree via Coneygree Road; and, the construction of up to 300 dwellings and associated works. The key determining issues are: -

- (i) Is there any justification for setting aside Policy E2 (Business Zones) of the Sandwell Unitary Development Plan?
- (ii) What will be the effect of the development on the safety and convenience of users of the highway?
- (iii) Will the erection of dwellings next to the Coneygre and Castle View industrial estates conflict with UDP Policy H8 (The Relationship between Residential and Industrial Uses)?
- (iv) What will be the effect of the substantial re-grading and reclamation works on nearby residents?
- (v) Will the form and character of development envisaged be unduly detrimental to the area or to nearby residents?

#### B. The Application Site and its Surroundings

The application site is about 9.16 hectares in area. It lies to the north west of Burnt Tree (A461) and is crossed by Coneygree Road. It primarily comprises the former Coneygre Foundry site together with 3 relatively small industrial units, the demolition of which will enable a new vehicular access to be constructed.

The Coneygre Foundry closed in the early 1980's and was demolished. Part of it was redeveloped with housing and the remainder was used for the storage of foundry sand. A substantial mound of foundry sand was built up during the late 80's and early 90's, its plateau height being about 18m above that of the surrounding land.

The site is underlain by coal workings and limestone caverns located at depths of up to 200m. A culverted watercourse and 3 public sewers also cross it.

The application site is within an area of mixed land use being bounded by: -

- (i) Industrial estates to the south west;
- (ii) A disused railway line (the proposed route of Midland Metro Line 3) to the north west with residential properties in Lindley Avenue beyond;
- (iii) The Birmingham Canal to the north east with the Coneygree Leisure Centre and Sports Ground beyond; and
- (iv) Modern 2-storey residential properties in Newcomen Drive, Barney Close and Calley Close to the east.

### C. The Proposed Development

This is an application for outline planning permission with the proposed means of access also submitted for determination at this stage. Details of layout, scale, appearance and landscaping are reserved for subsequent consideration.

The proposed development will comprise four principal elements. Firstly substantial amounts of the existing foundry sand will be used to infill the numerous mine workings and shafts beneath the site.

Secondly, there will be a major re-grading of the remaining deposits to form a 25m wide x 4.5m high landscape bund adjacent to the south west boundary in order to protect the proposed dwellings from noise generated by the nearby industrial premises. The remainder of the mounded area will be graded gently back to the existing levels adjacent to the boundaries with the railway line, the canal and residential properties to the east. The applicants estimate that the proposed works will reduce the maximum height of the former mound by 11m.

Thirdly, a 7.3m wide access road will be constructed to serve the site. The proposed highway works will involve: -

- (i) The realignment of Coneygree Road and the formation of a signal-controlled 'T' junction with Burnt Tree (A461);

- (ii) The provision of new road markings, advance cycle stop lines and pedestrian crossing facilities;
- (iii) Demolition of 3 industrial units and the construction of a 7.3m wide access road into the site;
- (iv) Two priority junctions on the realigned section of Coneygree Road at the intersections with its northern leg and the new residential access road; and
- (v) A revised access to serve Unit 33 on the Coneygre Industrial Estate.

Finally, the re-graded and reclaimed site will be developed for residential purposes. The applicants have submitted an indicative layout and a series of parameter plans showing how the site might be developed. These show the main access road from Coneygree Road forming a looped boulevard with secondary roads, private drives and pedestrian/cycle links leading off it. While access will be primarily from the new road a few dwellings will directly front onto Newcomen Drive.

The applicants propose to build 300 dwellings at a gross density of 33 dwellings per hectare. The majority of the development will be low and medium density (2-storey dwellings) with higher density (3 storey flats) proposed at strategic locations. Landscape features will comprise the noise bund next to the south west boundary, street trees along both sides of the main access road, a canal side walkway, pocket squares, pedestrian zones and public green space areas.

The proposal is accompanied by a planning statement and by numerous reports relating to design and access, transportation, mine stabilisation, noise, air quality, flood risk, drainage and employment site viability.

#### D. Consultation and Publicity Responses

The application was publicised by site notice, press notice and neighbour notification letters. The responses can be broadly divided into 2 categories. Firstly objections have been received from the occupiers of 4 factories and the owner of the industrial estate to the south west of the application site. The main concerns

are that the siting of houses so close will unreasonably restrict the activities of industrialists that are operating lawfully in an appropriate location. In addition one objector argues that the new road layout would unduly restrict access for delivery vehicles to Unit 33 on the Coneygre Industrial Estate.

Secondly I have received 2 petitions containing 80 signatures in total and 55 letters of objection and 3 letters of support from residents in Newcomen Drive, Barney Close, Calley Close and Lindley Avenue.

The main grounds of objection are as follows: -

- (i) Increased traffic congestion;
- (ii) Loss of the mound and trees which are both attractive and a valuable wildlife resource;
- (iii) Noise and (black) dust generation during reclamation of the site and construction of the development;
- (iv) Increased noise when the development has been completed;
- (v) Loss of privacy;
- (vi) Increased vandalism and anti-social behaviour next to the canal; and,
- (vii) Increased security problems due to pedestrian access from the application site through to Calley Close.

The consultation responses were as follows: -

1. West Midlands Police – No objection.
2. Environment Agency – No objection subject to satisfactory drainage, levels and protection of Coneygre Brook.
3. Severn Trent Water – No objection subject to satisfactory drainage details, protection of the sewers that cross the site and no development within 15m of the sewage pumping station just to the south west of the application site.

4. National Grid plc – The risk to existing networks is negligible.
5. British Waterways – No objection subject to satisfactory details regarding layout, design, landscaping, reclamation, protection of canal waters/structures and preservation of archaeological remains and a Section 106 Agreement to secure towpath improvements.
6. Inland Waterways Association – Objection to the loss of open space, the failure to provide a Metro stop for future residents, the proximity of housing to the canal and the excessive height of some of the proposed dwellings.
7. My Building Consultancy Section – Due to major ground condition problems, further exploratory investigations will be required and detailed remediation works will need to be implemented.
8. Head of Communities and Regulatory Services (formerly Environmental Health and Trading Standards). The site is suitable for residential development but an additional 2m high close-boarded fence should be erected on top of the landscape bund, which would further reduce the effect of the industrial noise sources on the proposed development. A site investigation and remediation report should be submitted.
9. West Midlands Fire Service – Clarification on the width of the access road is required.
10. My Urban Design Team – Even though the application is in outline, the design and access statement should be strengthened to form the parameters for the detailed submissions to follow.
11. The Head of Highways and Environment – Approval subject to the provision of a satisfactory means of access to Unit 33 on the Coneygre Industrial Estate, the stopping up of the former line of Coneygree Road, the provision of access to statutory undertakers to the stopped up former road, and a contribution to highway improvements to Burnt Tree Island (via a Section 106 Agreement).

12. Centro – No objection subject to the development of a Residential Travel Plan. In addition it is requested that the Council seek a developers contribution towards the nearest stop on the proposed Midland Metro line.

### E. Comments

#### (a) Policy E2: Business Zones

In the Sandwell UDP the application site is within an area designated as a Business Zone where predominantly industrial uses will be safeguarded and encouraged. There is therefore a presumption that built development will take place and, by implication, re-grading and remediation will be required. However, Policy E2 would normally preclude residential development.

In support of the proposal the applicant has demonstrated that there is considerable vacant and available employment land in the Borough and has suggested that this is sufficient to provide for current and future needs and, in reality, there is an excess. Furthermore he has indicated that there is unlikely to be demand for this site for employment uses due to its more secondary location and the substantial supply of better placed, less constrained employment land elsewhere.

It is becoming clear that the restructuring of the Black Country economy requires less traditional employment land and that the surplus is a Brownfield resource for providing for the forecasted housing needs.

However it is essential that sufficient employment land of the right type, quality and location is protected. Therefore before releasing employment land it needs to be demonstrated that the land does not have the characteristics necessary to contribute to the future economy.

There is persuasive evidence provided by the applicant that indicates there is no prospect of development for employment uses due to the resultant value being considerably less than the costs of its development. This is largely the result of the costs of addressing the numerous significant ground condition and access issues.

It has been demonstrated, therefore, that in this case a development for a use consistent with the current UDP designation is not a realistic possibility, and on this occasion appropriate alternative viable land uses can be considered.

Should members be minded to grant approval the application will need to be referred to the Full Council for confirmation that the requirements of Policy E2 can be set aside in this case. In addition, the application will need to be referred to the Secretary of State under departure procedures.

#### (b) Highway Impacts

The Transport Assessment submitted with the application concludes that the effect of the proposed development on the surrounding highway network including the A461 and Burnt Tree Island will be acceptable. However, in view of the comments of the Head of Highways and Environment, it is recommended that permission (if granted) be subject to conditions requiring the implementation of the revised junction/access improvements proposed in the application and a requirement for a contribution to the Burnt Tree Island highway improvements via a Section 106 Agreement.

#### (c) Effect on Nearby Industrial Premises

Policy H8 of the UDP requires that great care be taken when siting dwellings next to industrial properties. In response to concerns of nearby industrialists and criticisms of the methodology and findings of the original noise report, the applicants commissioned a more up-to-date assessment in May. The assessment found that the site is subject to moderate levels of noise, primarily from two adjacent factories to the southwest, with the result that the site falls within Noise Exposure Category B as prescribed by PPG24 during the day. Applying these activities to the night time period as an example of worst case operation, the site falls on the boundary of NEC 'B' and NEC 'C' as defined by PPG24. The report concludes that the predicted attenuation provided by distance of dwellings from the noise sources and the screening provided by the bund would reduce noise levels at the nearest residential facade to a reasonable level. Further glazing and ventilation requirements have been specified to ensure that the relevant British Standards can be achieved. It is noted that the Head of Communities and

Regulatory Services accepts the methodology and findings of the report but still requests that a 2m barrier be provided on top of the mound in order to further reduce noise.

As a result of the above findings and comments it is safe to conclude that residential development could take place without undue detriment to nearby industrialists provided that appropriate attenuation measures, comprising separation distances, bunding, acoustic fencing and glazing/ventilation designs to the nearest dwellings, are implemented. Since the siting of buildings has not been submitted for determination and the activities of the industrial uses may change it is recommended that permission (if granted) be subject to conditions requiring an updated/modified noise report based on the confirmed siting and design of buildings and the implementation of mitigation measures including the acoustic fence recommended by the Head of Communities and Regulatory Services.

#### (d) Effects of the Reclamation Works on Residential Amenity

The tipping of foundry sand on the former Coneygre Foundry site took place over many months and caused problems to nearby residents because of black dust. While, it was undoubtedly an eyesore at the time, the natural establishment of grass on the landform and the planting of some trees at its base have improved its appearance. It is inevitable that the re-grading of the site will cause considerable disruption to nearby residents as a result of noise and dust emissions and will harm the view that residents currently enjoy. Should members be minded to grant planning permission I recommend that conditions be imposed requiring the submission of an environmental management plan aimed at protecting residents during the site preparation works. In addition, part of the site immediately to the west of the rear gardens of the properties in Calley Close and Barney Close should be left undisturbed by the proposed re-grading works in order to reduce disturbance to nearby residents and safeguard some of the existing trees. Also some street trees should be retained adjacent to the boundary with Newcomen Drive in order to protect the pleasant appearance of the locality.

It is recognised that the currently proposed levels for the site are based on a guesstimate of the amount of foundry sand that will be needed to infill the underground mine workings and shafts. While

the currently envisaged contours are satisfactory, I would not necessarily take the same view if levels were significantly higher next to existing residential properties or lower next to existing industrial premises. It is therefore recommended that a condition be imposed requiring final levels to be agreed with the Council.

The treatment of former mine workings is legally the responsibility of the landowner to address. However, because of the extensive problems posed by old limestone workings it normally falls to the local authority to carry out the infilling works necessary to restore the land as happened at the former Cow Pasture Mine in Wednesbury. The proposal to restore derelict land without resort to 'the public purse' is therefore to be encouraged.

#### (e) Effect of the Form and Character of Residential Development on the Area and Nearby Residents

The application is for outline permission with details of the site layout and the proposed buildings to be submitted at a later date. The applicants have submitted an indicative layout showing their general intentions. In my opinion a development of 300 dwellings, provided that it incorporates a significant number of apartments, could be satisfactorily accommodated on the site. Also, subject to satisfactory levels and siting of buildings of not more than 3 storeys height, it should be possible to ensure that existing residents retain a reasonable standard of light, outlook and privacy.

The concerns of some residents of increased canal side use and the establishment of pedestrian/cycle links between the application site, existing residential roads and the canal are recognised. However, since the provision of such facilities are encouraged by UDP policy and Urban Design guidance it would be unreasonable to reject such provision at this outline stage. At the reserved matters stage residents would be able to comment on firm proposals and the Architectural Liaison and Crime Reduction Officer of West Midlands Police would be able to give detailed consideration to any security issues.

In response to comments from my Urban Design Team the applicants amended the indicative layout to show some dwellings fronting directly onto Newcomen Drive. Subject to no adverse comments from the Head of Highways, I have no objection in principle. However, since the means of access is to be determined

at this stage, a condition should be imposed confirming that there should be no roads or private drives serving the site from Newcomen Drive.

#### (f) Other Matters

If members are minded to grant approval it will be necessary for the applicant to comply with UDP Policies H7 (Amenity of New Housing) and H9 (Affordable Housing). The amount of open space, play space and affordable housing will depend on the number and size of dwellings proposed. These matters can be dealt with at this stage by planning condition pending the submission of detailed proposals at the reserved matters stage.

Policy H7 also contains provision for the Council to require a contribution via a Section 106 Agreement towards the provision of additional education facilities. However, there are sufficient primary and secondary school places within 1 and 2 miles of the site respectively to meet the anticipated demand based on the indicative layout submitted with the application. It is concluded an education contribution would not be justified in this case.

The request by Centro for a contribution towards Midland Metro Line 3 will be forwarded to the applicant and I will report the reply to members in the supplementary agenda. However, since there is currently no firm date for the construction of the LRT route and the acceptability of the proposed residential scheme does not depend on its existence, I do not consider that the Council could justify refusal of the application if the applicant declined to contribute towards the cost of one of its stops.

The requirements of British Waterways are recognised and most are dealt with by condition. The request for a contribution towards towpath improvements via a Section 106 Agreement would not be justifiable since the towpath is on the opposite side of the canal and the applicant has indicated its intention to extend the existing walkway on the south side of the canal.

#### F. Summary

In summary, the site is allocated for business/industrial development, but that is unlikely to happen because of the high costs of reclamation and the overprovision of employment land in

the borough. The residential development of the site is considered acceptable provided that appropriate steps are taken to protect the interests of nearby industrialists, residents and road users. While the infilling of mine workings and re-grading of the site will undoubtedly be problematic for nearby properties, the reclamation of such a large area of derelict land without resort to the 'public purse' is worthy of support.

**3. Reasons for Recommended Decision**

The residential development of the site is considered acceptable in principle provided that appropriate steps are taken to protect the interests of nearby industrialists, residents and road users. While the infilling of mine workings and re-grading of the site will undoubtedly be problematic for nearby properties, the reclamation of such a large area of derelict land without resort to the 'public purse' is worthy of support.

**4. Relevant History**

None relevant

**5. Central Government Guidance**

PPS 3: Housing

PPG24: Planning and Noise

**6. Unitary Development Plan Policy**

**H3 WINDFALLS**

**H6 DESIGN OF HOUSING**

**H7 AMENITY OF NEW HOUSING**

**DC9 PROVISION OF COMMUNITY OPEN SPACE AND PLAY SPACE IN NEW RESIDENTIAL AREAS**

**H8 THE RELATIONSHIP BETWEEN RESIDENTIAL AND INDUSTRIAL USES**

**H9 AFFORDABLE HOUSING**

**E5 RELATIONSHIP BETWEEN INDUSTRY AND OTHER USES**

**POLICY UD1 GENERAL URBAN DESIGN PRINCIPLES**

**DC4 CANALS**

**Policy PC1.AREAS AFFECTED BY ABANDONED LIMESTONE MINES**

**POLICY PC5.LAND AFFECTED BY TIPPED MATERIAL GENERATING LANDFILL GAS**

**POLICY PC6.LAND AFFECTED BY TIPPED MATERIAL GENERATING LANDFILL GAS**

**T1.GENERAL POLICY**

**T2.WALKING**

**7. Contact Officer**

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## PLANNING SECTION

Architects      Engineers      Surveyors  
Landscape Architects      Services Consultants

A2

DC/08/49278

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15 MAY 2009

PLANNING SECTION

PUBLIC POCKET SQUARE

CANALSIDE PUBLIC WALKWAY

PEDESTRIAN ZONE

PUBLIC GREEN SPACE

LOOPED BOULEVARD

PUBLIC GREEN SPACE

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







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## KEYS

-  SITE BOUNDARY
-  DEVELOPMENT BLOCK
-  PROPOSED TREES
-  POCKET SQUARE
-  PEDESTRIAN ZONE
-  CANALSIDE PUBLIC WALKWAY
-  PUBLIC GREEN SPACE
-  SHARED SURFACE

Revised: 15/05/2008 Date: 15/05/2008 Author: CCN

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Client: Mintworth Transport

Project: Coneygre, Sandwell

Title: LANDSCAPE STRATEGY

Status: INFORMATION

Checked: MG

Drawn: CCN

Date: 09/05/2008

Scale: 1:1500@A2

Job No: ABD8057 Dwg No: 004

Rev: B

Architects Engineers Surveyors  
Landscape Architects Services Consultants

A2

DC/08/49278

13 MAY 2008

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When existing trees are to be retained they should be subject to a full Arboricultural Report for safety. All trees are to be retained in situ to the maximum extent possible. The Contractor is to ensure that all building and site dimensions, levels and areas are as shown on this drawing. The Contractor is to ensure that all building and site dimensions, levels and areas are as shown on this drawing. The Contractor is to ensure that all building and site dimensions, levels and areas are as shown on this drawing.

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KEY:

## KEYS

- |  |                           |  |                                     |
|--|---------------------------|--|-------------------------------------|
|  | Site Boundary             |  | 3 STOREY APARTMENT                  |
|  | Proposed Trees            |  | 3 STOREY TOWNHOUSE                  |
|  | Access Point              |  | Pedestrian Links                    |
|  | Focal Buildings           |  | Main Access                         |
|  | Apartment Parking Court   |  | Different surface texture treatment |
|  | 25m Landscape Buffer      |  | Green Area                          |
|  | Canal                     |  | Pedestrian Zone                     |
|  | 2 Storey Housing Frontage |  | Pedestrian Canal-walk               |
|  | Pocket Square             |  | Development Block                   |

Scale:	Revision:	Date:	Applicant:	Name:	Checked:
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Client: Mintworth Transport

Project: Coneygre, Sandwell

Title: Indicative layout

Status: INFORMATION

Checked: MG

Drawn: CCN

Date: 09/03/2008

Scale: 1:1500@A2

Drawing Ref:

Job No: ABD8057 Dwg No: 001

Rev: B

Architects Engineers Surveyors  
 Landscape Architects Services Consultants

A detailed street map of a residential area in London, showing streets like Burnt Tree, Park, and Burnt Tree. The map includes a large, irregularly shaped area in the center, possibly a park or undeveloped land, and a river or canal running along the top and right edges. The map is oriented with North at the top.

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Revisión	Fecha	Asesorante	Firma	Creador
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**Client:** Mintoosh Transport Limited

Project: Corporate Feeding Site

Title: Proposed Site Boundary &amp; Access Plan

Status: INFORMATION Checked:  
Drawn: TU Date: 4/6/2000 Scale: 1/4"=1'-0"  
Drawing No:

Bill Job No. **AB08057** Dwg No. **003** Rev. \_\_\_\_\_

Architects      Engineers      Surveyors  
Landscape Architects      Services Consultants



