

**PLANNING
COMMITTEE**

8th November 2023

Planning Application 23/00677/FUL

Change of use of existing building from B2 (General Industrial) to a flexible mixed use comprising E(g) (offices, research and development, light industrial uses), B2 and B8 (storage); the erection of 55 containers for B8 (storage) use and associated parking. All retrospective

Widney House, Bromsgrove Road, Redditch, B97 4SP

**Applicant: Jonathan and David Wharrad
Ward: Central Ward**

(see additional papers for site plan)

The case officer of this application is Steven Edden, Principal Planning Officer (DM), who can be contacted on Tel: 01527 548474 Email: steve.edden@bromsgroveandredditch.gov.uk for more information.

Site Description

The application relates to an industrial site accessed from a laneway to the north of Bromsgrove Road. The site measures, at its widest point, approximately 60m with a depth of 84m.

The main 'Widney House' building is positioned to the immediate north of rear gardens serving numbers 118 to 126 Bromsgrove Road. Bisecting the building and those rear gardens is Public Right of Way (PROW) RD-533. Rear gardens serving these properties range from approximately 17 to 30 metres (at number 118). The building has a floorspace of approximately 1,579sqm and is currently divided into 14 industrial units and 4 office suites. The units are currently occupied by a mix of Class E(g), B2 and B8 uses and have been for many years. There are approximately 42 persons employed at the site.

There are 55, mostly blue, storage containers located towards the northern and western perimeters of the site and car parking in the intervening space. These each have an internal floor area of around 33 sqm and measure 2.6m in height. A small number are (double) stacked such that the overall height of the containers (where stacked) rises to 5.2m. The containers are visible within the presentation pack which accompanies the application.

Vehicular access to the site is located between Nos. 126 and 128. The immediate area is residential in character comprising inter-war dwellings with playing fields located further north. Aerial photography and the design of the building (the brickwork and fibre cement roof) indicate that the building has existed on the site since at least 1948. It is understood that the building was formerly used as a laundry until the 1960's after which it has been used for a variety of employment uses.

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Proposal Description

A retrospective application is sought for change of use of the existing building from B2 (General Industrial) to a flexible mixed use comprising Class E(g) (offices, research and development, light industrial uses), B2 and B8 (storage) together with the erection of 55 containers for B8 (storage) use and associated parking.

It should be noted that description of the development has been amended from: *55 start-up business incubator units (B8 use)*, to that of *55 containers for B8 (storage use)*. Whilst the container units were always to be used for storage use only, your officers considered the use of the words 'business incubator units' to be ambiguous, implying the potential for trades of businesses to be carried out within the units. It has been clarified that the units are, and would continue to be used for Class B8 (storage) use only.

Relevant Policies

Borough of Redditch Local Plan No. 4

Policy 1: Presumption in Favour of Sustainable Development
Policy 2: Settlement Hierarchy
Policy 5: Effective and Efficient use of Land
Policy 19: Sustainable travel and Accessibility
Policy 20: Transport Requirements for New Development
Policy 25; Development outside Primarily Employment Areas
Policy 39: Built Environment
Policy 40: High Quality Design and Safer Communities

Others

National Planning Policy Framework (2023)

Relevant Planning History

22/01466/CPE	Certificate of Lawful Use (Existing): Mixed flexible use across the whole site (Use Classes E(g), B2, B8)	Refused	08.03.2023
21/00801/ADV	2 No. Replacement Signs	Advert consent granted	04.08.2021
2000/014/FUL	Erection of Garage and Hardstanding for Car Valeting	Granted	22.02.2000

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1997/146/FUL	Erection Of Metal Framed Corrugated Metal Clad Storage Building	Granted	11.06.1997
1994/286/FUL	Change of use to house and office removals business	Granted	20.09.1994
1989/770/FUL	Extension of Factory Unit	Granted	16.02.1990
1986/177/FUL	Extensions to building	Granted	19.06.1986
1984/511/FUL	Extension to form toolroom	Granted	09.01.1985
1982/421/FUL	Trade Counter and extensions	Granted	09.02.1983
1982/100/FUL	Division of existing factory unit into smaller light industrial units	Granted	07.05.1982

Consultations

Worcestershire County Highway Authority

Comments summarised as follows:

The Highway Authority is of the opinion it is reasonable to consider the application in two parts - (i) the building and (ii) the storage units.

In terms of the building, the Highway Authority is of the opinion the site building has been operating as a business/industrial estate for many years and is, therefore, well established. It is also clear that a number of commercial businesses operate within the site and have been there for some time. The change of use of the existing industrial building would not result in a material increase in traffic levels and no objections are raised to this element.

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Turning to the storage units, images from 2017 show that some containers are present on the site and an advertising sign offering self-storage facilities is present at the site entrance. Whilst the Highway Authority cannot establish how many containers were installed in 2017, it is clear that the self-storage business has now been operating for approximately six years.

Self-storage businesses are increasing in popularity and the Highway Authority has been consulted on similar applications in the recent past. Such facilities tend to generate traffic that is spread throughout the day, often seven days a week. Traffic levels tend to be relatively low during the weekday AM and PM peak periods. For this reason, operation of self-storage facilities tend not to have any significant detrimental impact on the operational capacity of the local highway network. As long as an acceptable vehicular access is provided, there tends to be no significant highway safety concern.

The Highway Authority has no objection to the principle of the storage units. The fact that they have been operating for a number of years means that associated traffic is already on the local highway network.

Issues associated with matters such as hours of operation and noise are matters for the Local Planning Authority to consider and are not directly related to highway matters. Whilst the Highway Authority acknowledges that some residents may experience some disruption or inconvenience from the site operations, these are not matters that could justify a recommendation of refusal on highway grounds.

The existing vehicular and pedestrian access is well established. There is a vehicular footway crossing formed from Bromsgrove Road and visibility splays are adequate for the access.

Whilst the access lane carriageway is approximately 6.0m wide, part of it is now marked as parking bays for five vehicles. Whilst this does restrict the operational carriageway to 4.0m, which is rather narrow to accommodate two-way flow. There is however, sufficient space for a vehicle entering the site to wait at the mouth of the access to allow another vehicle to exit the site.

The submitted site plan also shows parking for 52 cars with two allocated for disabled users. The Planning Statement advises parking requirements, set out the WCC parking guidance document, have been met and, indeed, exceeded. Standards require 41 spaces but 52 are provided. The Planning Statement notes the site is accessible by walking, cycling and bus serves, such that not all staff need arrive by car. In addition, customers using the storage units are only allowed to park briefly to load or unload items and are not allowed to park on-site all day. As a commercial operation it is noted that the Streetscape Design Guide comments that users of non-residential proposals may be best able to identify the operational parking needs at their site. Overall, no objections are raised to car parking provision having regard to the land use class and the floor area taken up by development.

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The Planning Statement advises cycle parking is provided within the building. Whilst this would be suitable for staff, no details are provided on the nature of the cycle parking, in terms of its location within the building, capacity and operation. The Highway Authority consider it reasonable to request more information, but this can be covered by a suitable condition if planning consent is subsequently granted. In addition, the Highway Authority considers it reasonable that some external cycle parking, for use by customers and visitors, should be provided. Again, this can be covered by condition.

The Planning Statement advises that the site layout is restricted such that large HGVs cannot enter and exit the site. The Highway Authority is aware of instances of vehicles stopping on Bromsgrove Road to load and unload. Whilst it is acknowledged that this will cause disruption and delay to general traffic and inconvenience to some residents, it is the case that there is no current Traffic Regulation Order applicable to this section of Bromsgrove Road that prohibits vehicles from stopping to undertake loading activities. Given such activity is usually short-term in nature, the Highway Authority cannot recommend refusal of the application for such a reason.

Based on the analysis of the information submitted, the Highway Authority concludes that there would be no adverse highway consequences in terms of paragraph 111 of the NPPF and, therefore, there are no justifiable grounds on which an objection could be maintained.

North Worcestershire Water Management

Comments summarised as follows:

The proposed development site is situated in the catchment of the Batchley Brook & Hewell Stream. The site falls within flood zone 1 and it is not considered that there is any significant fluvial flood risk to the site.

Based on the available information there is no reason to withhold approval of this application on flood risk grounds and I do not deem it necessary to recommend attaching a drainage condition.

Worcestershire Regulatory Services- Noise

Comments summarised as follows:

The application site is an established industrial / commercial area. I have examined the noise data within the noise assessment and do not raise any objections to its findings.

Although the operating times are generally reasonable, the storage use should not begin operations until 7.00am having regard to impacts upon residential amenity. The 'building' operating hours as stated are considered to be acceptable. The container (storage use) hours of operation should be restricted to 07:00 till 23:00 hrs Monday to Friday and 07:00 till 17:30 hrs on Saturday and 08:00 till 17:30 on Sunday.

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Subject to this, I have no objection to the application in terms of noise disturbance and I do not consider that noise from site activities during these opening hours would adversely impact the nearest noise sensitive receptors

Worcestershire County Council Public Rights of Way (PROW)

Comments summarised as follows:

Public Footpath RD-533 is coincident with vehicular access to the site and runs immediately adjacent to the southern edge of the red planning boundary. There should be no detrimental effect on the public right of way providing the developer observes the following general obligations regarding the PROW, namely that:

- The Public safety of those using the right of way must be ensured at all times.
- There should be no disturbance of the surface of the PROW without written consent.
- There must be no diminution in the width of the PROW rights of way
- Building materials must not be stored on the PROW
- Vehicle movements and parking are to be arranged so as not to unreasonably interfere with the public's use of the rights of way.
- No additional barriers can be placed across the right of way. No stile, gate, fence or other structure should be created on, or across, a public right of way without written consent of the Highway Authority.

Public Consultation Response

58 separate occupiers have been notified in writing on the application. A public notice was displayed at the site and a press notice advertising the application was published in the Redditch Standard on 30th June 2023. The publicity period expired on 17th July 2023. 6 letters have been received objecting to the application for the following summarised reasons:

- Noise from the site has a significant detrimental impact on residential amenity including mental health
- Nuisance is caused at all hours resulting in sleep disturbance
- Associated noise from vehicles entering and existing the site is a significant problem to residents
- Unauthorised change of use of rear garden associated with 128 Bromsgrove Road without planning permission
- Highway safety is already being prejudiced and will continue to be if planning permission is granted
- Drainage and flooding concerns raised
- The blue containers are visible from Bromsgrove Road harming the character of the area

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- Vehicles are being unloaded on Bromsgrove Road blocking in residents and preventing access to private drives
- The noise survey submitted is not a true reflection / representation of noise generated from activities associated with the site
- We have observed people carrying out work on a Sunday afternoon which is unacceptable
- The site should have clear, restricted operating hours
- Sheer volume of traffic associated with the various uses is unacceptable
- Insufficient parking on site to cater for the proposed uses
- Currently, Widney Storage is operating on a 24 / 7 basis as indicated on the signage- this is unacceptable.
- Light pollution from car and van headlights late at night
- Health and safety breaches have occurred regarding the removal of asbestos
- This is not an appropriate location for an Industrial site
- There have been occasions where the public right of way has been blocked by vehicles
- Noise and light pollution are known to affect wildlife, particularly bats

Other matters which are not material planning considerations have been raised but are not reported here as they cannot be considered in the determination of this application.

Representations received above represent a summary and members are reminded that comments in full are available to view of the Councils public access system.

Background

In 2022, an application was made for a Certificate of Lawfulness (Existing) use for mixed flexible use across the whole site as edged red on the site plan submitted with the current application. The reference number for the Certificate application was 22/01466/CPE.

The lawful development certificate sought lawfulness for Use Classes E(g), B2, B8 of the Town and Country Planning (Use Classes) Order. The Certificate application (commonly referred to as a CLEUD) was refused for the following reasons:

- The application did not conclusively demonstrate that the flexible mixed use applied for was both active and continuous within all of the units of Widney House throughout the 10 year relevant period for lawfulness.
- The operational area of Widney House had been extended to incorporate the rear garden of No. 128 Bromsgrove Road resulting in a material change in the use of that land within the relevant period (2012 - 2022) which could not be established as lawful.
- The occupation of the land by storage containers operated by Widney Storage Limited amounted to a physically and functionally independent B8 storage use.

Application 22/01466/CPE as set out above was accompanied by two Sworn Affidavits from Jonathan and David Wharrad (who are the applicants for the current application) which stated that the family have owned and operated Widney House since 1985.

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The planning history indicates that there was a single factory building on the site prior to 1982 when planning permission was granted for the division of the existing factory unit into smaller individual units for light industry (1982/100/FUL).

The applicant believes that the building existed on the site since at least 1948 and it was used as a laundry until the 1960s and after this for a variety of employment uses. Historical map records do not contradict these assertions.

In 2008, the neighbouring property (No. 128, Bromsgrove Road) was purchased by the applicants family and added part of the rear garden of this property to the Widney House site. Whilst this may have occurred in 2008, there is no evidence in respect of aerial photography that the use of this land for the laying of hardstanding or the storage of containers had occurred by 2013, a key date in the consideration of application 22/01466/CPE. Imagery shows the presence of the garden and mature boundary treatment separating it from the curtilage of Widney House in 2013. It is evident that hardstanding had been laid and vehicles parked in that area by 2016 and at that time, a number of blue storage containers had been sited there. Later aerial photography shows increasing numbers of storage containers occupying most of the length of the northern and western boundaries of the site.

Assessment of Proposal

Introduction

The Widney Works building is an established commercial operation with approximately 42 persons employed at the site. Paragraph 81 of the NPPF comments that “Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development”.

The NPPF at Paragraph 81 makes clear that economic growth is a priority and that businesses should be supported. The applicant comments that by granting permission, the proposals will support existing and established local businesses. The applicant comments that the site provides local employment and start-up space to enable small local businesses to develop and grow. They comment that 80% of the current tenants at the site are small businesses and local trades people using their units to support a growing business operation.

The applicant comments that the application will help to achieve Redditch’s vision of a successful and vibrant area with good job opportunities and will help to meet Local Plan Objective 10 which is to have a strong, attractive, diverse and enterprising economic base.

Paragraph 130 of the NPPF comments that proposals should ensure a high standard of amenity for existing and future users.

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As set out by WCC Highways, the site itself has two distinct elements, the Widney works building and land within the curtilage of the site which is being used for the storage of containers by a separate business: www.widneystorage.com.

Use of Widney Works Building

In terms of the building, it is clear that the building has been operating as a commercial business for many years and is, therefore, well established. Notably, the existing factory obtained planning permission for subdivision into smaller light industrial units under reference 1982/100/FUL which effectively grants permission under use E(g iii). There are a number of Class B2 uses operating from the site which again, have been operating for a significant period of time and possibly over the 10 year period needed to gain immunity from enforcement action.

Worcestershire CC Highways raise no objection to the use of the main building for B2, B8 and Class E(g) uses commenting that there are not considered to be any legitimate reasons to refuse planning permission on highway safety grounds.

In respect of traffic movements to and from the building, the applicant asserts that traffic to the site has not materially increased and that regardless of the outcome of the current application, vehicles will continue to deliver products to tenants due to the fact that the site has permission for industrial use.

In terms of noise considerations, I have noted that the Governments Planning Practice Guidance at Paragraph 017 Reference ID: 30-017-20190722 comments that:

“...local authorities will consider a number of relevant factors, including the noise level, its duration, how often it occurs, the time of day or night that it occurs and the ‘character of the locality’. The factors influencing the ‘character of the locality’ may include long-established sources of noise in the vicinity – for example, church bells, industrial premises, music venues, public houses or airfields, and whether they are constant or intermittent.”

In this case there are considered to be three potential sources of noise – traffic, doors opening and closing and industrial tenants activities.

The applicant has suggested operating hours for the building at 06:30 to 18:30 hrs Monday to Friday and from 07:30 to 17:30 hrs on Saturdays with no working on Sunday. Tenants would be policed on site using the existing electronic gate system which can restrict access to certain times of the day. The applicant comments that the relatively recently installed (sliding) electronic gate was installed to offer better security and is silent in comparison to the previous gate which was secured by chains. The applicant comments that the electronic gate reduces noise because vehicles do not wait at the gate and drivers do not have to get out of their vehicle to open and close the gate, with the associated opening and closing of vehicle doors as used to be the case.

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Worcestershire Regulatory Services have carefully considered the proposed operating hours and consider these to be acceptable. A planning condition to this effect being applied to any decision notice granting permission would enable the Planning department to take action against the developer for failure to comply with such a condition through appropriate enforcement action.

Storage Containers

Objections have been received from 6 separate residential addresses following notification of the application by writing to numbers 108 to 164 Bromsgrove Road (evens) and 145 to 203 (odds) Bromsgrove Road. Objections primarily, but not wholly relate to the more recent operations associated with the business Widney Storage whereby customers can rent the blue coloured steel containers for storage purposes.

Storage units appeared on the site from 2016 and imagery from 2017 show that some containers were present on the site from that period. Further, an advertising sign offering self-storage facilities is present at the site entrance from that time. The use of the land for self-storage use has not however existed for the required 10 year continuous period and for these reasons, the Certificate of Lawfulness of Existing use or Development (CLEUD) application failed.

To clarify, there are currently 46 ground level containers at the site, 9 of which are stacked. The total number of containers at the site are 55 and permission is sought to retain and continue the (storage use) of those 55 containers. The applicant is not seeking to site any further containers on the site.

Your Officers would agree with the WCC Highways comments with respect to the typical use of such containers, that is, that such facilities tend to generate traffic that is spread throughout the day and throughout the week. Traffic levels tend to be relatively low during the weekday peak periods and for this reason, the operation of self-storage facilities tend not to have any significant detrimental impact on the operational capacity of the local highway network so long as an acceptable vehicular access is provided. WCC Highways have confirmed that the existing vehicular access is fit for purpose and raise no highway safety concerns with respect to the continued operation of the storage unit facility.

Within the objections received, concerns have been raised regarding the adequacy of parking for staff and persons using the storage units. However, WCC do not share these concerns. Your Officers, who have carried out visits to the site at different times of the day have had no difficulty in finding a parking space within the site.

It cannot be denied that there have been instances of large HGV's stopping on Bromsgrove Road to unload and whilst it is acknowledged that this will cause disruption and delay to general traffic and inconvenience to some residents, there are no Traffic Regulation Orders applicable to this section of Bromsgrove Road that prohibits vehicles from stopping to undertake unloading activities. Your Officers would agree that such

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activity is usually short-term in nature and would not justify the refusal of planning permission on highway safety or amenity grounds.

The operator, www.widneystorage.com currently offer access to the public on a 24/7 basis which has resulted in (understandable) objections from neighbouring residents principally from noise and disturbance from vehicle lights either late at night or early in the morning. As set out above, the nature of self-storage uses is such that traffic flow and use is spread throughout the day rather than at peak periods. The applicant is seeking consent to restrict operating hours for the use of the containers to between the following hours:

06:30 to 23:30 hrs Monday to Friday and 06:30 to 17:30 hrs Saturday and Sunday

Members will note that WRS that recommending that operating hours are restricted further to between:

07:00 to 23:00 hrs Monday to Friday and 07:00 to 17:30 hrs Saturday and 08:00 till 17:30 on Sunday

Subject to such a condition, WRS consider that impacts arising from the use would be acceptable.

Such a condition would meet the NPPF, Paragraph 56 tests for conditions, being necessary, relevant to the development in question, precise, reasonable and enforceable. A condition of this nature would clearly prevent vehicles from entering the site prior to 7:00 am, and after 11pm which according to objections received has been happening up until now. The condition would be considered to achieve the aims of limiting nuisance caused by noise and also from light pollution cause by vehicle headlamps.

Members will note from the images within the presentation pack that some of the containers, principally those sited alongside the shared boundary between 128 and 130 Bromsgrove Road are visible from the access point. Whilst they are visible, it should also be noted that the nearest container is set back some 65 metres from Bromsgrove Road (to the south). The vast majority of the containers are not doubled stacked and as such, overall, the containers are less than 3 metres in height. The containers are well screened by an established hedgerow and trees to the north-western boundary limiting views into the site from the west. The majority of the containers are screened by the existing factory building. As such, your officers do not consider that the appearance of the site warrants a refusal of planning permission.

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Other matters

Drainage concerns have been raised and North Worcestershire Water Management as the Lead Local Flood Authority have been consulted. No objections have been raised with NWWM commenting that the site falls within flood zone 1 and that there is no significant surface water flooding implications associated with the site. They have concluded that there is no reason to withhold approval of this application on flood risk grounds.

Matters concerning the alleged inappropriate removal of asbestos in the past fall under Environmental rather than planning legislation and in the event of a public right of way being blocked, this would need to be reported to the WCC Public Rights of Way department who would take appropriate action under their own legislation.

Whilst it is appreciated that noise and light pollution can have a detrimental impact upon wildlife, it must also be noted that the site has operated as a factory with associated hardstanding for many decades. Restricting hours of operation in the manner suggested by your officers would mitigate environmental harm caused by noise and light pollution.

Planning Balance and Conclusions

Your officers would agree with the applicants' assertions that approval of the application would support existing and established local businesses and would help to meet Local Plan Objective 10 which is to have a strong, attractive, diverse and enterprising economic base. Local and national policies also require that existing residential amenities are not materially harmed.

Worcestershire Regulatory Services (WRS) as the organisation whose responsibility it is to deal with matters of Environmental Health, are raising no objections to the application subject to the imposition of conditions to restrict operating hours. Subject to the imposition of such conditions and also a condition limiting the number of containers to be stationed at the site to 55, your officers do not consider that a refusal of planning permission on grounds of noise disturbance could be justified, or for that matter, be defended at any planning appeal should the application be refused.

Restricting the operation of the containers in the manner suggested from their (current) unauthorised 24 hour operation would offer an opportunity to better control the future use of a site which has significant history.

Granting planning permission would not preclude WRS from taking action on matters of noise disturbance under the Environmental Protection Act 1990 if a statutory nuisance was deemed to exist.

Subject to the conditions as listed below, a favourable recommendation can be made.

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RECOMMENDATION:

That having regard to the development plan and to all other material considerations, planning permission be **GRANTED** subject to the following conditions:

Conditions:

- 1) The development hereby approved shall be carried out in accordance with the following plans and drawings:

Site location Plan scale 1:1250

Site Layout Plan, Drawing P01 - C2223-26 - A scale 1:500

Reason: To provide certainty to the extent of the development hereby approved in the interests of proper planning.

- 2) The site shall be in operation only between the following hours:

Widney Works / Main Building

06:30 till 18:30 hrs Monday to Friday and 07:30 till 17:30 Saturday with no working on Sundays

Use of storage containers

07:00 till 23:00 hrs Monday to Friday and 07:00 till 17:30 hrs on Saturday and 08:00 till 17:30 on Sunday

Reason: To define the consent and in the interests of residential amenity

- 3) A maximum of 55 storage containers are permitted to be located within the site as edged red submitted with this application

Reason: To define the consent and in the interests of residential amenity

- 4) The storage containers shall be positioned in the location as shown on Drawing P01 - C2223-26 – A and shall be used for storage purposes only: Class B8 under the Town and Country Planning (Use Classes) Order 1987 (as amended).

Reason: To define the consent and in the interests of residential amenity

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- 5) Within 3 months from the date of the granting of this consent, sheltered and secure cycle parking details for staff and external cycle parking for visitors/customers to comply with the Council's adopted cycle parking standards shall be submitted and approved in writing by the Local Planning Authority. The approved details shall be implemented on site within 6 months from the date of this consent and shall be kept available for the parking of bicycles only.

Reason: To comply with the Council's parking standards.

Informatives:

Public Right of Way information items:

- The Public safety of those using the right of way must be ensured at all times.
- There should be no disturbance of the surface of the PROW without written consent.
- There must be no diminution in the width of the PROW rights of way
- Building materials must not be stored on the PROW
- Vehicle movements and parking are to be arranged so as not to unreasonably interfere with the public's use of the rights of way.
- No additional barriers can be placed across the right of way. No stile, gate, fence or other structure should be created on, or across, a public right of way without written consent of the Highway Authority.

Procedural matters

This application is reported to Planning Committee for determination because the application is for major development and as such the application falls outside the scheme of delegation to Officers.