

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan Ref. Expiry Date
Phoenix Life Ltd And Pearl Group Management Services	Outline approval for business park with associated service roads, landscaping and parking (Extension of time of application 09/0136)	EMP	B/2012/0435 21.08.12

‘A’

RECOMMENDATION: That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the planning application following:

- (i) the receipt of a suitable and satisfactory legal mechanism in relation to the provision of a cycle access improvement measures.

MINDED TO APPROVE

Consultations

WH Wythall PC	Consulted 28.05.2012. Response received: 11.06.2012. No objection.
SP	Consulted 28.05.2012. Response received: 12.07.2012. No objection.
WRS Contaminated Land	Consulted 28.05.2012. No response received.
Tree Officer	Consulted 28.05.2012. Response received: 18.06.2012. No objection subject to conditions.
EDO	Consulted: 28.05.2012. No response received.
WWT	Consulted: 28.05.2012. No response received.
WCC PROW	Consulted: 28.05.2012. No response received.
Ramblers Association	Consulted: 28.05.2012. Response received: 12.06.2012. No objection.
National Planning Casework Unit	Consulted: 28.05.2012. No response received.
Publicity	Consulted 08.08.2012. No response received.
	Neighbour notification: 5 letters sent 13.07.2012, Expired 03.08.2012. Site notice posted 20.06.2012, Expired 11.07.2012. Press notice published 15.06.2012; Expired 06.07.2012.

No responses received.

The site and its surroundings

The application site covers a total area of 11.8 hectares and forms part of the Wythall Green Business Park (formerly known as Brittanic Business Park), off Middle Lane, Wythall. A proportion of the site has been developed and is occupied, with well planned and high quality existing landscaping and a man made stream. The landscaping acts a buffer between the headquarters building and cricket pitch and the remaining plots to the south of the site. The central space (existing cricket pitch) also serves to soften the appearance of the headquarters building from the footpath running along the western boundary. The land is bounded by Middle Lane to the east, by the Birmingham Museum of Transport, St Mary's Caravan Park, and the Caravan Club site to the south, and open farm land to the north and west. The site is located in a recognised employment zone.

Proposal

Members should note that this is an Extension of Time application for planning permission B/2009/0136 which was an outline application for the development of a business park, service roads, landscaping and parking. B/2009/0156 is a renewal of outline consent B/2006/0146 approved in April 2006. This was in turn a renewal of B/2003/0229, which also renewed the original approved outline consent B/1998/0897.

The proposal considered under B/2009/0136 was an *outline* application with all matters reserved apart from access. Therefore the plans accompanying this application the application are indicative only.

The application proposes the development of 22,495 square metres of business floorspace, with a total of 729 associated car-parking spaces. The proposed floorspace will be arranged across 8 new buildings as follows:

Buildings 1-6

To be situated to the south of existing Pearl headquarters on the opposite side of the recreation ground in a circular arrangement. Buildings 1-6 will each be 4 storeys in height with a gross external floor area of 3,163 square metres. Buildings 1-6 will have a total of 528 associated car parking spaces. This group is arranged in two groups of three forming a semi circle echoing the line of the headquarters building. The eastern part of the group steps back to align with the curved façade of the headquarters building. The height of these six buildings is 18.8 metres ensuring that the headquarters building remains dominant at a height of 20.86 metres.

Building 7

To be situated adjacent to the main site entrance off Wythall Green way, Building 7 will be 3 storeys in height with a gross external floor area of 3,617 square metres and will have 184 associated car parking spaces.

Building 8

To be situated adjacent to the north of the existing pavilion, Building 8 will be 3 storeys in height with a gross external floor area of 1,900 square metres and will have 17 associated car parking spaces.

The entire has already been landscaped and provides a very attractive working environment with water features and a recreation ground.

Relevant Policies

WMSS	QE1, QE2, QE3, QE6, PA1, PA14, UR4, T2, T3
WCSP	SD.2, SD.3, SD.4, SD.6, SD.7, CTC.1, D19, D20, D23, D.25, D.26
BDLP	DS4, DS12, DS13, E4, E9, TR1, TR11, ES3, ES4, ES7, WYT4
Draft	CP11, CP12
CS2	
NPPF	Paragraphs 18 – 22, 29, 30.

Relevant Planning History

There is a long history of planning applications on this site, many of which relate to the former use of the site as a car transporter depot for Autocar and then for Lada/Proton cars.

Wythall Green Business Park (formerly Brittanic Business Park) was granted outline planning permission in November 1991 under application B19091, for the redevelopment of the entire 17 hectare site (comprising 65,031 square metres of B1 business space). Reserved Matters relating to road layout and landscaping were approved in April 1998 under application B/1993/0089. Reserved Matters approval for the development of 23,495 square metres of the permitted 65,031 square metres of Class B1 floorspace was granted in November 1993 under application B/1993/0649 and the landscaping, surface water drainage and engineering works were granted in May 1993 under application B/1993/0292. B/1993/0649 was implemented and comprises the existing business park.

There have also been two permissions related to the sports facilities on this site – B/1995/0224 was granted in May 1995 for the erection of a sports pavilion, creche and computer suite, and B/1996/0510 was granted in August 1996 for a tennis court and service track. There have also been approvals for various signs and camera towers for security purposes.

As indicated above, to date the following outline applications have been approved for the development of 22,600 square metres of Class B1 accommodation within the residual land on the site pursuant to the 1991 outline permission:

B/1998/0987: Outline approval for business park including roads, parking and landscaping
Approved 16 May 2003

B/2003/0229 Renewal of outline consent B/1998/0987
Approved 11 December 2003

B/2006/0146 Renewal of outline consent B/2003/0229
Approved 5 April 2006

B/2009/0136 Renewal of outline consent B/2006/0146 Approved 22.05.2009.

Assessment

The Town and Country Planning (General Development Procedure) (Amendment No. 3) Order 2009 was introduced on 1st October 2009 in order to provide greater flexibility in terms of the implementation of planning permissions. One of the amendments was the provision to allow the time limit for unimplemented consents to be extended through an application. There does not appear to be an established approach towards the assessment of such application so I will refer to the Department for Communities and Local Government publication (DCLG) publication: Greater Flexibility for Planning Permissions: Guidance. The outcome of a successful application will be consent with a new time limit attached. Conditions can be varied if there has been a significant change in policy since the original application. I note that paragraph 13 makes it clear that additional information other than that on the application form is usually not required except for applications where an EIA was required and may need updating.

The requirements for the eligibility of a planning permission under the above provisions is that the permission cannot have been implemented and would have been extant on 01st October 2009 when the provisions came into force. The application is eligible.

Policy Changes – National Planning Policy Framework

Members should note that the principle of employment-related development has been established through the granting of outline application B/1998/0987. Members should note that this report will not seek to reappraise the entire scheme but will focus on the policy changes which have occurred since the application for renewal of planning permission was considered under B/2009/0136. The most significant of these is the National Planning Policy Framework (NPPF) which came into force on the 27 March 2012, the policies of which apply immediately. National Planning Policy Guidance Notes and Planning Policy Statements cease to exist, including all relevant circulars and guidance (a list of which is contained in Annexe 3 to the NPPF).

Planning applications must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. The Development Plan currently consists of Local and Regional planning policy documents. The NPPF is also a significant

material consideration in planning decisions. The Development Plan will continue to include all the saved Policies of the Bromsgrove District Local Plan. Due weight will be given to these policies according to their *degree of consistency* with the framework set out in the NPPF (the closer the Policies in the Plan to the policies in the Framework, the greater the weight that may be given). Weight may be given to emerging policies in some circumstances.

In terms of the consideration of the previous planning application (B/2009/0136), policy E9 of the Bromsgrove District Local Plan (BDLP) was cited in addition to policies TR11 of the BDLP and T1 of the Worcestershire County Structure Plan (WCSP) were referred to and the proposal accorded with these policies. The site is allocated for the purposes of employment development on the BDLP proposals map (Referred to as WYT4). The development plan policies originally cited are still extant and are consistent with the NPPF and therefore the proposal is judged to be acceptable when considered against them at this time.

Members should note that there is no objection from WH in respect of the proposal and the application being extended (B/2009/0136) was accompanied by a S106 Agreement for the provision of a footway/cycleway between the site and the Alcester Road Traffic Island including the provision of a controlled pedestrian crossing and cyclist crossing point on the A435 at a location to be agreed with the County Council prior to construction. Whilst there was a time limit for the spending of monies linked to the agreement on the original outline approval attached to B/1998/0987, the applicant (Phoenix Life Limited) the County and District Councils have agreed a Deed of Variation under the last renewal (B/2009/0136) to the effect that the County Council shall continue to have the ability to spend the contribution for the intended purpose consistently with the terms of any renewed planning permission.

Members should note the comments of Worcestershire County Council Public Rights of Way and whilst the Wythall footpath (No 586) and part of the North Worcestershire Path are close to the site, these rights of way will remain and their setting will be altered but the principle of development on the site has been accepted in previous applications.

In terms of ecology, no additional information has been provided for the extension of time application as the DCLG Guidance referred to above states that additional information is not required other than for applications which were accompanied by an Environmental Impact Assessment. Since the development has not been implemented, I am satisfied that ecological mitigation measures can be achieved through a conditions requiring an integrated wildlife management plan and monitoring programme.

Conclusion

The securing of economic growth is a key part of the NPPF and is outlined in paragraphs 18 -22 and the objective of the Government is to ensure that the planning system does everything it can to support sustainable growth and furthermore that policies should be flexible enough to take account of changing economic circumstances. In this context, it is recommended that the period for implementation of the planning permission is extended. The records indicate that no application to discharge conditions has been received or have any conditions been approved for discharge. Therefore the conditions attached to

B/2009/0136 will be applied. There are no other significant policy changes which would necessitate additional conditions.

RECOMMENDATION: That **DELEGATED POWERS** be granted to the Head of Planning and Regeneration to determine the planning application following:

- (i) the receipt of a suitable and satisfactory legal mechanism in relation to the provision of a cycle access improvement measures.

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Conditions

1. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the Reserved Matters to be approved.
2. Before any development is commenced, approval shall be obtained from the Local Planning Authority in writing of the details of the appearance, layout, scale and landscaping proposals (hereinafter called "the Reserved Matters") of the site.
3. The application for approval of the Reserved Matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
4. Details of the form, colour and finish of the materials to be used externally on the walls and roofs, including doors and windows, door frames and window frames shall be subject to the approval, in writing, of the Local Planning Authority before any work on the site commences.
5. A landscaping and planting scheme for the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include full details of all existing physical and landscape features on the site including the position, species and spread of all trees and major shrubs clearly distinguishing between those features to be retained and those to be removed and full details of all proposed fencing, screen walls, hedges, floorscape, earth moulding, tree and shrub planting where appropriate. The approved planting plan shall be implemented within 12 months from the date when any of the buildings hereby permitted are first occupied. Any trees/shrubs/hedges removed, dying, being severely damaged or becoming seriously diseased within 5 years of the date of the original planting shall be replaced by plants of similar size and species to those originally planted.
6. All trees including conifers over 90cm in height shall from the time of planting be properly secured to a suitable stake with one or more flexible tree ties. Deciduous trees to be planted as part of the landscaping scheme shall be planted as standard trees (as defined by British Standard BS.3936 part 1 1965).
7. The new trees and/or shrubs and/or hedges shall be protected to prevent them being damaged by grazing and by vermin.
8. The existing trees/hedges/shrubs shall be retained and shall not be felled, lopped or topped, or otherwise removed without the previous written consent of

the Local Planning Authority. Any trees/hedges/shrubs removed without such consent or dying or being severely damaged or becoming seriously diseased shall be replaced with trees/hedges/shrubs of such size and species as may be agreed in writing with the Local Planning Authority.

9. Before any materials are brought on to the site or any development commenced the developer shall erect protective fencing as illustrated by BS 5837:2005 Fig. 2 on a line concurrent with Section 5 of BS 5837:2005 subject to the approval of the Local Planning Authority. The developer shall maintain such fences to the satisfaction of the Local Planning Authority until all development, the subject of this permission, has been completed. The level of the land within the fenced areas shall not be altered without the prior written permission of the Local Planning Authority.
10. The destruction by burning of any materials shall not take place within 10 metres of the furthest extent of the canopy of the trees to be retained on the site or on land adjoining.
11. No materials whatsoever shall be stored, or temporary buildings for use in connection with the construction of the development erected, beneath the canopy of any tree, which is to be retained.
12. No oil storage tank or concrete mixing plant shall be emptied or otherwise allowed to drain on to land beneath the canopy of any trees to be retained.
13. Where trees to be retained are subject to tree surgery, damage by machinery or damage which results in a part of the bark of the tree being cut away, then the resultant wound shall be treated with a fungicidal sealant.
14. Where it is necessary to carry out excavations beneath the canopy of any tree to be retained on the site or on adjoining land, none of the trees roots of a diameter of one inch or more shall be severed. The excavation shall be hand dug and backfilled with good quality topsoil. All works will be in accordance with NJUG 10 + BS5837:2005.
15. The implementation of the mitigation strategies and additional survey work set out in Section 7 and 8 of the Ecological Appraisal (February 2009) shall be undertaken without deviation, unless otherwise agreed in writing by the Local Planning Authority.
16. An integrated wildlife management plan with an appropriate monitoring programme shall be submitted to an approved in writing by the Local Planning Authority
17. The total height of any of the buildings, including any associated plant and machinery, shall not exceed 19 metres.
18. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the larger tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.
19. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from parking areas and

- hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptor.
20. The disposal of storm water shall be by means submitted to and approved in writing by the Local Planning Authority. The approved system shall be operational before building works commence.
 21. The disposal of foul sewage shall be by means submitted to and approved in writing by the Local Planning Authority. No part of the development shall be brought into use until approved drainage and works have been undertaken.
 22. A preliminary risk assessment must be carried out. This study shall take the form of a desk top study and site walkover and shall include the identification of previous site uses, potential contaminants that might reasonably be expected given those uses and any other relevant information. The preliminary risk assessment report shall contain a diagrammatical representation (conceptual model) based on the information above and shall include all potential contaminants, sources and receptors.
 23. A scheme for detailed site investigation and risk assessment must be submitted to and approved in writing by the Local Planning Authority. The scheme must be designed to assess the nature and extent of any contamination and must be led by the findings of the preliminary risk assessment. The investigation and risk assessment scheme must be compiled by competent persons and must be designed in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Contaminated Land, CLR11"
 24. Detailed site investigation and risk assessment must be undertaken and a written report of the findings produced. This report is subject to the written approval of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Contaminated Land, CLR11"
 25. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to identified receptors must be prepared and is subject to the approval of the Local Planning Authority. The remediation scheme must ensure that the site will not qualify as Contaminated Land under Part 2A Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
 26. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority.
 27. Following the completion of the measures identified in the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval of the Local Planning Authority prior to the occupation of any buildings.
 28. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where necessary a remediation scheme must be prepared, these will be subject to the approval of the Local Planning Authority. Following the completion of any measures identified in the approved

remediation scheme a validation report must be prepared, which is subject to the approval in writing of the Local Planning Authority prior to the occupation of any buildings.

Reasons

1. Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990.
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4. In order to secure a well-planned development in accordance with Policy DS13 of the Bromsgrove District Local Plan 2004
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6. In order to protect the trees which form an important part of the amenity of the site in accordance with Policy DS13/C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001
7. In order to secure the satisfactory appearance of the development in accordance with Policy DS13 of the Bromsgrove District Local Plan
8. In order to protect the trees which form an important part of the amenity of the site in accordance with Policy DS13/C17 of the Bromsgrove District Local Plan January 2004 and policies CTC.1 and CTC.5 of the Worcestershire County Structure Plan 2001
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 15. To ensure sufficient mitigation measures to address the presence of protected species on site in accordance with PPS9 and Circular 06/05.
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 17. To ensure sufficient mitigation measures to address the presence of protected species on site in accordance with Policy PPS9 and Circular 06/05.
 18. In the interest of visual amenity in accordance with policy CTC.1 of the Worcestershire County Structure Plan and policy DS13 of the Bromsgrove District Local Plan.
 19. To ensure the development does not cause environmental/ground water pollution in accordance with policies ES3, ES4, ES7 and ES14 of the Bromsgrove District Local Plan
 20. To ensure the development does not cause environmental/ground water pollution in accordance with policies ES3, ES4, ES7 and ES14 of the Bromsgrove District Local Plan
 21. To ensure the provision of adequate storm water drainage in accordance with Policy ES1 of the Bromsgrove District Local Plan 2004
 22. To ensure the provision of adequate foul water drainage in accordance with Policy ES1 of the Bromsgrove District Local Plan 2004
 23. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ES7 of the Bromsgrove District Local Plan.
 24. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ES7 of the Bromsgrove District Local Plan.
 25. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ES7 of the Bromsgrove District Local Plan.
 26. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ES7 of the Bromsgrove District Local Plan.

27. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with Policy ES7 of the Bromsgrove District Local Plan.
28. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with Policy ES7 of the Bromsgrove District Local Plan.
29. To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors [in accordance with Policy ES7 of the Bromsgrove District Local Plan.

Notes

All building work should be carried out outside the birdnesting season (1 March – 31 August inclusive)

The granting of planning consent does not supersede the applicant's responsibilities for biodiversity under the Wildlife and Countryside Act 1981 (as amended), the Countryside and Rights of Way Act 2000, the Natural Environment and Rural Communities Act 2006 and the Badgers Act 1992.

This consent does not absolve the applicant for complying with the relevant law protecting species, including obtaining and complying with the terms and conditions of any licences required, as described in Part IV of Circular 06/2005.

This consent does not permit the erection of any form of advertisement on the site.

The development should conform to Secured by Design Standards (Commercial). Details can be found at www.securedbydesign.com. The applicant is encouraged to contact PC Stan Baker, Crime Risk Manager, West Mercia Constabulary, 17 The Crescent, Bromsgrove, Worcestershire, B60 2DF to discuss this matter further.

Under the terms of the Water Resources Act 1991, an impounding Licence may be required from the Agency for the impounding of any watercourse, ditch or stream (eg. by dam, weir etc) and an Abstraction Licence may be required from the Agency for the abstractions of water from any inland water or underground strata. This is dependent on water resource availability and may not be granted.

Site operators should ensure that there is no possibility of contaminated water entering and polluting surface or underground waters.

This decision has been taken having regard to the policies within the Worcestershire County Structure Plan (WCSP) June 2001 and the Bromsgrove District Local Plan 2004 (BDLP) and the National Planning Policy Framework (NPPF) 2012 as summarised below:

WMSS QE1, QE2, QE3, QE6, PA1, PA14, UR4, T2, T3
WCSP SD.2, SD.3, SD.4, SD.6, SD.7, CTC.1, D19, D20, D23, D.25, D.26
BDLP DS4, DS12, DS13, E4, E9, TR1, TR11, ES3, ES4, ES7, WYT4
Draft CP11, CP12
CS2
NPPF Paragraphs 18 – 22, 29, 30.

It is the Council's view that the proposed development complies with the provisions of the development plan and that, on balance; there are no justifiable reasons to refuse planning permission.

Approved Plans/Documents:

Site Location Plan 1:2500 unreferenced
Site Plan as Proposed 1:100 A101 Rev A
Topographical Survey 1:500 1033-01-a A
View from the East as Proposed NTS A110
View from the South as Proposed NTS A111
Tree Survey Report Cresswell Associates February 2009-05-19
Tree Survey Sheet 1 of 3 1:500 V001 01
Tree Survey Sheet 2 of 3 1:500 V002 01
Tree Survey Sheet 3 of 3 1:500 V003 01
Supporting Planning Statement February 2009
Ecological Appraisal February 2009
Transport Statement February 2009
Flood Risk Assessment February 2009
Existing Drainage Layout Sheet 1 of 2 1:500 8168
Proposed Drainage Strategy Sheet 2 of 2 1:500 8168
Design and Access Statement