

Name of Applicant
Type of Certificate

Proposal

Map/Plan Policy Plan Ref.
Expiry Date

Mr. D. Attwell 'A'	Erection of 5049 sq.m. warehouse to replace former poultry sheds at rear of premises - Oakland International Ltd., Seafield Lane, Portway, B98 9DB	GB	09/0996-JT 15.04.2010
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RECOMMENDATION: that permission be **REFUSED**.

Consultations

WH

Consulted: 04.01.2010. Final response received: 15.02.2010.

Recommends that the permission be refused for the following reasons:-

Following discussions with the planning officer the position on the lawful use of the existing barns for storage, it is not accepted that there is a lawful activity occurring, therefore the evidence provided as the existing position is not appropriate.

The submitted Transport Assessment considers the existing buildings to be lawful and the extra floor area to be insignificant against the existing position and therefore concludes that the development is acceptable. This position is not supported by the Highway Authority. The fact that there is not a lawful certificate confirming the activity that is occurring and there is no separate permission for it, that the development represents a significant increase in gross floor area, and the transport assessment does not reflect this. As the Transport Assessment makes the assumption of the GFA being a small increase against the existing which is not the case, the transport assessment is flawed and does not consider the impact of the development on the road network it is considered that the increased trip generation has not been adequately assessed and mitigated.

The application is considered to have an adverse impact on highway safety and it will have a detrimental impact on the structural condition of Seafield Lane. It is recommended that the application be refused for the reasons set out above.

Further comments are awaited assuming that lawful use can be demonstrated.

Economic
Development

Consulted: 04.01.2010. Final response received: 04.01.2010.

Economic Development supports the application. Oakland International is one of the leading companies and employers in the district and constantly needs to upgrade its facilities to remain competitive in its area of business.

Engineers /
Drainage

Consulted: 04.01.2010. Final response received: 10.01.2010.

No objections subject to the imposition of a condition in relation to the disposal of storm water and drainage details.

Environmental Health Consulted: 20.01.2010. Comments received: 11.01.2010; 29.01.2010.

No objections subject to a condition stating that the noise from the compressors must not increase the existing background noise level as measured 1 metre from the facade of the nearest residential property.

Commercial Regulation Consulted: 20.01.2010. Final response received: 06.01.2010.

No objections in principle to the application. This is an alteration to premises currently Approved Premises under food safety legislation (Regulation EC 853/2004). In addition the premises and food business will be required to comply with health and safety legislation. The premises will be subject to routine inspection to assess compliance.

Beoley Parish Council Strongly recommends that advice be sought on detailed compliance with this legislation from the Commercial Team at Bromsgrove District Council (telephone number 01527 881434) at the earliest opportunity. Consulted: 04.01.2010. Final response received: 13.01.2010.

No objection as long as conforms with all planning regulations. Concerned that this larger building with more staff will entail additional traffic on this already very busy "country lane".

Advantage West Midlands (AWM) It is noted that the Parish Council has previously reported concerns to the District in relation to HGV movements, both from the Oakland site and other sites in the area. Comments received: 22.03.2010.

AWM is the Regional Development Agency for the West Midlands, with the role of working with partners to promote sustainable economic development. The Corporate Director of Economic Regeneration has commented.

Advises of Oakland International's appearance at the Examination in Public of the West Midlands Regional Spatial Strategy Phase 2 Review in June 2009. Further details of this are given below.

Oakland International performs an important role to the regional and local economy, in employing 150 people and helping to support the wider farming and produce (food and drink) manufacturing sector. The company's business model also helps to cut road miles and carbon emissions.

AWM acknowledges that there is a limited portfolio of land within Bromsgrove capable of meeting the requirements of Oakland International, and hence supports the application to allow the business to be retained in a more efficient operation on its existing site.

Bromsgrove's local economy predominantly provides service sector and high technology jobs, which AWM supports and has helped promote through Bromsgrove Technology Park. There is, however, a need to

provide a balanced portfolio of employment uses and accommodate a number of existing businesses to allow them to prosper. This includes providing local, rural employment opportunities.

This planning application could both assist in consolidating the existing business (and the support it provides to other small and medium sized enterprises) and provide additional employment at the site (with a potential 100 new jobs being created). AWM requests that these factors are taken into consideration in the determination of the application.

Publicity

Site Notice posted 29.01.2009; expired 19.02.2010; further Site Notice posted: 23.03.2010; 13.04.2010.

Press Notice posted: 25.03.2010; expires 15.04.2010.

No objections received.

The site and its surroundings

The application relates to the Oakland International site located on a former farm to the east side of Seafield Lane, a narrow lane without footways. The site is located approximately 650 metres north of the junction of Seafield Lane with the B4101 Beoley Lane, which provides access onto the main A435. The site is located in the designated Green Belt and is surrounded by open countryside.

The buildings on the site are broadly in three categories. Modern buildings to the front of the property (understood to be allowed under B/18923/1990 and B/2001/0039) were built specifically for packing and storage purposes. The building directly to the rear of the frontage buildings is a large former agricultural shed. Beyond this are five further sheds of thin and long shape, with a combined footprint of approximately 4,709 sq.m. It is understood these buildings were erected between 1974 and 1977. It is to these buildings that the application relates. At the time of the officer's site visit, these buildings had been converted for warehouse use.

Although the site is a former farm, the present business conducted on the site is not connected with agriculture. According to the applicant's statement, Oakland International has operated a "case consolidation process" for chilled and frozen food products since 1998. The applicant states that the site employs 150 people, the majority of whom live in the local area, and the company is the third fastest growing in its sector in the country. The company currently has over 200 contracts including with a range of major supermarkets and convenience stores, is one of the five main consolidation providers in the UK, and, in spite of extremely tough trading and economic conditions, has a projected turnover for the end of November 2009 of £12 million.

Proposal

The application seeks full planning permission for the replacement of five former poultry sheds with a single building to be used for storage and distribution purposes. The building would have a footprint of 5,049 sq m, and would be 75 metres long and 66 metres wide. The building would be configured with two roofs hipped at both ends, running in an easterly direction. The ridge eaves of the building would be 9.9 metres, rising to a ridge of 10.5 metres.

The building would be of steel frame construction, clad in timber. The roof would be finished with steel panels finished in a pale grey colouring. 10 HGV loading bays would be provided. The buildings would provide a rationalisation and extension of the existing storage and distribution use taking place at the site. The applicant explains that the 'case consolidation' process taking place at the site involves amalgamating different producers' stock on shared pallets with a common destination (e.g. large supermarkets).

The business does not own and operate its own vehicles as collection is made by retailers and other shared user transport providers, which collect the pallets from the site and transport them to Regional Distribution Centres.

The applicant's Planning Statement estimates that the development has the potential to create 100 jobs. The applicant's Managing Director has subsequently put the figure at 150 (see 'letter from applicant's Managing Director' section below).

Relevant Planning History

The site has a long planning application history, with multiple applications relating to poultry farming for laying, battery and rearing houses etc. dating back to the 1960s, 1970s and 1980s. The most relevant more recent applications are as follows:

- B/10987/1983 Extension to grading/packing shed and link for egg conveyor. Approved 18.07.1983.
- B/17745/1989 Erection of extension for farm offices. Approved 10.04.1989.
- B/18923/1990 Erection of replacement/extension to egg packing station and erection of storage building. Approved. 09.04.1990.
- B/1994/0053 Two storey extension to existing offices ancillary to farm business and retrospective change of use of existing areas to office use.
- B/1994/0321 Continued use of building as a shop. Refused: 06.06.1994.
- B/1994/1027 Formation of car park for staff. Refused 11.03.1996. Appeal allowed 21.10.1997.
- B/1998/0468 Retrospective permission for 10 lights which have been installed with orange glow lights mounted on 4 metre tall lamp posts. Refused 14.09.1998.
- B/2000/1029 Steel portal frame building (notification under prior approval procedure for agricultural development). Prior approval required 02.11.2000.
- B/2000/1337 Extension to existing food processing facility and extension to car park (northern). Refused: 09.04.2001.
- B/2001/0039 Hygienic covered extension to cold store within existing Oakland Foods premises (as amended by plans received 12.02.01). Refused 12.03.2001. This development was allowed at appeal in August 2001.
- B/2003/0269 Directional information signs. Advertisement Consent refused 24.04.2003.
- B/2004/0744 Road-side traffic signs. Advertisement Consent refused 03.08.2004.
- B/2008/0121 Erection of a temporary 60m anemometer mast for the purpose of measuring wind speed and direction. Approved 21.05.2008.

Enforcement notices were served on 12.01.2001 (PI/1998/05556) requiring that the following breaches of planning control were remedied:

- change of use of land from a mixed use as a staff car park and agricultural to a use for the parking of goods vehicles and trailers;
- change of use of the land from use as a staff car park to a use for the parking of goods vehicles and trailers;
- the extension of the existing staff car park; and
- the construction of an extension to the existing cold store building in the position shown coloured green on the plan attached to the notice.

Each of these notices was appealed. The appeal relating to the cold store was allowed at the same time as planning permission B/2001/0039.

Relevant Policies

WMSS	QE1, QE2, QE3, QE6, PA6, PA14, PA15.
WCSP	CTC.1, CTC.8, D.16, D.19, D.24, D.29, D.38, D.39, D.43, SD.2, SD.3, SD.4, T.1, T.3, T.4, T.9.
BDLP	C4, C27, C31, C32, DS2, DS8, DS13, E9, ES1, ES2, ES4, TR1, TR8, TR11.
Others	PPS1, PPG2, PPS4, PPS7, PPG13, PPS23, SPG4, Bromsgrove District Employment Land Review - Final Report (June 2009).

Notes

The application was submitted on the basis that it represented a reconfiguration and extension of the existing Class B8 storage and distribution use. However, there is at present dispute about whether the lawful use of these particular buildings has been established for Class B8 purposes (i.e. they have been used continuously for that purpose for a period of 10 years and are therefore immune from enforcement action).

No planning permission has been granted to change the use of these buildings. However, it is understood that agricultural activities at the site were declining from the mid-1990s onward, and had ceased by the time of the Inspector's decision in 2001 (B/2001/0039). The Inspector commented that:

"the current business of Oakland Foods is unconnected with agriculture. The fields are rented out and egg production was declining from 1997 and has now ceased. The business includes storage, packing and distribution, and food processing."

It is noted that these comments date from 2001, which does not demonstrate that the use has continued for 10 years.

The applicant was advised prior to the submission of the application that a certificate of lawfulness to establish the use of the buildings should be sought under section 191 of the Town and Country Planning Act 1990 (as amended) before any application for the improvement of facilities at the site could be considered. The applicant declined to do so.

On being advised of the Council's concern over this issue, in light of the views expressed by WCC Highways (see above), the applicant was offered the opportunity to withdraw the application in order that the question of lawfulness be addressed. However, the applicant expressed concerns over the implications of any delay on the viability of the business and initially requested that the application be reported to the 29th March Planning Committee. The applicant subsequently agreed to delay the application to allow an application for a certificate of lawfulness to be submitted.

An application for a certificate of lawfulness (10/0238) for the storage/distribution use of the buildings was registered by the Council on 16th March 2010, and is currently under consideration by officers. If a decision is made on this application in the interim, the outcome of this application will be reported to the Planning Committee.

For the avoidance of doubt, at the time of writing, the application is therefore to be determined on the basis that 5,049 sq m of new Class B8 storage and distribution floorspace is proposed. However, if in the meantime the storage and distribution use of the existing buildings is proved to be lawful, the application should be judged as proposing a net increase in storage/distribution floorspace of 340 sq m.

Assessment of issues

The main issues in determining the application are:

- 1) the appropriateness of the development in the context of Green Belt policy, and whether any harm to the Green Belt would be caused;
- 2) if harm is caused to the Green Belt, whether any very special circumstances exist to outweigh that harm;
- 3) whether any alternative sites exist in non-Green Belt locations that could accommodate the proposed development; and
- 4) the impact of the proposals on the local highway network.

Harm to the Green Belt

The applicant acknowledges that the proposal does not conform to any of the categories of appropriate development in PPG2: Green Belts, and therefore constitutes 'inappropriate' development within the Green Belt. Policy D.39 of the Worcestershire County Structure Plan states that there will be a presumption against allowing inappropriate development in the Green Belt, reflecting the advice contained in national planning guidance PPG2. Inappropriate development is, by definition, harmful to the Green Belt. Policy D.38 of the Structure Plan and policy DS2 of the Local Plan are in general accordance with PPG2 in resisting development in the Green Belt unless proposals fall within a defined list of appropriate development.

The extent of the harm caused to the Green Belt must therefore be determined. According to paragraph 1.5 of PPG2, the purposes of including land in the Green Belt include checking the unrestricted sprawl of large built-up areas, preventing neighbouring towns from merging into one another, and assisting in safeguarding the countryside from encroachment.

The applicant argues the proposals would not conflict with any of these principles, and that:

"the visual impact of the proposed building will be no greater than the sheds it is to replace which, owing to their original agricultural use, are of functional design which contribute little to the Green Belt. The creation of a more compact and coherent built form resulting in only a minor increase in the building footprint is shown in the submitted drawings, while the use of timber cladding will provide a more recessive appearance than currently exists."

Officers broadly agree with this assessment: the proposed building would have a similar footprint to those being replaced, and, although warehousing of the type proposed would normally have an urbanising impact, the timber cladding proposed would reduce the harm caused. However, the building proposed is significantly taller than the former poultry sheds to be replaced. The ridge height of the building would be comparable to the existing hoppers on the site as well as the larger building immediately to the south of those proposed for demolition.

The applicant contends "that the proposed development will incur minimal harm to the Green Belt". As is explained above, the maximum height of the proposed buildings would be 10.5 metres, sloping away with a shallow pitch to 9.9 metres. The existing buildings are variable in size, but typically have a ridge height of approximately 7.5 metres, with a steeper pitch down to a height of approximately 6 metres at eaves level. It is therefore considered by officers that the increase in height proposed would have an impact greater than 'minimal', and would result in a building of greater bulk and mass than the individual sheds that would be replaced. However, this harm would be mitigated to some extent by the materials proposed and the fact that the overall development footprint would not significantly change.

Consideration of 'very special circumstances'

As the proposals are by definition harmful to the Green Belt, the application should be refused unless very special circumstances exist which outweigh the harm caused. The applicant has put forward several very special circumstances in relation to the application, which are categorised into three themes - economic, environmental and social benefits. These are summarised for the benefit of Members below.

Economic benefits

The applicant contends that, in the event that the application is unsuccessful, the company will have to "take measures to retract the business resulting in the loss of existing contracts, loss in market share and industry confidence ... [which would] eventually translate into the reduction in its profitability and the loss of jobs at a time when unemployment levels are especially high in the District."

The applicant states that the demand for chilled and frozen storage as offered at the application site continues to rise and that projections by the company's Independent Business Advisor indicate that it has the capability to grow to a point where turnover reaches £20 million by 2012 and over 250 people are employed. However, the site is within months of reaching its operational capacity for chilled and frozen goods. The

company has sought to maximise capacity through internal reconfiguration and therefore the scope for any further reconfiguration is restricted by the size and shape of the buildings proposed for demolition.

The applicant notes that the Panel Report on the RSS Phase Two Revision endorses the economic case for the continued expansion of the business and acknowledged Oakland's difficulties in finding a suitable site to which to relocate, stating:

"Having had the issues publicised we trust that AWM [Advantage West Midlands, the Regional Development Agency] and the relevant planning authorities will work together with the company to solve such needs in the context of the RES [the West Midlands Regional Economic Strategy]..."

In summary, the applicant contends that the needs for the business to grow, in order to safeguard its market position and continued growth, amounts to a very special circumstance in assessing the merits of the proposal in the context of Green Belt policy.

Environmental benefits

The applicant states that continued reductions in road miles and carbon emissions will result as food producers continue to utilise the case consolidation process offered by the applicant, in line with the vision for the region to move to a low-carbon economy, including through maximising efficiency in travel and logistics practices. Sustainability and ecological features such as the reed bed which currently exists on the landholding might not be achievable on other sites. The inclusion of a recessive colour scheme and materials will enhance the visual amenity of the site.

Social benefits

The applicant contends that the projected expansion of the workforce employed by the company can only occur if sufficient room is provided for the business to expand. At present a significant proportion of the workforce comes from the local area, making it a key generator of employment for the east of Bromsgrove and Redditch. Assuming existing employment patterns are reflected in future recruitment, a significant proportion of these additional jobs would benefit occupants of the closest settlements of Beoley, Branson's Cross and Holt End in Bromsgrove District. It would be undesirable in terms of staff retention and sustainability to move the business too far from this workforce.

The replacement of a modern, bespoke building in full compliance with current food hygiene legislation will improve the working environment at the site for present and future employees. The applicant also operates a corporate social responsibility policy and is extremely active in the local community, dedicating time and financial resources to sponsoring charitable, sporting and educational links at local and county level. Growth of the business will allow it to continue making such contributions to the community.

Alternative sites

One of the key arguments made by the applicant in favour of the proposal is that no other sites exist within the District that are suitable in scale and/or configuration and that the

proposed development of the existing site is therefore the only realistic option for the applicant to achieve its projected growth in the immediate and longer-term future.

There are two alternatives to the expansion of the existing site: 1) the disaggregation of part of the business to another site; or 2) the relocation of the business to a completely new site.

According to the submitted Planning Statement, the applicant has previously attempted to rent a warehouse of a similar size to that proposed at the Ravensbank Business Park for 'ambient' (i.e non-temperature controlled) storage. However, the parties were unable to agree due to stringent lease requirements, and particularly a stipulation that the profit generated had to be double the level of rent payable.

Premises were subsequently found in a purpose-built warehouse in Alcester, on which the company entered into a five-year lease. However, the applicant contends that running two separate sites has proved 1) costly to the business, 2) problematic, with the need for certain key staff to travel frequently between both sites and security presenting a huge drain on resources (e.g. theft of stock occurred at the Alcester premises in early 2009), and 3) undermining to the efficiency savings which are a key benefit of the case consolidation process. The applicant therefore argues that any further disaggregation between different sites would not be practicable.

The other alternative of moving the entire operation has also been investigated. Site selection is governed by three factors: 1) location close to the geographical optimum for servicing the UK's network of Regional Distribution Centres; 2) proximity to the existing workforce; and 3) the need to meet operational requirements (internal floor area not less than 8,360 sq m (90,000 sq ft), eaves height of 10 m with clear span, land or buildings for future expansion, available or adaptable for chilled stock).

Officers have previously suggested sites at Longbridge (including the Cofton Centre) and Ravensbank Business Park as possible sites. The Cofton Centre, at 7,400 sq m, is the largest undeveloped site identified in the District Employment Land Review. The applicant states that this would barely cater for the company's immediate requirements, and would not offer the space required for ongoing expansion. All other existing, allocated or committed sites in the District have been discounted, mainly on the grounds of insufficient floorspace.

The only other sites capable of accommodating the scale of development needed by the applicant are in the Areas of Development Restraint (ADRs), which, under policy S8, are at present subject to full Green Belt restrictions, unless or until strategic decisions about their release are made. These sites are therefore not presently available.

In summary, due to the specific geographical and operational needs of the applicant, no other identified site within the District appears to be capable of accommodating a wholesale relocation of the business to another site.

Conclusion on Green Belt issues

It has been identified that the proposal represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt. The harm caused would be

limited to a significant extent by the fact the development footprint would not be significantly different to that of the existing buildings, and to a lesser extent by the materials used. However, Members should be aware that the proposed building would have a greater height and mass than the existing low level sheds, which would increase the prominence on the building in comparison to those it is to replace.

The applicant has put forward several very special circumstances, all of which are considered to be valid considerations. Officers place varying degrees of weight upon each of these matters. Officers consider the requirements of the applicant's business to represent a very special circumstance of significant weight. The applicant is one of the leading companies and employers in the District and the need for it to constantly upgrade its facilities to remain competitive is recognised. The proposal is also likely to lead to the creation of in the region of 100 - 150 new jobs, many of which could be filled by local people.

Officers acknowledge that the case consolidation process performed by the applicant is likely to result in environmental benefits through reduced road miles and carbon emissions. However, only limited weight should be placed on this consideration, as the benefits at a District level would be minimal, and would equally hold regardless of the location of the business. Nevertheless, such a business model is to be encouraged.

The need to comply with food hygiene legislation and improve the working environment at the site, and the applicant's social responsibility objectives, are also recognised. However, no evidence that the existing arrangements are unsatisfactory in relation to health and safety procedures has been submitted - the application is made on the basis that operational efficiency needs to improve in the interests of the business. Officers therefore consider only limited weight should be attached to these factors. Similarly, the applicant's charitable and community interests, although laudable and welcome, do not amount to a planning consideration sufficient to outweigh Green Belt harm in its own right.

A key consideration in assessing whether these circumstances outweigh the harm caused to the Green Belt is whether the business could viably continue in the District if the business cannot expand at the present site. The applicant contends that the disaggregation of activities to other sites is not practical for their business for a number of reasons. Officers have no reason to dispute these arguments. Similarly, the District Employment Land Review does not identify any site (excluding those in Areas of Development Restraint) large enough to accommodate even the existing operation. By inference, if the applicant is to expand to the levels projected in the short term, this must either take place at the existing site, or else at another site outside of the District.

On balance, officers consider that the very special circumstances put forward by the applicant are sufficient to outweigh the relatively limited harm that would be caused to the Green Belt if the proposals were to proceed.

Highways implications

Policy E9 states that all applications for new employment development will need to demonstrate that traffic to be generated by the development will not overload the capacity of the highway system or adversely affect residential or other non-industrial development.

Where this is likely to occur the applicant will be required to carry out amendments to overcome the problems otherwise created.

Worcestershire Highways has objected to the proposals. The reason for the objection is that the increased traffic generation calculated by the applicant is on the basis of a modest increase in floor area, rather than as a standalone new development (as is noted above, officers are not at present satisfied that the application buildings are lawfully in storage/distribution use, as no planning permission has ever been granted for the use of these buildings and no certificate of lawfulness exists for their use). The submitted Transport Assessment is therefore flawed as it does not adequately consider the impact of the development on the road network, and the increased trip generation associated with the development has not been adequately assessed and mitigated. It is considered that the proposal would have an adverse impact on highway safety and the structural condition of Seafield Lane.

The Transport Assessment states that "since there is no material change in the size of the facility, it is predicted that the overall traffic generation in a worst case scenario would not change". A Travel Plan is recommended to secure a number of strategies to encourage a reduction in car traffic to the site. These include:

- An incentive for employees who live near the bus route to use public transport as a means of travelling to work.
- The provision of secure cycle storage and changing facilities.
- A Travel Plan Co-ordinator (TPC) to organise and encourage car sharing, with a target car occupancy of 4.
- A limit on the number of car parking spaces to 50, with an overflow facility to prevent parking on Seafield Lane. The TPC would investigate when the overflow is used and review travel plan initiatives.
- A route plan for employees and all hauliers using the site to oblige them to approach from the south. All HGVs leaving the site should be obliged to turn toward the south.

Although these measures would be likely to reduce the proportion of car based trips associated with the site, officers nevertheless question the findings of the Assessment, and in particular the assertion that traffic generation would not change. The application is predicated on encouraging greater operational efficiency, and could result in an increase in the numbers employed at the site by up to 150, approximately doubling the existing employment at the site. It is considered that the Assessment does not adequately take account of this factor, and officers therefore see no reason to depart from the recommendation from Worcestershire Highways that permission be refused. This is particularly important in this particular location given the narrow rural roads in the vicinity of the site.

Residential amenity

The submitted Noise Assessment indicates that there will be no increase in the level of noise at the site from vehicle movements. Any noise pollution from the proposed plant rooms and compressors could be controlled by the imposition of suitable conditions. With the exception of the highways issues identified above, the proposal would therefore not result in harm to the amenities of any nearby residential property.

Ecology

The submitted Extended Phase 1 Habitat Survey confirms that the application site itself has extremely limited ecological value as it comprises buildings and hard surfaces. No designated species will be subject to direct impacts as a result of the proposal. The agricultural land surrounding the site is under intensive pastoral management and therefore contains no habitats that are considered to be of conservation significance. The proposal is therefore considered not to present any issues with respect to ecology.

Regional Spatial Strategy Phase 2 Revision

Oakland International's Managing Director appeared at the Examination in Public (EiP) of the Regional Spatial Strategy Phase 2 Review in June 2009. The subsequent Panel Report commented (at para. 5.33) as follows:

"Finally, before turning to town centre uses we need to refer to the very illuminating contribution to the EiP from Oakland International, a specialist multi-temperature haulier to the retail and food trade in the West Midlands. Having been precluded to date from expansion on their own Green Belt site, they had been unable to secure funding to enable development on commercially provided estates in their area of operation. While it could be pointed out that the scale of activity sought would fit within the portfolio of sites detailed under Policy PA6/PA6A rather than the very large scale logistics operations addressed under Policy PA9, it appeared that neither the commercial property market nor attempts to seek a bespoke solution had so far answered the needs of this successful company. Having had the issues publicised we trust that AWM and the relevant planning authorities will work together with the company to solve such needs in the context of the Regional Economic Strategy. There are no doubt other Small and Medium sized enterprises (SMEs) that may require similar assistance and not necessarily only in current economic conditions."

Letter from applicant's Managing Director

As is noted above, the application is being reported to Members at the specific request of the applicant. The Managing Director of the company wrote to the case officer on 10th March to explain the reason for not withdrawing or delaying the application. The points raised in the letter are summarised below:

- **Timing:** Errors made by the Council have resulted in a delay of one month in the reporting of the application to committee. [Officer's note: the application was accepted as a minor application subject to a statutory 8 week decision deadline on the understanding that the case for the lawfulness of the existing use of the buildings would be substantiated by the submission. When it transpired that the application should more appropriately be considered as a major application, due to the questions over lawfulness, the decision deadline was changed to 13 weeks.]
- **Certificate of lawful use:** An application for certificate of lawful use is to be submitted in the week beginning 15th March. The Council has not advised there will be a problem in getting the certificate of lawful use if sufficient evidence is supplied so this is simply a rubber-stamping exercise. [Officer's note: an application for a certificate of lawfulness has now been made and at the time of writing is under consideration by officers.]

- **Highways objection:** The lack of support from WCC is born from the technical standpoint that the buildings that are to be replaced have no certificate of lawful use. If there was a certificate then there would be no objections. [Officer's note: the formal comment from WCC objects to the proposal. To the case officer's knowledge, WCC has not explicitly advised there would be no objection if the existing use had been established as lawful.]
- **Recommendation for refusal:** When the certificate of lawful use is approved, Highways can offer no objection and Planning Officers will recommend the application is approved. Refusing the application based on the technical aspects of whether or not the building will be classed as lawfully certificated, when you will have the information in your possession that will prove that lawful use should be granted, would be fundamentally wrong and seriously prejudicial to the interests of the business and the subsequent employment capabilities of the site.
- **Withdrawal or delay of current application:** This was suggested in February to allow the time for a certificate of lawfulness to be submitted and determined. This would delay the timeline for demolition and construction from May-October / November 2009 based on approval in March 2009, to September 2009 - February / March 2010, based on approval in July 2009. The Alcester depot must be vacated in October 2010 with nowhere else to relocate stock. The Alcester lease would therefore need to be renewed for a further 12 months, costing the business £300,000 in rental, rates and other overheads. Additionally, the business would have nowhere to expand, would not achieve the economies of scale and efficiencies necessary to survive and compete in the marketplace, thus jeopardizing not only the potential creation of 150 new jobs but also the safeguarding of the existing 140 strong workforce.
- **WMRSS Examination in Public:** Reference is made to the comments expressing support for the company noted above in response to the Managing Director's appearance at the WMRSS EiP.
- **Concluding remarks:** Requests absolute recognition from Planning Officers that the grounds for recommendation of refusal are minor technical irregularities that will be resolved and that subject to the certificate being approved, Oakland will have the permission to begin construction. A decision in favour of the application should therefore be given, albeit subject to the condition of lawful use being rubber stamped, knowing that the evidence will be in the Council's possession at the time of the 29th March planning committee. [Officer's note: as is explained above, the applicant has since agreed to hold the application in abeyance for consideration at the April planning committee.]

Conclusion

It has been concluded that the proposals represent inappropriate development in the Green Belt, and that a moderate amount of harm would be caused as a result of the replacement building. However, very special circumstances exist sufficient to outweigh the harm caused. Specifically, it is recommended that the principle of the development is supported, as it would allow for the retention and expansion of a large local employer, in circumstances where alternative accommodation in a non-Green Belt site is not easily available.

However, the application is recommended for refusal on highways grounds, as the applicant has not satisfactorily demonstrated that the traffic generated by the development would not overload the capacity of the highway system or adversely affect

residential or other non-industrial development. In particular, the submitted Transport Assessment is flawed as it does not adequately consider the impact of the development on the road network, and the increased trip generation associated with the development has not been adequately assessed and mitigated. It is therefore considered that the proposal would be likely to have an adverse impact on highway safety and the structural condition of Seafield Lane.

RECOMMENDATION:

That permission be **REFUSED**

The applicant has not satisfactorily demonstrated that the traffic generated by the development would not overload the capacity of the highway system or adversely affect residential or other non-industrial development. In particular, the submitted Transport Assessment is flawed as it does not adequately consider the impact of the development on the road network, and the increased trip generation associated with the development has not been adequately assessed and mitigated. It is therefore considered that the proposal would be likely to have an adverse impact on highway safety and the structural condition of Seafield Lane. The proposals are therefore contrary to policies T.1, T.3, T.4 and T.9 of the Worcestershire County Structure Plan (WCSP) June 2001 and policies E9, TR1 and TR8 of the Bromsgrove District Local Plan (BDLP) January 2004.