



Regeneration – Planning and Building Control

Indigo Planning Ltd
Mr David Graham
Swan Court
11 Worple Road
London
SW19 4JS

PLANNING DECISION NOTICE

TOWN AND COUNTRY PLANNING ACT 1990
PLANNING (LISTED BUILDINGS AND CONSERVATION AREAS) ACT 1990
DEVELOPMENT MANAGEMENT PROCEDURE ORDER 2010 (AS AMENDED)

Grants Planning Permission Subject to Conditions

Part 1 – Particulars of Application

Applicant: Zurich Assurance Ltd

Agent: Indigo Planning Ltd

Application Number: 14/1886/FL

Date of Application: 06/01/2015

Site Address: Old Square Shopping Centre (including units on Digbeth, Old Square and High Street), Walsall, WS1 1QA

Proposal: Phased development of the Old Square Shopping Centre incorporating refurbishment, extension and use for retail (Use Class A1) of units 11-13, 15, 17 and 19-21 Digbeth (including change of use of units 19-21 Digbeth from D1 NHS Walk-In Centre to A1 retail) together with lift access to the service yard (Phase II); extension and refurbishment of units 23, 25 and 27 Digbeth and 24 Old Square for retail (Use Class A1) together with refurbishment of existing entrance to the existing shopping centre (Phase III); and over-cladding of units 31-33 Old Square and 1, 3 and 5 High Street (Phase IV). (NB Phase I was permitted under earlier planning applications)

Part 2 – Particulars of Decision

Walsall Council, as Local Planning Authority, hereby **Grants Planning Permission Subject to Conditions** for the development described in Part 1 above and in accordance with the application and plans submitted.

CONDITIONS

1. This development must be begun not later than 3 years after the date of this decision.

REASON: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development shall be carried out and completed in full accordance with the following approved plans and details:

BNY-GD 08 LL01 B03 – Phase 03 Glazed Tower Detail Sheet 1 of 2
BNY-GD 08 LL02 B02 – Phase 03 Glazed Tower Detail Sheet 2 of 2
BNY-GD 08 LL03 B00 – Elevation Detail
BNY-GE 08 0002 B00 – Phase 2 Proposed Elevation
BNY-GE 08 0003 B00 - Phase 02-03 Proposed Elevation
BNY-GE 08 0004 B00 – Phase 02-04 Proposed Elevation
BNY-GS 08 0001 B06 – Proposed Short Sections Sheet 1 of 2
BNY-GS 08 0001 B04 – Proposed Shore Sections Sheet 2 of 2
BNY-GS 08 0002 B04 – Proposed Long Sections
BNY-SA 08 0002 B03 – Level 00 Demolition Plan Phase 02
BNY-SA 08 0003 B03 – Level 00 Proposed Phase 02
BNY-SA 08 0004 B03 – Level 00 Demolition Plan Phase 03-04
BNY-SA 08 0005 B04 – Level 00 Proposed Phase 03-04
BNY-SA 08 0006 B07 – Level 00 Phasing Plan Phase 02-04
BNY-SA 08 0007 B02 – Level 00 Phasing Plan Phase 02
BNY-SA 08 0102 B03 – Level 01 Demolition Plan Phase 02
BNY-SA 08 0103 B03 – Level 01 Proposed Phase 02
BNY-SA 08 0104 B04 – Level 01 Demolition Plan Phase 03-04
BNY-SA 08 0105 B03 – Level 01 Proposed Phase 03-04
BNY-SA 08 0106 B03 – Level 01 Phasing Plan Phase 02-04
BNY-SA 08 0202 B03 – Level 02/Roof Demolition Plan Phase 02
BNY-SA 08 0203 B03 – Level 02 Proposed Phase 02
BNY-SA 08 0204 B03 – Level 02/Roof Demolition Plan Phase 03-04
BNY-SA 08 0205 B03 – Level 02/Roof Proposed Phase 03-04
BNY-SA 08 0206 B03 – Level 02/Roof Phasing Plan Phase 02-04

REASON: to define the permission and ensure the development is carried out and completed in accordance with the approved plans and details.

3. No part of the development shall be brought into use until the access and service area shown on the approved plans under planning permission 11/0560/FL have been properly consolidated, surfaced, drained, free of loose stone and otherwise constructed in accordance with the approved details.

REASON: In the interest of Highway Safety, and ensure the free flow of traffic using the adjoining Highway.

4. A. No development shall commence until a Phasing Strategy, to include details of each proposed Phase and/or Sub Phase, the list of works forming that Phase or Sub Phase, and an indicative timeline for implementation and completion of each Phase or Sub Phase, has been submitted to and approved in writing by the Local Planning Authority. Such details shall include, but are not limited to, external materials, hard surfacing materials, making good junctions between new and existing hard standing, street furniture and lighting.

B. Once the Phasing Strategy has been approved, no Phase or Sub Phase shall commence until full details and method statements of all works forming part of that Phase or Sub Phase and the timeline for implementation and completion have been submitted to and approved in writing by the Local Planning Authority.

C. Each Phase or Sub Phase shall be completed in its entirety in accordance with the approved details before the next Phase or Sub Phase commences, unless otherwise set out in the approved details.

REASON: To enable the Local Planning Authority to retain effective control over the site and to protect the amenities of the area.

5. A. No development, including any works of demolition or ground preparation, shall commence until an Archaeological Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority.

B. The development shall be carried out only in accordance with the approved details.

REASON: To ensure that any archaeological remains within the site are adequately investigated and recorded or preserved in situ in the interest of protecting the archaeological heritage of the borough.

6. A. Prior to built development commencing, a site investigation, ground contamination survey and assessment of ground gas, having regard to current best practice shall be undertaken. (see Note for Applicant CL1)

B. Prior to built development commencing, a copy of the findings of the site investigation, ground contamination survey and ground gas assessment, together with an assessment of the hazards arising from any land contamination and/or ground gas shall be forwarded to the Local Planning Authority. (see Note for Applicant CL2)

C. No development shall take place until a Remediation Statement setting out details of remedial measures to deal with the identified and potential hazards of any land contamination and/or ground gas present on the site and a timetable for their implementation has been submitted to and agreed in writing by the Local Planning Authority. (see Note for Applicant CL2)

D. The remedial measures as set out in the Remediation Statement required by part C of this condition shall be implemented in accordance with the approved details.

E. If, during the undertaking of remedial works or the construction of the approved development, unexpected ground contamination not identified by the site investigation required by part A of this condition is encountered, development shall cease until the Remediation Statement required by part C of this condition has been amended to address any additional remedial or mitigation works required and agreed in writing by the Local Planning Authority.

F. No part of the development shall be brought into use until a validation report confirming the details of the measures implemented together with substantiating information and justification of any changes from the agreed remedial arrangements has been submitted to and approved in writing by the Local Planning Authority. (see Note for Applicant CL3)

REASON: To ensure safe development of the site and to protect human health and the environment.

7. A. No development shall commence until a method statement for the purposes of controlling noise, vibration, dust and fumes during demolition and construction phases and also setting out all relevant highway and pedestrian safety considerations has been submitted to and approved in writing by the Local Planning authority.

B. Development shall be carried out only in accordance with the approved details.

REASON: In the interests of the amenity of the local area and highway/pedestrian safety.

8. A. No development shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved in writing by the Local Planning Authority.

B. The scheme shall be implemented in full accordance with the approved details before any part of the development is occupied.

REASON: To ensure adequate drainage is provided.

9. No demolition, construction or engineering works, (including land reclamation, stabilisation, preparation, remediation or investigation), shall take place on any Sunday, Bank Holiday or Public Holiday*, and such works shall only take place between the hours of 08.00 to 18.00 weekdays and 08.00 to 14.00 Saturdays. No plant, machinery or equipment associated with such works shall be started up or operational on the development site outside of these permitted hours.

(* Bank and Public holidays for this purpose shall be: Christmas Day; Boxing Day; New Year's Day; Good Friday; Easter Monday; May Day; Spring Bank Holiday Monday and August Bank Holiday Monday)

REASON: To protect the amenities of the local area and nearby residential occupiers.

10. Access shall be maintained at all times during the demolition and construction of the development to commercial and residential occupiers.

REASON: To ensure that neighbouring residents or occupiers are not unduly inconvenienced by the works.

11. A. No external plant or other equipment (including but not limited to heating, ventilation and air conditioning) shall be installed until details have been submitted to an approved in writing by the Local Planning Authority setting out the proposed location, external appearance, technical specifications including method of mounting/fitting, together with details of visual and acoustic screening. Noise associated with any plant and equipment shall not give rise to a Rating Level exceeding those set out in the submitted 'Noise Impact Assessment Report'. Appropriate vibration isolation mounting systems shall be used and ductwork shall be de-coupled from fan and motor units.

B. Any plant or other equipment installed shall be in accordance with the approved details only.

REASON: To protect the amenities of the local area and nearby residential occupiers.

12. A. No above-ground construction works shall commence until a scheme to protect the shopping centre frontages from hostile vehicles has been submitted to and approved in writing by the Local Planning Authority, such details to be certified to BS PAS 68.

B. No unit created pursuant to this planning permission shall be occupied until the approved scheme has been fully implemented in accordance with the approved details and the scheme shall thereafter be retained in accordance with the approved details.

REASON: To protect the shopping centre from hostile vehicles.

13. No development shall commence until a Highway Stopping Up Order under S247 of the Town and Country Planning Act 1990 has been made and confirmed for that part of Digbeth to be incorporated into the development.

REASON: To ensure all public highway rights are extinguished through the appropriate legal mechanism before development commences.

14. A. No development shall commence until full details and locations of secure, covered cycle shelter facilities for the use of staff, together with the refuse bin storage areas, have been submitted to and approved in writing by the Local Planning Authority.

B. No unit created pursuant to this planning permission shall be occupied until the approved scheme has been fully implemented in accordance with the approved details and the scheme shall thereafter be retained in accordance with the approved details.

REASON: To ensure adequate servicing arrangements of the development and to encourage sustainable modes of travel.

POSITIVE AND PROACTIVE STATEMENT

Walsall Council seeks to work proactively with owners, developers and their agents in the public interest to promote sustainable developments in the borough. In accordance with paragraphs 186 and 187 of The National Planning Policy Framework we encourage pre application discussion in all formats to help ensure that proposed developments are delivered in the most appropriate way that creates economic growth, suitable housing and other forms of development so long as they safeguard the natural and built environment, highway safety and the amenity of citizens. In this instance the council has been able to support the proposed development and has worked with the applicant as detailed in the planning report.

Date of Decision: 3 March 2015



David Elsworth – Head of Planning and Building Control

Your attention is drawn to the notes for applicant

NOTES FOR APPLICANT

1. The Written Scheme of Investigation referred to in condition 5 is considered likely to require evaluation, excavation, a watching brief and reporting.
2. The attention of the applicant is drawn to the need to keep the highway from any mud or other material emanating from the application site of any works pertaining thereto.
3. To avoid the risk to nesting birds, demolition and dismantling works should be undertaken outside the bird nesting season. The bird nesting season extends between March and September inclusive but is weather dependant and nesting may

take place outside this period. If site clearance unavoidably takes place within the nesting season the site shall be checked by a qualified and experienced ecologist immediately prior to works commencing. If nesting birds are discovered then the nest and its surrounds must be left undisturbed until the young have fledged and the nest abandoned. Please note that feral pigeons are protected and destruction of nests could only take place on the grounds of public health or public safety. This species also has a long breeding season.

4. Notes for Applicant – Contaminated Land

CL1

Ground investigation surveys should have regard to current “Best Practice” and the advice and guidance contained in the National Planning Policy Framework 2012; British Standard BS10175: 2011 “Investigation of potentially contaminated sites – Code of Practice”; British Standard BS5930: 1999 “Code of practice for site investigations”; Construction Industry Research and Information Association “Assessing risks posed by hazardous ground gasses to buildings (Revised)” (CIRIA C665); or any relevant successors of such guidance. You are strongly advised to consult with the Local Planning Authority on the construction, location and potential retention of any boreholes installed for the purposes of ground gas and or groundwater before installation of same.

CL2

When making assessments of any contaminants identified as being present upon the land, considering their potential to affect the proposed land use and deciding appropriate remediation targets regard should be had to the advice given in CLR 11 “Model Procedures for the Management of Land Contamination”, The Contaminated Land Exposure Assessment (CLEA) model (Latest Version), Science Report – SC050021/SR3 “Updated technical background to the CLEA model” and Science Report – SC050021/SR2 “Human health toxicological assessment of contaminants in soil” or any relevant successors of such guidance. This list is not exhaustive. Assessment should also be made of the potential for contaminants contained in, on or under the land to impact upon ground water. Advice on this aspect can be obtained from the Environment Agency.

CL3

Validation reports will need to contain details of the “as installed” remediation or mitigation works agreed with the Local Planning Authority. For example photographs of earth works, capping systems, ground gas membranes, and structure details should be provided. Copies of laboratory analysis reports for imported “clean cover” materials, manufacturer’s specification sheets for any materials or systems employed together with certification of their successful installation should also be submitted. Where appropriate records and results of any post remediation ground gas testing should be included in validation reports. This note is not prescriptive and any validation report must be relevant to specific remedial measures agreed with the Local Planning Authority.

FURTHER NOTES TO APPLICANT

1. Please read this decision notice carefully. If the conditions require you to submit further details, you must ensure that these details have been approved before you commence work. You may need to pay a fee to the Council to consider these details.
2. This decision is given only under the Town and Country Planning Act 1990, and the Town and Country Planning (General Development Procedure) Order 1995.
3. This permission does not grant approval under the Building Regulations 2000 for which a separate application may be required. You are advised to contact the Building Control Section on telephone number 01922 652600 should you require further advice.
4. This permission does not grant approval or in any way override the requirement to comply with any restrictive covenant(s) that may be on the land. You should be aware that there is a risk involved in proceeding with development without clarifying whether there are any relevant covenants relating to the property.
5. Your attention is drawn to the Party Wall Act 1996. If you intend to carry out building work which involves:
 - work on an existing wall shared with another property
 - building on the boundary with a neighbouring property
 - excavating near a neighbouring building

You should find out whether that work falls within the scope of the Act. If it does, you must serve the statutory notice on all those defined by the Act as adjoining owners. You may wish to seek professional advice. However, two guidance booklets have been published entitled "The Party Wall etc. Act 1996: Explanatory Booklet" and "A Short Guide to the Party Wall etc. Act 1996", both are available from Communities and Local Government Publications, PO Box 236, Wetherby, West Yorkshire, LS23 7NB. Tel: 0300 123 1124, Fax: 0300 123 1125.

This booklet has been produced by the Department to explain in simple terms how the Party Wall etc Act 1996 ("the Act") may affect someone who either wishes to carry out work covered by the Act (the "Building Owner"), or receives notification under the Act of proposed adjacent work (the "Adjoining Owner").

This booklet has been simplified and updated to provide some answers to regularly asked questions. For example: what a party wall award can cover, what to do if a building becomes unsafe or there is excessive noise from the work being carried and the role of the surveyor.

The Party Wall Act 1996 Guidance can be found online <https://www.gov.uk/party-wall-etc-act-1996-guidance>

6. Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) or online at www.planningportal.gov.uk/pcs.
- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Please Note: You must also send a copy of the appeal form direct to us, with copies of any documents or plans you are sending to the Planning Inspectorate that we do not already have.

FURTHER APPEAL ADVICE

You can find further comprehensive advice on the appeal procedures on the Planning Portal www.planningportal.gov.uk/planning/appeals/

7. If permission to develop land is refused or granted subject to conditions, whether by the Council or by the Secretary of State, and you claim that the land has become incapable of reasonably beneficial use by the carrying out of any development which has been or would be permitted, you may serve on the Council a purchase notice requiring the Council to purchase your land in accordance with the provisions of Part IX of the Town and Country Planning Act 1990. A notice may only be served on the Council by the owner of land concerned.
8. In certain circumstances, a claim may be made against the Council for compensation, where permission is refused or granted subject to the conditions by the Secretary of State on appeal or on a reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 of the Town and Country Planning Act 1990.
9. Development must comply with Section 46 of the West Midlands County Council Act 1980 (namely it shall provide adequate means of access for the fire brigade to the building or, to the building as extended, as the case may be. It must be ensured that

existing means of access for the fire brigade to a neighbouring building are not rendered inadequate).

10. If this decision grants permission for new development, subdivision or a conversion that will give rise to new addressable properties, you must apply to obtain your new postal address(es) using the application form that you can obtain from the Street Naming and Numbering Team, Traffic Management, Engineering and Transportation Services, Civic Centre, Darwall Street, Walsall WS1 1DG or online at **www.walsall.gov.uk/street_naming_and_numbering**
11. Please refer to the attached Coal Authority advice note.
12. Adoption of private sewers and lateral drains by Severn Trent Water on 1st October 2011. The Government has approved legislation The Water Industry (Schemes for Adoption of Private Sewers) Regulations 2011 that from the 1 October 2011, transfers the ownership of all privately owned shared drains Severn Trent.

If you are looking to build an extension or new build you will need to check if the above will affect you, in the first instance you will need to contact Severn Trent water Limited on 01902 793871 or check the website for more information on **www.stwater.co.uk**.

If your proposal is affected by an adopted sewer (Public Sewer) a Building Notice form of application cannot be used. In these instances a FULL PLAN application must be submitted

Therefore, prior to considering submitting a Building Notice, it is essential that you contact Severn Trent water Limited on 01902 793871 for advice.

If you would like further information or clarification of the reasons for this decision contact the planning case officer Katie Parsons on 01922 652603 or email planningservices@walsall.gov.uk.

Alternative language or format

If you would like this information in another language or format contact the Planning helpline on 01922 652677 or Textphone 0845 111 2910