

<b>Planning Committee Report</b>	
<b>Planning Ref:</b>	FUL/2021/3298
<b>Site:</b>	Abbotts Lane
<b>Ward:</b>	Sherbourne
<b>Proposal:</b>	Operational development/earthworks to facilitate site remediation
<b>Case Officer:</b>	Owain Williams

## **SUMMARY**

This is a full application for works required to facilitate site remediation.

## **BACKGROUND**

The application site is the former gas works site on Abbotts Lane. It is bounded by the ring road to the south-east, by Abbotts Lane to the north and west and by Upper Hill Street to the south-east. It is an allocated housing site within the Coventry Local Plan. An application for creation of a linear park running across the site was approved by planning committee and has been developed and is now open. An outline application for housing was previously refused, however a hybrid application for housing has been submitted and currently being assessed.

## **KEY FACTS**

<b>Reason for report to committee:</b>	More than 5 representations objecting to the proposed development
<b>Current use of site:</b>	The site is currently vacant but was previously used as a gas works
<b>Proposed use of site:</b>	Residential/commercial

## **RECOMMENDATION**

Planning Committee are recommended to grant planning permission subject to conditions listed within the report.

## ***REASON FOR DECISION.***

The proposal will not adversely impact upon highway safety.

The proposal will not adversely impact upon the amenity of neighbours.

The proposal accords with Policies:H2, GE3,GE4,HE2,AC1,AC3,EM4,EM5,EM6 & EM7 of the Coventry Local Plan 2016, together with the aims of the NPPF.

## BACKGROUND

### **APPLICATION PROPOSAL**

The proposal is for works to facilitate site remediation.

The Remediation Strategy summarised the required works as below:

- Removal of surface materials including tarmac, concrete, topsoil and reinstatements from earlier phase of remediation works (2014);
- Made ground excavation, crushing, screening stockpiling for re-use;
- Removal of below ground structures / cut / fill to a depth of 1.5 m below finished levels in proposed building plots and 0.525 m below finished levels across the remainder of the site;
- Removal of 0.25 m of concrete/tarmac finishes where finished levels are in excess of 1.5 m above existing ground level;
- Stockpiling of surplus soils in potential building plots;
- Provision for storage, treatment and disposal of any previously identified contamination;
- Filling with available made ground and surplus made ground material from Linear Park remediation works, currently stockpiled in upper level;
- Construction of approx. 250 mm running layer across site using site won crushed hardstanding;
- Construction of tarmac surfaced temporary access road from Upper Hill Street to gas governor in north;
- Construction of temporary stone access road from Abbots Lane to gas governor in south-east;
- Removal of remaining steel base and sidewalls of Gasholder No 5 and backfilling with arisings;
- Undertake earthworks cut and fill to proposed formation levels;
- Undertake drainage diversion of existing combined sewer.

### **SITE DESCRIPTION**

The application site is the former gas works site which is bounded by Abbots Lane to the north and west, the ring road to the south-east, and by Upper Hill Street to the south-east. There are significant level changes across the site with the highest point at the east corner at the Abbots Lane/ Upper Hill Street junction, then dropping down to the south and east. On Upper Hill Street are a group of locally listed buildings that back directly onto the site which are residential and opposite the listed St. Osburg's Church. St. Osburg's Primary School is located opposite the site on Upper Hill Street.

The site is immediately adjacent the Spon End and Nauls Mill Conservation Area, the edge boundary of which runs along Abbots Lane. Abbots Lane comprises mainly residential properties, other than Britannia Tyres and a vacant commercial premises on the junction with Mill Street. At the top of Abbots Lane, the residential properties are various heights and styles and are raised significantly above street level. At the lower end of Abbots Lane, near the junction with Mill Street there is a two-storey terrace of residential properties at street level. A linear park approved under FUL/2019/3199 forms part of the site in its North eastern section. The site remediation for this area was dealt with separately by an associated condition.

## PLANNING HISTORY

There have been a number of historic planning applications on this site; the following are the most recent/relevant:

Application Number	Description of Development	Decision and Date
FUL/2013/0003	Engineering works to remediate contaminated material located below ground.	Approved 3/4/2013
OUT/2019/2454	Outline Planning Application for up to 731 residential units and 711 sqm of retail and commercial space (use class A1 / A2 / A3 / A4 / B1) provided in a series of buildings of 4 to 22 storeys, creation of a water feature utilising the culverted Radford Brook, creation of a green link across the site, and provision of parking and landscaping	Withdrawn
FUL/2019/3199	Creation of new linear park from Belgrade Plaza to Naul's Mill Park, including upgrades to the existing underpass, the creation of a new water feature using the culverted Radford Brook; central landscape feature in conjunction with outline application ref: OUT/2019/2454) and a new pedestrian route from Abbots Lane to Middleborough Road.	Approved 3 <sup>rd</sup> December 2020.
OM/2020/0935	An Outline Planning Application for up to 731 residential units and 711 sqm of retail and commercial space (use class E) provided in a series of buildings of 4 to 22 storeys, creation of a water feature utilising the culverted Radford Brook, creation of a green link across the site, and provision of parking and landscaping.	Refused 14 <sup>th</sup> January 2021
OUT/2021/3576	Full planning application for 213 dwellings (Class C3) served via access from Abbots Lane and Upper Hill Street; strategic landscaping and earthworks; temporary car parking; surface water drainage and all other ancillary and enabling works. Outline planning application for new residential development up to 487 units (Class C3); ancillary Class E development up to 1054sqm of floorspace; strategic landscaping and earth works; surface water drainage and all other ancillary infrastructure and enabling site works with means of access to be taken from the connections from Abbots Lane and Upper Hill Street (part of the full application) for consideration; all other matters (layout, appearance, scale and	Currently Pending

	landscaping) reserved for subsequent approval.	
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## **POLICY**

### **National Policy Guidance**

National Planning Policy Framework (NPPF). The NPPF sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system only to the extent that is relevant, proportionate and necessary to do so. The NPPF increases the focus on achieving high quality design and states that it is "fundamental to what the planning and development process should achieve".

The National Planning Practice Guidance (NPPG) adds further context to the NPPF and it is intended that the two documents are read together.

### **Local Policy Guidance**

The current local policy is provided within the Coventry Local Plan 2016, which was adopted by Coventry City Council on 6<sup>th</sup> December 2017. Relevant policy relating to this application is:

Policy H2: Housing Allocations

Policy GE3: Biodiversity, Geological, Landscape and Archaeological Conservation

Policy GE4: Tree Protection

Policy HE2: Conservation and Heritage Assets

Policy AC1: Accessible Transport Network

Policy AC3: Demand Management

Policy EM4: Flood Risk Management

Policy EM5: Sustainable Drainage Systems (SuDS)

Policy EM6: Redevelopment of Previously Developed Land

Policy EM7: Air Quality

### **Supplementary Planning Guidance/ Documents (SPG/ SPD):**

SPD Coventry Connected

## **CONSULTATION**

No Objections received from:

Urban Design

Conservation

No objections subject to conditions/contributions have been received from:

Environmental Protection

Lead Local Flood Authority

Archaeology

Environment Agency

Highways

Tree Officer

At the time of writing the report comments have not been received from:

Severn Trent

Immediate neighbours and local councillors have been notified; a site notice was posted on 22<sup>nd</sup> November 2021. A press notice was displayed in the Coventry Telegraph on 25<sup>th</sup> November 2021.

8 letters of objection have been received, raising the following material planning considerations:

- a) The works would be to the detriment of groundwater, ecology, and air quality.
- b) The management of identified hazardous materials is considered unsuitable.
- c) The works could impact upon biodiversity.
- d) The works could harm neighbouring amenity by noise and disturbance.

1 letter of support have been received, raising a non-material planning consideration in respect of trees planted on the boundary of the site.

Within the letters received the following non-material planning considerations were raised, these cannot be given due consideration in the planning process:

- e) In respect of the previously refused application inadequate parking exists
- f) The remediation carried out on the linear park was unsuitable
- g) Lack of communication and public consultation was carried out
- h) Incorrect postcode was submitted for the application.

In respect of the last two points and for clarification the level of consultation on this application exceeded that required by the relevant regulations. The address provided was also considered suitable.

Since the notifications in November further notifications of amendments to the remediation strategy were sent out on 2<sup>nd</sup> February and 28<sup>th</sup> April respectfully.

3 further objections have been received however to the content of the objections do not add anything further which hasn't already been raised in the previous objections.

Any further comments received will be reported within late representations.

## **APPRAISAL**

The main issues in determining this application are the impact of the proposed works on residential amenity, the safety implications in respect of health, the impact upon the highway and the impact upon heritage assets

### **Principle of development**

The principle of development is considered suitable as ultimately this application is for the clean-up of this allocated site in readiness for any future residential development.

### **Impact on residential amenity**

The potential impact upon residential amenity is limited to the works being undertaken and potential noise and disturbance.

A condition has been included for a requirement to submit a construction method statement to control how the work is carried out and mitigate against any significant impact upon noise and disturbance to neighbouring residents.

### **Heritage character of the area and Heritage Assets**

The NPPF paragraph 194 states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Local Plan Policy HE2 reflects NPPF policy and states that development proposals involving heritage assets in general and listed buildings, should acknowledge the significance of the existing building and the area by means of their siting, massing, form, scale, materials and detail.

The site off Abbots Lane is within an area of archaeological interest, relating to the 19<sup>th</sup> century gasworks within the site and particularly the earlier 19<sup>th</sup> century remains within the north-eastern part of the site, which have been identified as an Archaeological Constraint Area. The gasworks here were built in 1821, spreading to cover the rest of the site by the end of the 19<sup>th</sup> century.

The Council's archaeologist has highlighted that the Heritage Impact Assessment submitted as part of the larger redevelopment of the site concluded that remains of the 1821 gasworks, do have the potential to be of high significance however it is unclear to what would remain and in what condition.

As a result, a written scheme of investigation (WSI) was requested by the archaeologist and was submitted by the applicant. The WSI indicates that further site investigations via trenching are to be undertaken to determine if there are any significant archaeological remains in the area of the proposed development which require further archaeological works or which warrant preservation in-situ. These investigations will be done before any remediation works are started. The WSI also covers the health and safety aspects and precautions that would have to be adhered to on this site whilst investigations are carried out.

The Council's archaeologist is happy with the proposed WSI and has agreed to a phased approach. This means that if nothing of significance is found within certain areas of the site where the investigations take place, the remediation works can be started in those areas. This would enable the process of remediation to occur whilst any archaeological findings of significance are recorded or preserved.

Taking into account the above it is considered that the proposed works would comply with policy HE2 of the Local Plan 2016 and also the guidance within the NPPF.

### **Highway considerations**

Policy AC1 'Accessible Transport Network' states that development proposals which are expected to generate additional trips on the transport network should: a) Integrate with existing transport networks including roads, public transport and walking and cycling routes to promote access by a choice of transport modes. b) Consider the transport and accessibility needs of everyone living, working or visiting the city. c) Support the delivery of new and improved high quality local transport networks which are closely integrated into the built form. d) Actively support the provision and integration of emerging and future intelligent mobility infrastructure.

Policy AC3 of the Local Plan acknowledges that the provision of car parking can influence occurrences of inappropriate on-street parking which can block access routes for emergency, refuse and delivery vehicles, block footways preventing access for pedestrians, reduce visibility at junctions and impact negatively on the street scene. Proposals for the provision of car parking associated with new development will be assessed on the basis of parking standards set out in Appendix 5. The car parking standards also include requirements for the provision of electric car charging and cycle parking infrastructure.

Above and beyond what would be expected for remediation works and the associated use of commercial vehicles the proposal has no direct impact upon the highway network. Furthermore, no car parking spaces are required within the site. Highways have no objection to the scheme but have requested that a condition be included for the submission of a Construction Management Plan. This will control how the work is carried out and limit any dust and debris upon the highway.

### **Flood Risk**

Policy EM4 states that all major developments must be assessed in respect of the level of flood risk from all sources. If development in areas at risk of flooding is the only option following the application of the sequential test, it will only be permitted where the criteria set out in Policy EM4 are met.

The Lead Local Flood Authority have been consulted on this application and have recommended a condition to ensure the protection of existing drainage routes.

### **Contaminated land & Air Quality**

Paragraph 183 of the NPPF states that decisions should ensure that:

- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
- b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
- c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.

Policy EM6 of the Coventry Local Plan 2016 seeks to ensure that redevelopment of previously developed land does not have a negative impact on water quality, either directly through pollution of surface or ground water or indirectly through the treatment of wastewater by whatever means.

In essence the proposed works are for the purpose of undertaking suitable remediation to ensure that no harm occurs to the ground water and public health in general

The Environment Agency have indicated the most recent groundwater data submitted in the remediation strategy as part of this application shows that for some contaminants, a reduction of contaminant concentrations has been observed. However, it also indicates that some are currently significantly above appropriate screen values.

Whilst the Environment Agency note the conclusions of the submitted remediation strategy, that when assessed against pre-remediation data, the groundwater quality has generally improved and no specific remediation is required for controlled waters, they also share some caution that groundwater monitoring indicates that significantly elevated concentrations of hazardous contaminants are present. With this in mind the Environment Agency have proposed that a condition be added any approval that further assessment of the risk to controlled waters from the residual contamination at this site is conducted and approved in writing prior to any commencement of the planned remediation works.

Environmental Protection have requested a number of conditions including those specific measures identified in the submitted report be undertaken and that a Construction Environmental Management Plan be submitted to control noise and dust emissions. A watching brief in respect of UXO has also been requested as a condition.

Taking into account the above it is considered that the proposed works subject to the suggested conditions to be imposed would comply with policy EM6 of the Local Plan and the relevant guidance within the NPPF.

### **Other Matters**

It is not considered that the proposed remediation works would have any direct impact upon biodiversity. The site is already cleared, and the remediation works will not remove any existing wildlife or green areas from the site.

### **Equality Implications**

Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
  - a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

There are no known equality implications arising directly from this development.

### **Conclusion**

The proposed development is considered to be acceptable in principle and will not result in any significant impact upon neighbour amenity, highway safety or public health, subject to relevant conditions and contributions. The reason for Coventry City Council granting planning permission is because the development is in accordance with: Policies H2, GE3,GE4,HE2,AC1,AC3,EM4,EM5,EM6 & EM7 of the Coventry Local Plan 2016, together with the aims of the NPPF.

### **CONDITIONS:/REASON**

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.

**Reason:** *To conform with Section 91 of the Town and Country Planning Act 1990 (as amended)*



2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Boundary Plan DWG-BM-M-01B, Preliminary Cut and Fill Analysis Remediation Levels 211103-Edge-xx-xx-DR-C-3002 Rev P02, Remediation Strategy Report ref 211103-EDGE-xx-xx-RP-G-0001\_REM STRAT (P09) and Written Scheme of Investigation: Archaeological Evaluation v.5 dated May 2022

**Reason:** *For the avoidance of doubt and in the interests of proper planning*

3. No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:
  1. A detailed risk assessment scheme to provide information for a detailed assessment of the risk to all controlled waters receptors that may be affected, including those off-site.
  2. The results of the detailed risk assessment referred to in (1) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
  3. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (2) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the written consent of the local planning authority. The scheme shall be implemented as approved

**Reason:** *To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework*

4. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

**Reason:** *This information is required to support Chapter 11 and policies EM6, H3, DS3 and EM2 of the Coventry local plan 2016.*

5. 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. A new site investigation and risk assessment must then be undertaken and submitted to for approval in writing by the Local Planning Authority before any other works progress. If any further remediation is required a remediation scheme must be prepared in accordance with the requirements within the site investigation report and shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report

must be prepared, which is subject to the approval in writing of the Local Planning Authority.

**Reason:** *To safeguard health, safety and the environment in accordance with Policy EM6 of the Coventry Local Plan 2016 and the aims and objectives of the NPPF.*

6. No development (including any demolition) shall take place unless and until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. The CMP shall include details of:
- hours of work;
  - hours of deliveries to the site;
  - the parking of vehicles of site operatives and visitors during the demolition/construction phase;
  - the delivery access point;
  - the loading and unloading of plant and materials;
  - anticipated size and frequency of vehicles moving to/from the site;
  - the storage of plant and materials used in constructing the development;
  - the erection and maintenance of a security hoarding including decorative displays and facilities for public viewing where appropriate;
  - wheel washing facilities and other measures to ensure that any vehicle, plant or equipment leaving the application site does not carry mud or deposit other materials onto the public highway;
  - measures to control the emission of dust and dirt during demolition and construction;
  - measures to control the presence of asbestos;
  - measures to minimise noise disturbance to neighbouring properties during demolition and construction;
  - details of any piling together with details of how any associated vibration will be monitored and controlled; and
  - a scheme for recycling / disposing of waste resulting from demolition and construction works.
- Thereafter, the approved details within the CMP shall be strictly adhered to throughout the construction period and shall not be amended in any way.

**Reason:** *The agreement of a Construction Management Plan prior to the commencement of development is fundamental to ensure a satisfactory level of environmental protection; to minimise disturbance to local residents and in the interests of highway safety during the construction process in accordance with Policies [EM7], AC1 and AC2 of the Coventry Local Plan 2016.*

7. No site remediation and/or development shall take place until the applicant, or their agents or successors in title, have submitted an archaeological mitigation strategy, based on the results of a programme of archaeological evaluation, in accordance with the approved Written Scheme of Investigation Archaeological evaluation v.5 dated May 2022, that has been submitted to and approved in writing by the local planning authority. The strategy shall include details of the following:
- the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area
  - an assessment of the impact of the proposed development on the archaeological remains

- the submission of an updated Written Scheme of Investigation for the approval in writing of the local planning authority setting out mitigation proposals that include the following:
  - measures to ensure the preservation in situ or by record of archaeological features of identified importance
  - methodologies for the recording and recovery of archaeological remains, including artefacts and Eco facts
  - post-fieldwork methodologies for assessment and analyses
  - report content and arrangements for dissemination, and publication proposals
  - archive preparation and deposition with recognised repositories
  - a timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy
  - monitoring arrangements, including the notification in writing to the LPA of the commencement of archaeological works and the opportunity to monitor such works
  - Details on any programme of public engagement, including open days, during and following any required site works

Any site works will only be undertaken in accordance with the approved site archaeological mitigation strategy. The works could be undertaken in a phased approach if approved by the Local Planning Authority.

The full condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the archaeological mitigation strategy

**Reason:** *The submission of these details prior to the commencement of development is fundamental to mitigate the effect of the works associated with the development upon any heritage assets and to ensure that information regarding these heritage assets are preserved in the most appropriate format for this and future generations in accordance with Policy HE2 of the Coventry Local Plan 2016 and National Planning Policy.*

8. No development or other operations (including any demolition, site clearance or other preparatory works) shall commence unless and until the tree protection measures identified in the approved application documentation have been put into place in strict accordance with the approved details and thereafter, they shall remain in place during all construction work. In addition no excavations, site works, stock piling, trenches or channels shall be cut or pipes or services laid, no fires shall be lit within 10 metres of the nearest point of the canopy or root protection area of any protected tree(s); no equipment, machinery or structure shall be located within this zone; no mixing of cement or use of other contaminating materials or substances shall take place within, or close enough to, a root protection area that seepage or displacement could cause them to enter a root protection area or any other works carried out in such a way as to cause damage or injury to the tree(s) by interference with their root structure and that no soil or waste shall be deposited on the land in such a position as to be likely to cause damage or injury to the tree(s).

**Reason:** *To protect those trees which are of significant amenity value to the Conservation Area and which would provide an enhanced standard of appearance to the development in accordance with Policy GE3, GE4 and HE2 of the Coventry Local Plan 2016.*

