

Planning Committee Report	
Planning Ref:	PL/2023/0002547/PAPD
Site:	Progress House Westwood Way, Coventry, CV4 8JQ
Ward:	Westwood
Proposal:	Prior approval for proposed demolition of Progress House, Westwood Way
Case Officer:	Richard Edgington

SUMMARY

The application submitted constitutes a notification under Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended) whereby the applicants are seeking prior approval for the details of the demolition of the building and restoration of the land thereafter.

BACKGROUND

The application under consideration seeks consent for the demolition of the existing building, known as Progress House. The application site has a live appeal on the site following the refusal of planning application PL/2023/0000654/FULM which sought consent for the demolition of the existing office building, and erection of new building comprising student accommodation (Use Class Sui Generis) and commercial, business and service accommodation (Use Class E), amenity spaces, car parking, landscaping, and associated works.

Planning committee resolved to refuse the planning application and is now under appeal, the appeal is live with statements due on 3rd January 2023. This application currently being considered has no direct link on the appeal scheme and has not been submitted as a full planning application, instead this application is a notification served by the developers on the local planning authority under the aforementioned legislation solely for the demolition of the building. The notice seeks confirmation as to whether prior notification is required for the demolition works and in doing so provides those details in the event that they are required.

KEY FACTS

Reason for report to committee:	The application has been referred to planning committee at the request of Cllr Lapsa, more than five objections have also been received.
Current use of site:	Office/Use Class E
Proposed use of site:	Demolition of Building/Vacant Site

RECOMMENDATION

Planning committee are recommended to:

- a) Note the consultation responses which have been received at the date of this report and updated at the planning committee meeting.

- b) delegate the grant of prior approval to the Strategic Lead for Planning subject to conditions following consultation with the Chair of Planning Committee.

Members are advised that the recommendation to delegate the issuing of the decision to the Strategic Lead for Planning in consultation with the Chair of Planning Committee is due to the fact that the notification is currently subject to the statutory 21-day notification period and the Local Planning Authority are unable to issue a decision until after the closure of the consultation period, which expires on Thursday 21st December 2023.

REASON FOR DECISION

- The notification is submitted under Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended).
- The applicants have demonstrated that a site notice was displayed from 30th November, the Local Planning Authority thereby have 28 days from this date to issue a decision, after which if no decision is made the demolition is granted through deemed consent.
- The applicants have submitted a demolition statement in accordance with the aforementioned regulations.

SITE DESCRIPTION

The application site is located within the Westwood Business Park to the south of Westwood Way which also provides access to the site. The application site itself comprises of two-storey, self-contained office building, built around internal courtyards. Along with the provision of both hard and soft landscaping there is also a central pedestrian footpath leading through to the main entrance.

Westwood Business Park provides a range of office accommodation with larger office buildings to the west and cluster of smaller buildings to the east. The wider area surrounding the business park contains residential dwellings to the south and west and an existing sports field. No. 1 and 3 The Oaks have been redeveloped into purpose-built student accommodation and No. 2 The Oaks has been converted from office use to provide educational facilities for the National Mathematics and Science College.

Other uses surrounding the application site include The Oaks Student Accommodation and the 'NatMatSci' College, TUI, E-On, Shell Energy, the Caravan and Camping Club, a children's nursery, WMG Engineering Academy, and Xcel Leisure Centre. Woodland borders the application site to the north with connecting footpaths leading through to Charter Avenue.

APPLICATION PROPOSAL

The application seeks prior approval under Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended) for the demolition of the existing building.

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
L/1989/0033	Offices warehouses and print accommodation.	Approved 15 th February 1989
L/1989/2305	Offices, warehouses, and print accommodation (Discharge of Condition 2 – Landscaping)	Approved 17 th January 1990
L/1990/0561	Erection of cycle canopy.	Approved 14 th June 1999
L/1995/1014	Rear single storey extension to kitchen/store and dining area, extension of rear garage and the creation of 20 additional parking spaces.	Approved 25 th October 1995
L/1997/0051	Tow storey extension to existing office buildings.	Approved 25 th July 1997
R/2002/0068	Conversion of printing area into two storey office development, associated	Approved 24 th July 2002

	external alterations, provision of car parking and erection of electricity sub-station.	
R/2002/0858	Conversion of printing area into two storey office development, associated external alterations, provision of car parking and erection of electricity sub-station.	Withdrawn 27 th March 2002
R/2002/1641	Submission of amended details involving elevational changes to the electricity sub-station to planning permission reference 41992/D granted on 24 July 2002 for conversion of printing area into two storey office development, associated external alterations, provision of car parking and erection of electricity sub-station.	Approved 7 th August 2002
R/2004/1221	Single storey extensions and alterations to kitchen and restaurant.	Approved 14 th July 2004
R/2004/2265	Installation of fixed and freestanding security cameras.	Approved 28 th January 2005
LDC/2022/0690	Certificate of proposed change of use of warehouse to meeting rooms and installation of mezzanine floor for exhibition purposes and associated elevational alterations.	Approved 29 th June 2011
FM/2022/3146	Demolition of existing office building and erection of new building comprising student accommodation (Use Class Sui Generis) and commercial, business and service accommodation (Use Class E), amenity spaces, car parking, landscaping and associated works.	Withdrawn 22 nd March 2023
PL/2023/0000654/FULM	Demolition of existing office building and erection of new building comprising student accommodation (Use Class Sui Generis) and commercial, business and service accommodation (Use Class E), amenity spaces, car parking, landscaping, and associated works.	Refused 21 st July 2023

RELEVANT PLANNING POLICY

Legislation

Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended)

National Policy Guidance

National Planning Policy Framework (NPPF) September 2023. 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.

CONSULTATION

Highways: No objection.

Environmental Protection: No objection.

Neighbour consultation

As required under the legislation the applicants have submitted evidence of a site notice being displayed from 30th November 2023 for a period of 21 days. This site notice is still live at the time of consideration due to the fact that the Local Planning Authority has only 28 days to issue the decision. If the application is not determined within the 28 days, then the demolition has deemed consent.

The case officer also wrote directly to Ward Councillors informing them of the notification.

At the time of writing one Ward Member has raised an objection to the notification:

Cllr Marcus Lapsa: Objection as the demolition is contrary to the Article 4 direction and the justification of the demolition is for purpose-built student accommodation. There is also insufficient information as to how the site is to be left following demolition.

At the time of writing 9 letters of objection have also been received, a summary of the objections are as follows:

Material Considerations

a) No detailed plan for site restoration

Non-Material Considerations

- b) Vacant site will impact character and appearance of the area
- c) Not acceptable to consider a demolition when an application has been refused/appeal is live
- d) Developer seeking to pre-empt outcome of appeal

- e) Site does not benefit from permitted development rights
- f) Contrary to the Council's adopted House in multiple Occupation DPD
- g) Building remains occupied
- h) Site should be redeveloped as a park
- i) Not sufficient consultation

Any further comments received will be reported within late representations and/or via verbal update as the notification period will be live.

APPRAISAL

The main issues in determining this notification are whether the demolition management plan is acceptable.

Principle of Development

As previously indicated the principle of development in this case is acceptable as the site benefits from permitted development rights. The relevant part of the legislation is Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended). Class B states that 'Any building operation consisting of the demolition of a building' is a permitted development right.

Whilst it is noted that representations have been received objecting to the principle of development due to the status of the live appeal, this notification is not linked to the appeal and the developer is able to submit a notification or indeed an alternative scheme should they desire on the site and the Council would be obliged to consider any application which is submitted. There is no scope within legislation to decline to determine applications submitted under the General permitted Development Order 2015 (As Amended), regardless of whether there is a live appeal or indeed a pre-empted use of the site that does not benefit from planning permission. The Council can only consider whether the applicant's/proposal accords with the relevant section of the legislation.

In respect of the prior notification process, the legislation sets out the following conditions where the demolition would not be permitted development;

'B.1 Development is not permitted by Class B if:

(a) the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health by works of repair or works for affording temporary support;

(b) the demolition is "relevant demolition" for the purposes of section 196D of the Act (demolition of an unlisted etc building in a conservation area)

(c) the building is used, or was last used, for a purpose falling within—

(i) article 3(6)(p) (drinking establishments etc.) of the Use Classes Order; or

(ii) article 3(6)(q) (drinking establishments with expanded food provision) of that Order;

(d) the building is used, or was last used, for the purpose of-

(i) a concert hall;

*(ii) a venue for live music performance; or
(iii) a theatre*

(e) the demolition relates to a statue, memorial or monument (“a commemorative structure”) in place for a period of at least 10 years on the date of any proposed demolition, other than a commemorative structure:

(i) that is a listed building;

(ii) that is a scheduled monument;

(iii) within a cemetery, on consecrated land, or within the curtilage of a place of public worship;

(iv) within the grounds of a museum or art gallery; or

(v) within the curtilage of a dwellinghouse

When applying these tests to the application site, the lawful use of the building is Use Class E (Offices), and is in a serviceable condition and is occupied, the site is also not within a conservation nor is it a heritage asset. The site is also not a drinking establishment, a concert hall, live music venue or a theatre. The tests are therefore met within the legislation for the demolition to be acceptable under Class B.

Relevant Conditions (Under Legislation)

The legislation sets out the relevant conditions to which development can be permitted by Class B;

(a) where demolition is urgently necessary in the interests of safety or health and the measures immediately necessary in such interests are the demolition of the building the developer must, as soon as reasonably practicable, give the local planning authority a written justification of the demolition; **This condition is not applicable in this case as there are no health and safety risks posing a risk which would require urgent works.**

(b) where the demolition does not fall within paragraph (a) and is not excluded demolition: **The relevant conditions are discussed as follows;**

(i) the developer must, before beginning the development, apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to the method of demolition and any proposed restoration of the site; **This is the aspect of the notification which is under consideration.**

(iii) an application described in paragraph (b) (i) must be accompanied by a written description of the proposed development, a statement that a notice has been posted in accordance with paragraph (iv) and any fee required to be paid; **This has been submitted through the covering letter and a draft demolition method statement. The requisite fee has duly been paid.**

(iv), the applicant must display a site notice by site display on or near the land on which the building to be demolished is sited and must leave the notice in place for not less than 21 days in the period of 28 days beginning with the date on which the application was submitted to the local planning authority; **Photographic evidence of the site notice**

being displayed was submitted with the notification, which has also been corroborated by the Case Officer visiting the site and taking a supplementary photograph as evidence of the display.

(v) where the site notice is, without any fault or intention of the applicant, removed, obscured or defaced before the period of 21 days referred to in paragraph (b)(iv) has elapsed, the applicant is treated as having complied with the requirements of that paragraph if the applicant has taken reasonable steps for protection of the notice and, if need be, its replacement; **As indicated the site notice has been displayed.**

Considerations

As set out within the conditions within the legislation the applicants have duly met the required conditions in order for the works to be able to be carried out under Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended). In considering the information as submitted, the Council considers that further information is required to clarify how the site is to be left following the demolition, together with details of the hoardings and tree protection measures which will be required in order to facilitate the demolition. The local planning authority would expect these details and the applicant has anticipated this and provided the details we can consider. Highways and Environmental Protection Officers have all been consulted on the method of demolition and raise no objections.

It is noted that concerns have been raised by Cllr Lapsa and residents as to the way in which the site is to be left, which is to be laid as hardstanding with the existing landscaping features in the form of boundary trees to be retained, this additional information has been secured as part of this prior approval process.

The conditions for consent under Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended) require the demolition to be carried out within a five-year period, and in accordance with the demolition plan as submitted/approved, together with any associated conditions which are deemed necessary and meet the five statutory tests for conditions as set out within the Planning Practice Guidance.

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

In conclusion it is considered that the notification submitted accords with the relevant sections of Class B, Schedule 2 of Part 11 of the General Permitted Development Order 2015 (As Amended) and it is therefore recommended that prior approval is required and with those matters having been provided as part of this application, prior approval is approved.

Conditions/Reasons

1. Notwithstanding the submitted details, prior to demolition, details of the siting/location and appearance of the hoarding proposed, together with the proposed duration of the hoardings shall be submitted to and approved in writing by the Local Planning Authority. The hoarding shall be erected prior to the demolition of the building and maintained in good order thereafter.

Reason: *To ensure that the site provides a suitable and safe means of enclosure which will not detract from the character and appearance of the locality or give rise to safety and fear and perception of crime issues in accordance with Policies AC2, AC4, DE1 and H5 of the adopted Local Plan (2016) and Paragraph 92 (b) of the National Planning Policy Framework (2023).*

2. Prior to the commencement of the demolition of the building (not including external works) the following shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Tree Survey - a detailed scaled plan (to a scale and level of accuracy appropriate to the proposal) showing the position of every tree on the site, and every tree on land adjacent to the site (including street trees) that is likely to have an effect upon or be affected by the proposal (e.g. by shade, crown overhang from the boundary, intrusion of the Root Protection Area etc) with a stem diameter over the bark measured at 1.5 metres above ground level of at least 75 millimetres;
 - b) a schedule of the trees surveyed as specified in chapter 4.1-4.5 of BS 5837 : 2012 Trees in Relation to Design, Demolition and Construction - Recommendations;
 - c) a Tree Constraints Plan (5.1-5.3);
 - d) Arboricultural Impact Assessment (5.4) to assess the direct and indirect implications of trees upon the proposal and visa-versa, including locations for under-ground/ over-ground services, level changes within RPA's etc.;
 - e) Arboricultural Method Statement (6.1); and
 - f) a Dimensioned Tree Protection Plan (to include protection measures during and after construction and any construction exclusion zones) (in accordance with 5.5/ Table B.1), site monitoring (6.3) of British Standard BS5837:2012 - Trees in relation to design demolition and construction - Recommendations, which shall also include any proposal for pruning or other preventative works.

The approved mitigation and / or protection measures shall be put into place prior to the commencement of any works and shall remain in place during all construction work.

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

3. No demolition (including soft strip operations) shall take place between 1st March and 31st August (inclusive) unless a survey to assess the nesting bird activity on the site during this period has been undertaken by a qualified surveyor, and a scheme to protect any nesting birds identified on the site has first been submitted to and approved in writing by the Local Planning Authority. No demolition (including soft strip operations) shall take place between 1st March and 31st August (inclusive) other than in strict accordance with the approved bird nesting protection scheme.

Reason: *To ensure that protected species are not harmed by the development in accordance with Policy GE3 of the Coventry Local Plan 2016 and the advice contained within the NPPF 2023.*

4. In the event that contamination or unusual ground conditions are encountered during the development it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be prepared for submission to and approval in writing of the Local Planning Authority. Following completion of the measures identified within the approved remediation scheme, a verification report must be prepared for submission to and approval of the Local Planning Authority.

Reason: *The site is formerly developed land so any underground demolition, grubbing out of foundations etc. may expose contaminated soils. The condition is imposed to safeguard health, safety and the environment in accordance with Policies DS3 and EM6 of the Coventry Local Plan 2016 and the aims and objectives of the NPPF (2023).*