PLANNING APPLICATION NUMBER:P11/0106

Type of approval sought		Outline Planning Permission	
Ward		WOLLASTON & STOURBRIDGE TOWN	
Applicant		Revelan Group PLC	
Location:	SUNRISE BUSINESS PARK, HIGH STREET, WOLLASTON, STOURBRIDGE, DY8 4ZZ		
Proposal	OUTLINE APPLICATION FOR DEVELOPMENT OF UP TO 150 DWELLINGS (ACCESS TO BE CONSIDERED WITH ALL OTHER MATTERS RESERVED)		
Recommendation Summary:	APPROVE SU	JBJECT TO A 106 AGREEMENT	

SITE AND SURROUNDINGS

- The application site, known as Stourbridge Wharf, lies to the south of Wollaston Road and is situated to the north-west of Stourbridge town centre. The site adjoins the 'Tudor Dairies' site to the south, a vacant industrial site which is currently the subject of a pending application for residential development (application no. P11/0107).
- 2. The site is 6.5 hectares in area and comprises of a number of industrial buildings, yards, and parking areas. The most significant building is the Sunrise Medical building fronting Wollaston Road, currently part occupied by Sunrise Medical Ltd and formerly occupied by Caparo Aluminium Technologies Ltd. The River Stour runs through the site from north to south and is culverted beneath this building.
- 3. Vehicular and pedestrian access to the site is gained from Wollaston Road. On the opposite side of the road there are industrial units and houses. The eastern site boundary is formed by a belt of trees beyond which is the Stourbridge Canal. The southern section of the site consists of a heavily wooded area leading to the Tudor Dairies site via the canal and its towpath. Land to the south lies within Stourbridge Canal (Canal Street) Conservation Area. The western boundary adjoins the rear gardens of residential properties on Apley Road and Sherwood Road. There is a

significant difference in levels between the western section of the site and the remainder of the site, with the western section being at a higher level.

PROPOSAL

- 4. This is an outline application for the residential redevelopment of the site. All matters of detail are reserved for subsequent approval except for the means of access. An indicative masterplan has been submitted which show the possible layout of a subsequent development, with 150 dwellings at a density of 34 dwellings per hectare.
- 5. The application is accompanied by the following information:
 - Design and Access Statement
 - Ground investigation reports;
 - Archaeological appraisal;
 - Air quality report;
 - Noise assessment;
 - Ecological appraisal;
 - Flood Risk Assessment;
 - Transport assessment;
 - Section 106 obligations heads of terms.

PLANNING HISTORY

6.

Application	Proposal	Address	Decision	Date
P04/2235	Outline: Residential Development to Form Houses and Apartments	FormerStourbridgeSteelholdersSite,HighStreet,Wollaston	Refused	04/05

7. This development related to vacant employment land within part of the current application site and the adjacent residential property on Apley Road. The application

was refused on the grounds that it would lead to the loss of employment land, would expose future occupants to noise from existing employment uses, and would lead to action being taken against those uses by the Council to the detriment of the effective running of the businesses. A subsequent appeal was dismissed on these grounds.

PUBLIC CONSULTATION

- 134 neighbour notifications letters have been sent to the occupiers of neighbouring properties and site notices posted.
- 9. As a result the occupant of a property on Holly Bush Lane has written in support of the development.
- 10. The occupants of two properties on High Street have raised objections to the proposal on the grounds of *'traffic concerns'* and that it will result in a loss of privacy and will increase traffic congestion on High Street.
- 11. A letter of objection has been received from Vee Bee to the east of the site. Vee Bee manufactures filtration equipment and has advised that they operate noisy heavy plant and machinery and use their yard areas for packing and loading, including the operation of fork lift trucks. Activities occasionally take place during late evening/early morning hours. Vee Bee are concerned that the introduction of noise sensitive land uses within close proximity will jeopardize its ability to continue to operate successfully from the site. There is clear potential for residents of the new dwellings to be disturbed by activities at the Vee Bee site, resulting in complaints to the Council which may lead to action being taken against it.

Vee Bee has commissioned an assessment of the effects of noise from its premises on the proposed development site, which has concluded that there is potential for complaint from future residents living to the north of its operations, particularly during night time. Vee Bee has raised concerns about the methodology used by the applicant in its noise report submitted in support of the application, and the robustness of the findings.

The submitted masterplan shows a new footbridge linking the development to the eastern side of the canal. The proposed landing area for the bridge is owned and controlled by Vee Bee, and there is no towpath available on this side of the canal to which the bridge could connect. This element of the proposal is therefore currently undeliverable.

OTHER CONSULTATION

12. <u>Head of Environmental Health and Trading Standards</u> – Requests that a condition be imposed requiring the submission of a scheme to deal with contamination of land.

The submitted air quality assessment demonstrates that the air quality impacts of the development would be proportionally related to the predicted traffic flow increases. As such there are no adverse comments.

In respect of noise issues, in particular the impact on the development of noise from Vee Bee, the comments of the Head of Environmental Health are contained and commented on in the Assessment section below.

13. <u>Group Engineer (Development)</u> – The proposed development will increase traffic on the local highway network. Although the site access can satisfactorily accommodate the number of additional vehicles, highway works will be required to the junction of Wollaston Road and High Street to mitigate against the additional traffic generated by the development – this will involve works to increase the capacity of the right turn storage area on Wollaston Road at the junction to improve the flow of traffic there. The scope of the required works must be agreed prior to the commencement of development and the work completed prior to first occupation.

The development will also increase queues at the High Street/Bridgnorth Road roundabout to the west of the site. A mitigation scheme has been developed by the applicant to improve the capacity of the roundabout. The Group Engineer is however of the opinion that the capacity of the roundabout is significantly restricted by the number of pedestrians using the zebra crossings on the roundabout, rather than by its design. As such the proposed highways improvements would not result in increased capacity and would in fact detrimentally affect the pedestrian facilities in the vicinity by reducing the footway width to 1.8m.

Measures are proposed in the applicant's Travel Plan to reduce the amount of caruse generated by the development (with the result that there will be less queuing at the roundabout). It is proposed to ensure that the development takes place in accordance with an approved Travel Plan by including a relevant clause into the required S106 agreement. This will include the provision of a cycle voucher to the value of £200 for each property.

- 14. <u>CENTRO</u> No objection to the principle of developing the application site for residential purposes. However Centro does have concern regarding the distance from parts of the application site to public transport services. Access from the site to the existing public transport network is limited, the nearest bus shelters are located approximately 550m away on Wollaston Road and 620m away on High Street from the centre of the application site. The installation of 2 new poles, at a cost of approximately £700, will significantly reduce the walking distance of the majority of residents to public transport services.
- 15. <u>British Waterways</u> No objection subject to the imposition of conditions relating to the submission of details of the proposed bridge over the canal and the construction of the access to the towpath, an ecological survey, landscaping scheme, lighting of the development, and barriers and boundary treatments to prevent vehicles entering the waterway.

BW seeks funding from all new developments within and immediately adjacent to the canal corridor, where appropriate, towards improvement works in order to create an attractive, accessible and bio diverse canal corridor. In this case the development will encourage residents to use the towpath to access the open space to the south, thus increasing footfall along the towpath and therefore requiring additional maintenance. The development warrants contributions for the resurfacing of the towpath and its future maintenance. The resurfacing of the towpath should be undertaken between

Coalbournbrook Bridge to the wharf area (existing concrete slab) for a distance of 983m; the estimated cost is £138,000 in accordance with Policy ENV4 Canals of the Black Country Joint Core Strategy. Alternatively a contribution of £48,000 should be provided for the enhancement of three specific locations along the towpath where there is intensive wear and tear.

This request is considered further in the Planning Obligations section below.

- 16. <u>Natural England</u> No objection in principle subject to the proposal taking into account suitable provision for bats, otters and other protected species at the reserved matters stage, and the imposition of conditions to secure all of the ecology measures recommended by Natural England and in the applicant's ecological appraisal.
- 17. <u>Birmingham and Black Country Wildlife Trust</u> object to the application as it does not take into account the detrimental effect to wildlife and biodiversity. Further assessment work needs to be carried out for bats and other species, as well as the submission of a landscaping scheme.
- 18. English Heritage This site adjoins the Stourbridge Arm Canal Conservation Area. With the exception of the canal the site does not directly impact on any designated heritage assets. English Heritage has no objection in principle to residential development here. The southern boundary of the site closely abuts the former Lowndes Road Foundry site subject of a concurrent application for residential development; it is very disappointing that the two applications are submitted in isolation and that there is no proposal to connect the two sites and thus create a more integrated and interesting new urban morphology for the area.
- 19. <u>Environment Agency</u> No objection.

20. National Planning Policy

The National Planning Policy Framework (March 2012) sets out the Government's planning policies for England and how these are expected to be applied. The previous Planning Policy Statements, Guidance notes and Circulars have now been cancelled. The NPPF is a material consideration in planning decisions, but does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved.

The NPPF advises that the purpose of the planning system is to contribute to the achievement of sustainable development. The Framework requires that the planning system should provide for the supply of housing required to meet the needs of future and present generations and the creation of a high quality built environment, and contribute to the protection and enhancement of the natural, built and historic environment.

Black Country Core Strategy (BCCS)

- Spatial Objective 3;
- Policy CSP1 (The Growth Network);
- Policy CSP3 (Environmental Infrastructure);
- Policy CSP4 (Place Making);
- Policy DEL1 (Infrastructure Provision);
- Policy DEL2 (Managing the Balance between Employment Land and Housing);
- Policy HOU1 (Delivering Sustainable Housing Growth);
- Policy HOU2 (Housing Density, Type and Accessibility)
- Policy HOU3 (Delivering Affordable Housing);
- Policy TRAN 2 (Managing Transport Impacts of New Development);

- Policy TRAN4 (Creating Coherent Networks for Cycling and Walking);
- Policy ENV1 (Nature Conservation);
- Policy ENV2 (Historic Character and Local Distinctiveness);
- Policy ENV3 (Design Quality)
- Policy ENV4 (Canals);
- Policy ENV5 (Flood Risk and Sustainable Drainage Systems);
- Policy ENV6 (Open Space, Sport and Recreation)
- Policy ENV7 (Renewable Energy)
- Policy ENV8 (Air Quality)

Saved 2005 UDP Policies

- Policy DD4 (Development in Residential Areas)
- Policy DD10 (Nature Conservation and Development)
- Policy UR9 (Contaminated Land)
- Policy NC6 (Wildlife Species)
- Policy HE4 (Conservation Areas);
- Policy HE7 (Canals);
- Policy HE8 (Archaeology and Information)
- Policy SO2 (Linear Open Space)
- Policy SO3 (Access and Enhancement of Green Belt and Linear Open Space)
- Policy EP3 (Water Protection)
- Policy EP7 (Noise Pollution)

Supplementary Planning Guidance

- New Housing Development SPD
- Glass Quarter SPD
- Planning Obligations SPD
- Nature Conservation SPD
- Affordable Housing SPD
- Draft Parking Standards SPD

ASSESSMENT

21. Key Issues

- Principle;
- Loss of Employment Land;
- Density;
- Highways issues;
- Accessibility;
- Contamination;
- Flood risk;
- Noise;
- Impact on the Conservation Area and canal;
- Archaeology;
- Wildlife issues;
- Effects of the development on the River Stour;
- Provision of open space;
- Affordable housing;
- Planning Obligations.
- New Homes Bonus

Principle

22. The Black Country Core Strategy (BCCS) has been adopted since the previous planning application relating to this site was refused in 2005, and this now should be regarded as a significant material planning consideration in the determination of this application. The BCCS sets out the vision, objectives and strategy for future development in the Black Country to 2026. One of the Spatial Objectives of the Strategy is to help to deliver sustainable communities on redundant employment land, that make the most of opportunities such as public transport and canal networks, are well served by residential services and green infrastructure, have good walking, cycling and public transport links to retained employment areas and centres,

are set in high quality natural and built environment and are well integrated with surrounding areas. The acceptability of this proposal must be assessed against the aims of this Objective.

- 23. Within the Core Strategy, the application site lies within Regeneration Corridor 11b Brierley Hill to Stourbridge. Policy CSP1 advises that in respect of new housing the role of Regeneration Corridors is to provide new residential communities that are well supported by community services and local shops, set within and linked by comprehensive networks of attractive green infrastructure with cycling and pedestrian routes. Regeneration Corridor 11b should specifically provide for new high quality canalside communities through the redevelopment of outdated and obsolete industrial sites. Existing green infrastructure is to be protected and enhanced and improved links to the River Stour are to be provided. In total, 2480 new dwellings are proposed for this Corridor. The development accords in principle with the vision for this particular Regeneration Corridor.
- 24. The site is referenced within the Strategic Housing Land Availability Assessment (SHLAA). However Members should note that the SHLAA cannot be used to preempt or prejudice any decision the Council may make in the future on any particular site; notwithstanding this the emerging SHLAA update identifies that the site is deliverable within the short term and could potentially provide up to 150 dwellings.

Loss of Employment Land

25. Policy DEL2 of the Core Strategy requires that before any employment land is released it should first be ensured that an adequate supply of occupied and available employment land is retained. In areas identified for new housing, the Council is encouraged to positively plan to facilitate housing growth by encouraging any existing operation which may restrict the regeneration of the area to relocate. The applicant has advised that Sunrise Medical Ltd have found alternative premises on Thorns Road which better meet their operational requirements and will vacate the site in July 2012. The remainder of the site is already vacant.

26. Policy DEL2 also requires that any proposals resulting in the loss of employment land should demonstrate a comprehensive approach, making best use of available land and infrastructure and not prejudicing existing and neighbouring uses. Notwithstanding the concerns of Vee Bee Ltd (which are addressed in paragraph 42 below) it is considered that the proposal will result in a comprehensive redevelopment scheme in accordance with this criterion. The principle of the proposed use of the site for residential purposes is therefore acceptable.

Density

- 27. The NPPF advises that local planning authorities should set out their own approach to housing density to reflect local circumstances. Policy HOU2 of the Core Strategy states that all developments will aim to achieve a minimum net density of 35 dwellings per hectare, except where higher densities would prejudice historic character and local distinctiveness. Whilst the net density of the proposed development is below this minimum threshold this is considered to be acceptable in this case on the basis that a significant proportion of the site is taken up by the River Stour and its adjoining flood zone which cannot be built upon and is therefore to be used as open space.
- 28. The policy also requires that developments of 15 dwellings or more should provide a range of house types and sizes that will meet the accommodation needs of both existing and future residents, including affordable housing. As this is an Outline application the proposed house types have not been specified; however at the reserved matters stage an appropriate mix of dwellings can be sought to ensure compliance with this policy.
- 29. With regard to the concerns of an objector relating to loss of privacy, the development will result in the potential for some overlooking of rear gardens of properties along High Street. However as this is an Outline application the precise siting and design of the proposed dwellings is not under consideration and a layout can be sought at the Reserved Matters stage which ensures that any overlooking is to an acceptable level and that the privacy of existing nearby residents is protected in

accordance with Saved Policy DD4 of the UDP. Also at reserved matters a layout plan will be sought showing appropriate amounts of private amenity space for each of the proposed dwellings.

Highways Issues

- 30. The applicant's Transport Assessment advises that the site is in a sustainable location, and there is little or no scope for improvement in terms of either infrastructure or services in connection with the development. Mitigation measures on the highway network were not initially proposed, however junction improvement works are now proposed and a number of the measures in the Travel Plan will be implemented. The Travel Plan sets out a number of objectives, including encouraging the use of more sustainable modes of transport and reducing unnecessary travel, and sets targets for a reduction in car driver trips over a 5 year period.
- 31. With regard to the comments of the Group Engineer, the applicant has agreed to provide the details of the required highways works to improve the junction of Wollaston Road and High Street and it is proposed to secure these works through an appropriately worded condition (no.17). The works will ensure that the development will not increase traffic congestion in the vicinity of the site. The provision of a £200 cycle voucher can be secured as part of an amended Travel Plan which will form part of the required S106 agreement. In this respect the proposal complies with the National Planning Policy Framework which seeks to promote more sustainable transport choices, and Core Strategy Policy TRAN 2 which requires that developments should provide an acceptable level of accessibility and safety by all modes of transport, in accordance with an agreed Transport Assessment and Travel Plans.

Accessibility

32. The site lies within an area of Linear Open Space. Saved Policy SO2 of the UDP advises that the function of Linear Open Space is to link open spaces in urban areas with green wedges and provide recreation for neighbouring areas. The design and

layout of development within linear open space is required to complement and enhance its function. Policy SO3 seeks to ensure that public access to, through and within Linear Open Space is protected and where possible enhanced.

- 33. Policy CSP3 of the Core Strategy states that development proposals should protect, enhance and expand the strategic network of environmental infrastructure at every opportunity. Policy TRAN4 advises that, in the interests of creating sustainable environments, new developments should link to existing walking and cycle networks. Where possible existing links, including the canal network, should be enhanced and the networks extended to serve new developments. New developments should have good walking and cycling links to public transport nodes and interchanges.
- 34. An existing pedestrian footpath runs along the canal towpath to the east of the site. This will provide access to the site and to the existing and proposed open space within and outside the site to the south. Stourbridge town centre is located within 10 minutes walking distance of the site, along the towpath, through the proposed development site to the south, and then along Bradley Road. Internally, the future detailed layout can provide footpath connections between the river and canalside through the proposed residential streets. The layout plan shows a bridge over the canal which will link the site to future developments on the opposite side of the canal to further improve accessibility to and from the site; however this land is not within the ownership of the applicant and is currently in industrial use and is therefore not to be considered as part of this application in respect of improving the site's accessibility
- 35. To ensure that the site is in sustainable location in respect of access to public transport facilities, CENTRO has requested that additional bus stopping locations are provided in the immediate vicinity of the site. CENTRO have advised that these can be provided at a cost of £700. A contribution for this amount can be sought from the developer via a Section 106 Agreement for CENTRO to carry out the required works.

Contamination

36. A ground investigation report has been submitted which presents recommendations for remedial precautions to be incorporated into the development in respect of contaminated land and ground gases. Saved Policy UR9 of the UDP requires that, where it is known or suspected that land is contaminated, planning applications should be accompanied by information to determine the remediation required in relation to the proposed land use. The Head of Environmental Health has assessed the submitted Ground Investigation Report and has advised that, to ensure that the risks associated with any contamination area reduced to acceptable levels, a scheme should be submitted to deal with remediation of ground contamination, including soil gases and vapours (this is covered by Conditions 23 and 27-29).

Flood Risk

- 37. Policy ENV5 of the Core Strategy seeks to minimize the probability and consequences of flood risk by adopting a strong risk-based approach. The National Planning Policy Framework requires that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere. The NPPF recommends that an 'exception test' be applied, against which all development within flood zones should be assessed to determine whether the proposal is acceptable in principle. For the test to be passed it must be demonstrated that:
 - a. the development provides wider sustainability benefits to the community that outweigh flood risks;
 - b. the development is on previously-developed land;
 - c. The flood risk assessment shows that the development will be safe, without increasing flood risk elsewhere, and where possible reduce flood risk overall.

- 38. The submitted Flood Risk Assessment advises that the majority of the site lies within Flood Zone 3a High Risk and Flood Zone 2 Medium Risk. The layout and form of the proposed development should therefore reduce the overall level of flood risk in the area, with the application of appropriate sustainable drainage techniques, and create space for flooding to occur by restoring functional floodplain and by allocating open space for flood storage.
- 39. With regard to criteria (a) and (b) it is considered that the proposal does pass the test for the reasons set out in paragraph 23 above. In respect of criteria (c) the submitted Flood Risk Assessment demonstrates that the development can proceed without creating an unacceptable flood risk either to future occupants or elsewhere. The Environment Agency is satisfied that the many varied and complex hydraulic issues relating to this site including risk from the river and canal systems have now been addressed. It is recommended that the conditions relating to flood risk requested by the Environment Agency should be imposed (Conditions 24-26).

<u>Noise</u>

- 40. Policy DEL2 of the Core Strategy requires that, before considering the release of employment land, it should be ensured that a development does not adversely affect the operation of existing or proposed employment uses. This proposal involves the release of industrial land for new housing, which with regard to this policy should only be allowed if the continued viability of existing surrounding commercial uses is not prejudiced by such a development. Saved Policy EP7 requires that where development would be subject to high noise levels the Council will require the proposal to include measures to reduce noise intrusion to an acceptable level.
- 41. The applicant's noise survey identifies that the main noise source which could potentially affect occupants of the development is noise from fans and the delivery yard at the adjacent premises to the south-west (Vee Bee). Noise mitigation will be required for the area of the site nearest Vee Bee, including non-habitable room windows on elevations facing Vee Bee and garden fences to protect private gardens.

Buildings close to the site boundary should also be orientated so that they act as a noise block.

42. With regard to Policy DEL2 it is important to ensure that the development does not have any implications for the long-term viability of Vee Bee Ltd. The Head of Environmental Health has advised that, whilst the concerns of Vee Bee Ltd are understandable and justified, refusal of the application based on the effect of noise on a relatively small proportion of the site to the north of Vee Bee is not sustainable. The indicative layout shows a 'barrier block' of single aspect dwellings in the part of the site closest to Vee Bee, with habitable rooms located away from Vee Bee. The block should be three storeys high in order to be effective as a noise barrier to protect other areas of the development site (this can be sought by condition no.20); similarly at the reserved matters stage layout plans of this block should be required to show the dwellings being single aspect only, with non-habitable rooms on the rear elevation only. Such an arrangement is regarded as the best practicable mitigation possible given that the development of the site for residential use is acceptable in principle, and is one which has been utilised at other sites with similar issues.

Impact on the Conservation Area and Canal

43. The site adjoins the Stourbridge Branch Canal (Canal Street) Conservation Area to the south. The NPPF requires that, in determining planning applications, local planning authorities should take account of the desireability of new development making a positive contribution to local character and distinctiveness. Saved Policy HE4 of the UDP states that the Council will safeguard and seek to enhance Conservation Areas, and that proposals which would be detrimental to their character or setting will be resisted. The proposed built development on the site will be separated from the Conservation Area by a large area of wooded open space at the southern end of the site, and therefore there would not be any direct visual 'link' between the proposed dwellings and the Conservation Area and no harm caused to it. As such the proposal would not contravene Policy HE4.

- 44. Policy ENV4 of the Core Strategy states that all development proposals must protect and enhance the visual amenity of the canal network and improve and promote walking and cycling access. Saved Policy HE7 requires that development adjacent to canals should preserve and/or improve public access to canals, front on to the waterway, and enhance the canal environment.
- 45. The proposed indicative form of development, with long terraced blocks of dwellings fronting the canal set back behind a landscaped strip, would result in significant canal side improvements compared to the existing industrial setting. The development will provide direct access to the canal towpath at points along the eastern boundary via the road arrangements, details of which can be sought at reserved matters stage. The potential creation of an attractive canal side environment will greatly enhance the visual quality of the area, in accordance with Policies ENV4 and HE7.

Archaeology

- 46. Saved Policy HE8 of the UDP requires that adequate information should be included as part of any planning application to allow for the impact of a development on archaeological remains to be properly considered. The applicant's archaeological appraisal advises that the extensively developed nature of the site restricts the effectiveness of any evaluation at this stage. The appraisal states that it is unlikely that the site contains archaeological remains of sufficient importance to warrant preservation in situ, however a condition should be imposed requiring that further investigation is completed post-consent.
- 47. It is recommended that a condition be imposed requiring that a programme of archaeological work be commissioned at the reserved matters stage to cater for the potential survival of any archaeological remains associated with the former Wollaston Mill (Condition 16).

Wildlife Issues

- 48. Part of the southern section of the site and the canal are designated as an area of local importance for nature conservation. The NPPF requires that opportunities to incorporate biodiversity in and around developments should be encouraged. Policy ENV1 of the Core Strategy seeks to safeguard locally designated nature conservation sites from development proposals which could negatively impact upon them, and advises that all development should indeed positively contribute to the natural environment of the Black Country. Both this Policy and Saved Policy NC6 of the UDP require the submission of measures to protect wildlife species and their habitat. Further detail on the type of information needed is set out in the NPPF and associated technical supporting documents, as well as the Nature Conservation SPD.
- 49. The applicant's ecological appraisal sets out how measures could be secured and implemented to avoid, mitigate and/or compensate the effects of the development on existing wildlife species, as well as to deliver significant local benefits to the habitat network. The development includes the de-culverting and re-engineering of the River Stour, which will deliver a significant benefit in terms of the function of the river as a wildlife corridor. In order to avoid or minimize the impact of the works, and to maximize the ecological benefits they will deliver, a number of mechanisms/measures are recommended in the applicant's ecological appraisal. These should be secured by conditions to ensure that the development makes a positive contribution to the natural environment (Conditions 15 and 24).

River Stour

50. The proposed opening up of the culverted stretches of the River Stour is encouraged by Policy ENV5 of the Core Strategy, which also advises that developments adjacent to river corridors should benefit the river by reinstating a natural river channel and restoring the functional floodplain. This part of Stourbridge suffers from poor environmental quality and the river, in particular, has suffered from past development. Local amenity would be improved by redevelopment of the site in the manner proposed.

Provision of Open Space

51. The development will provide large areas (approximately 1.7 hectares) of open space within the flood zone on either side of the de-culverted river, producing a new and enhanced resource in this part of Stourbridge. The development will also allow for access to be gained, via the canal towpath, to the large areas of open space to the south which form part of the development proposals for the Tudor Dairies site referred to in paragraph 1 above (a plan of this area is attached to this report). This is in accordance with Policy CSP4 of the Core Strategy which seeks the provision of an integrated multifunctional open space network and Policy ENV6 which encourages developments which would increase the overall value of the open space network.

Affordable Housing/Planning Obligations

- 52. Black Country Core Strategy Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for planning obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
- 53. Policy DEL1 requires all new developments to be supported by sufficient on and offsite infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
- 54. The obligations potentially triggered according to the Planning Obligations SPD are: Economic and Community Development, Education, Library Improvements, Open Space, Sport and Recreation Improvements, Public Realm Improvements, Nature Conservation Improvements, Public Art, Affordable Housing and Transport Infrastructure Improvements.

- 55. In determining the required planning obligations on this specific application the following three tests as set out in the CIL Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
 - (a) necessary to make the development acceptable in planning terms;
 - (b) directly related to the development;
 - (c) fairly and reasonably related in scale and kind to the development.

Following consideration of the above tests the following planning obligations are triggered for this application:

Economic and Community Development:

56. This is an obligation on the developer to enter into a Local Employment Statement with the Council in order to provide for economic and community development benefits. This could be in the form of commitments to sourcing building materials locally and the provision of jobs for local people in both the construction and end-use phases. The Statement must be submitted to and approved by the Council prior to commencement of development. This is covered by Condition 22.

Library Improvements

57. A contribution of £28.708.50 towards improvements to existing facilities based on the scale of the development proposed.

Open Space, Sport and Recreation

58. The issue of open space provision is covered in paragraph 51 above. In assessing the application for residential development in 2010 at the former Rolling Mills site to the south-east of the application site, Members were advised that approximately 5.5 acres of land under the applicant's ownership at the adjacent Tudor Dairies site was to be used as an area of public open space by occupants of the Rolling Mills site, and

by future residential occupants of the Tudor Dairies site and other land in the immediate surrounding area. Members considered that this approach was acceptable as it would result in the creation of recreational facilities in the immediate vicinity of the site rather than monies being spent on existing facilities which are further away and potentially less likely to be used by residents of these sites. The provision of this open space area can be delivered via a Section 106 Agreement.

Public Realm

59. A contribution of £71,779.50 towards infrastructure improvements based on the scale of the development proposed, if provided off site.

Nature Conservation

60. Enhancements to be incorporated into the development, at a cost of £18,109 (based on the Planning Obligations SPD formula which takes into account the site area).

Public Art

61. 1% of the design and development costs. An appropriate scheme can be secured by condition, details of which will be submitted at the reserved matters stage.

Affordable Housing

62. In accordance with Policy HOU3 of the Core Strategy 25% of the proposed dwellings should be affordable.

Transport Infrastructure Improvements

63. The means of securing the specific highway improvement works required as a result of the development are set out in paragraph 32 above.

Management and Monitoring Fees

64. For a development of this size a management and monitoring fee is applied. This equates to £1,328.50 (10% of the application fee).

Viability Assessment

- 65. The applicant has submitted a statement in respect of affordable housing and other S106 contributions. The statement requests that the requirement for affordable housing and S106 contributions should be waived for the following reasons:
 - The majority of the housing in the immediate locality is social rented and smaller general market housing. Therefore in order to secure a mix of housing types and levels of affordability in the area, and to create a socially inclusive community, the amount of affordable housing delivered on the site should be limited.
 - 2) The development of the site is subject to many exceptional costs above those normally encountered (these include river restoration/enhancement works, ground contamination, Japanese Knotweed, and the proposed bridge crossings). The implication of such costs is that the provision of affordable housing in accordance with policy requirements would render the scheme unviable.
- 66. The submitted appraisal has been assessed by the Head of Property and Valuations who is in agreement that the site has extensive abnormal costs associated with the required land remediation, works to the River Stour, and the provision of other site infrastructure. The Head of Property Management and Valuation has advised that the scheme provides an inadequate return on the basis of policy compliant affordable housing provision, and a barely acceptable return on the basis of zero affordable housing.

- 67. The Planning Obligations SPD recognises that exceptional circumstances may arise on some sites which result in genuine financial viability concerns (for example where remediation costs are abnormal or are above what could reasonably been forseen). The Council's objective in viability negotiations is to secure the maximum value of planning obligations in order to deliver the required amount of supporting infrastructure, whilst working with developers to enable developments to come forward. The Affordable Housing SPD advises that only where exceptional remediation costs are preventing a sale of the site on the open market or otherwise restricting the reuse of the site for housing will a reduced provision be considered.
- 68. Based on the accepted exceptional costs associated with the development, and the advice received from the Head of Property Management and Valuation, it is considered appropriate in this case not to request any affordable housing provision or a contribution towards library improvements. Similarly the contribution requested by British Waterways (see paragraph 15), although meeting the CIL tests as it would be directly related to the development, should not be sought due to the impact on viability.
- 69. In relation to transport infrastructure works the applicant's financial appraisal does include, as an exceptional cost, the provision of a sum of money towards the improvement works required. The installation of two bus stop poles is necessary to ensure the site's accessibility and would be a relatively minor cost which would have no undue impact on the development's viability. It is proposed to secure these works through a S106 agreement.
- 70. In lieu of a financial contribution towards public realm improvements it is considered that the proposed onsite development works, which will include new boundary treatments, the provision of high quality hard and soft landscaping, the river restoration works, and the new links across the site to the canal, all constitute significant improvements to the public realm which will be enjoyed by the residents of the development and existing residents in the immediate surrounding area. The specific details of these works will come forwards under the required Reserved Matters application. A separate financial contribution is not therefore justified.

Similarly the required nature conservation enhancements will be provided as part of the development and can be secured by condition, negating the need for a separate monetary contribution.

New Homes Bonus

- 71. Clause (124) of the Localism Act states that local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A "local finance consideration" means a grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown. This may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
- 72. The New Homes Bonus is designed to create an effective fiscal incentive to encourage local authorities to facilitate housing growth. It will ensure the economic benefits of growth are more visible within the local area, by matching the council tax raised on increases in effective stock.
- 73. The Bonus will sit alongside the existing planning system and provides local authorities with monies equal to the national average for the council tax band on each additional property and paid for the following six years as a non-ring fenced grant. In addition, to ensure that affordable homes are sufficiently prioritised within supply, there will be a simple and transparent enhancement of a flat rate £350 per annum for each additional affordable home.
- 74. Whilst the clause makes it clear that local finance matters are relevant to planning considerations and can be taken into account, it does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be "bought". Under this system the proposal would provide a significant sum of money, however the planning merits of the proposal are acceptable in any event and Members are advised not to accord this any significant weight in the assessment of the development

CONCLUSION

75. The proposed development provides an opportunity to deliver a significant number of new residential properties on a sustainable brownfield site, within a Regeneration Corridor where the Black Country Core Strategy specifically seeks the provision of new high quality canalside communities through the redevelopment of outdated and obsolete industrial sites.

RECOMMENDATION

- 76. It is recommended that the application be approved subject to:
 - a) The signing of a legal agreement to guarantee the provision of i) a scheme for the offsite provision and future maintenance of public open space and childrens play facilities to be submitted to and approved by the local planning authority in accordance with the requirements of the Open Space and Planning Obligations Supplementary Planning Documents, ii) a contribution of £700 towards the provision of 2no. bus stops in the vicinity of the site, iii) a Travel Plan that includes the provision of a £200 cycle voucher per dwelling, and iv) a management and monitoring fee of £1,328.50;
 - b) The completion of the Agreement by 24th July 2012 and, in the event of this not happening, the application being refused if appropriate
 - c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

Conditions and/or reasons:

- 1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 2. Approval of the details of appearance, layout, scale and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority before any development is begun.

- 3. Prior to the commencement of development details of the existing and proposed levels of the site (including finished floor levels), which should be related to those of adjoining land and highways, shall be submitted to and approved in writing by the local planning authority. The development shall proceed in accordance with the approved levels.
- 4. Prior to the commencement of development, details of the types, colours and textures of the materials to be used in the hard surfacing of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
- 5. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
- 6. No development shall commence until details of the proposed retaining walls and boundary treatment of the site have been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details.
- 7. Prior to the commencement of development, a detailed landscape strategy for the site shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a timetable for the implementation of the works and their ongoing maintenance, and shall be implemented in accordance with the approved details.
- 8. No development shall take place until there has been submitted to, and approved in writing by the local planning authority details of the tree protection measures on site. The details shall include:

a. A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.

b. A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.

c. A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected is to be calculated in accordance with Clause 5.2 of British Standard BS: 5837 – 2005 'Trees in Relation to Construction – Recommendations'.

d. Design details of the proposed protective barriers to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 9.2 of British

Standard BS:5837 – 2005 'Trees in Relation to Construction – Recommendations'.

9. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:

• Implementation, supervision and monitoring of the approved Tree Protection Plan.

• Implementation, supervision and monitoring of the approved Treework Specification.

• Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.

• Timing and phasing of arboricultural works in relation to the approved development.

- 10. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
- 11. Prior to the commencement of development a species survey and assessment of the site, carried out within the twelve months prior, shall be submitted to and approved in writing by the local planning authority, and the development shall proceed in accordance with the approved details and methods.
- 12. Prior to the commencement of development, a plan detailing the establishment and maintenance of habitats on the site for a period of 5 years from commencement on site shall be submitted to and approved in writing by the local planning authority. The development shall proceed in accordance with the approved details.
- 13. Prior to the commencement of development, a plan detailing the type and location of bat roost provision on the site shall be submitted to and approved in writing by the local planning authority. Prior to the occupation of the development hereby approved, the agreed provision will be installed on site and thereafter maintained available for use for the lifetime of the development.
- 14. No development shall commence until a detailed River Restoration Strategy has been submitted to and approved in writing by the local planning authority. The Strategy shall include:

a) a plan illustrating the restoration works to be undertaken;

b) a detailed method statement setting out how the works will be implemented to avoid and minimise impacts on the water quality and flow of the river downstream and on any existing notable flora and fauna;

c) details of the appointment of a suitable qualified ecologist to oversee the implementation of the restoration works;

d) the preparation of a long-term management plan to maintain and further enhance the restored section of the river post-completion of the works.

- 15. The development hereby approved shall take place in accordance with the recommendations set out in the Ecological Appraisal commissioned by EDP dated December 2010.
- 16. No works of construction, levels changes, regarding or other site clearance or infrastructure works involving ground disturbance shall begin until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to an approved in writing by the local planning authority. Such archaeological work shall comprise a suitably targeted watching brief with appropriate provision for archaeological investigation and recording and including subsequent analysis, reporting and archiving.
- 17. No development shall commence until details of the highway improvement works at the Wollaston Road/High Street junction have been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details.
- 18. No development shall commence until an updated Travel Plan, has been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details.
- 19. The development hereby approved shall not be occupied until details of the siting of 2no. new bus stops to serve the development have been submitted to and approved in wriitng by the local planning authority. The development shall thereafter take place in accordance with the approved detaills.
- 20. Development shall not begin until a scheme for protecting residents in the proposed dwellings from noise from industrial premses has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings unless otherwise agreed in writing by the Local Planning Authority. The submitted scheme shall include the building layout and window orientation proposals for noise mitigation dwellings shown on the Architecture and Urban Design Masterplan drawing 4AWA1011-P-003 dated 03/11/10. Each of the frontages of the 'Noise Mitigation Dwellings' blocks marked on the Masterplan shall be continuous.

The building located along the south-eastern corner of the site (directly opposite Vee Bee Ltd on the eastern side of the canal) shall be a minimum of three storeys high.

- 21. No development shall commence until details of public art feature(s) to be incorporated within the development have been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details.
- 22. A scheme produced in partnership with the Council that shall address, as a minimum, measures to increase the number of jobs open to local people

available on the site and the development of initiatives that support activities to upskill local unemployed people of working age so as to support them into sustained employment as outlined in the council's Planning Obligations Supplementary Planning Document shall be submitted to and approved by the Local Planning Authority prior to commencement of development. The development shall be implemented in accordance with the approved scheme.

23. No development approved by this permission, including the construction of any building, shall be commenced until a scheme to deal with contamination of land (including ground gases and vapours) has been submitted to and approved by the Local Planning Authority (LPA). Furthermore, no part of the development shall be occupied until the LPA has been satisfied that the agreed scheme has been fully implemented and completed.

The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing:

 A desk-top study to formulate a conceptual model of the site. The requirements of the LPA shall be fully established before the desk-study is commenced;

ii) Once the desk study has been approved by the LPA, a site investigation shall be carried out to identify and evaluate all potential sources and impacts of identified contamination in accordance with the conceptual model. The findings of site investigation shall be presented in report format for approval by the LPA and shall include a risk-based interpretation of any identified contaminants in line with UK guidance;

iii) Following the approval of both desk-top study and site investigation reports, a written remediation scheme and method statement (the contamination proposals) shall be agreed in writing with the LPA prior to commencement of the development. The contamination proposals shall include provisions for validation monitoring and sampling, including a scheme and criteria for both the use of imported materials and reuse of site-won materials, and be retained throughout the lifetime of the development.

iv) The contamination proposals shall be implemented in full and no deviation shall be made from the contamination proposals without the express written agreement of the LPA.

v) If during development works any contamination should be encountered which was not previously identified or is derived from a different source and/or of a different type to those considered under the contamination proposals then the LPA shall be notified immediately and remediation proposals formulated/amended for consideration.

vi) If during development work, contaminants are found in areas previously expected to be acceptable, then the LPA shall be notified immediately and remediation proposals formulated/amended for consideration.

vii) A completion report confirming the objectives, methods, results and conclusions and demonstrating that the contamination proposals have been fully implemented and completed shall be submitted to the LPA for approval.

- 24. No development shall commence until the following information has been submitted to and approved in writing by the local planning authority:
 - 1) Details of the opening up of the culverted River Stour;

2) Plans showing finished floor levels set no lower than 600 mm above the modelled 1 in 100 year plus climate change flood level.

3) Provision of appropriate easements from the edge of the watercourse.

4) Cross section and plan details of the developed site to demonstrate that it does not flood and that the flood risk to any third party is not increased as a result of the development.

The development shall thereafter take place in accordance with the approved details.

25. Development shall not be commenced until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

The scheme shall also include:

 Detailed plans and calculations demonstrating adequate storage of surface water for up to and including the 1 in 100 year plus climate change storm event based upon outflows restricted to Greenfield rate equivalents.
Details of how the scheme shall be maintained and managed after completion

26. The development hereby approved shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) (Ref 23913, November 2011, PBA) and the following mitigation measures detailed within the FRA:

1. Limiting the surface water run-off generated by the 1 in 100 year plus climate change critical storm event back to equivalent greenfield rates, as required by Policy ENV5(d) of the Black Country Joint Core Strategy.

2. Provision of a suitable Sustainable Drainage Systems (SUDS) design for the site in accordance with Policy ENV5(a) of the Black Country Joint Core Strategy, to include ponds.

27. Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme

to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The site investigation results and the detailed risk assessment (2) 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.

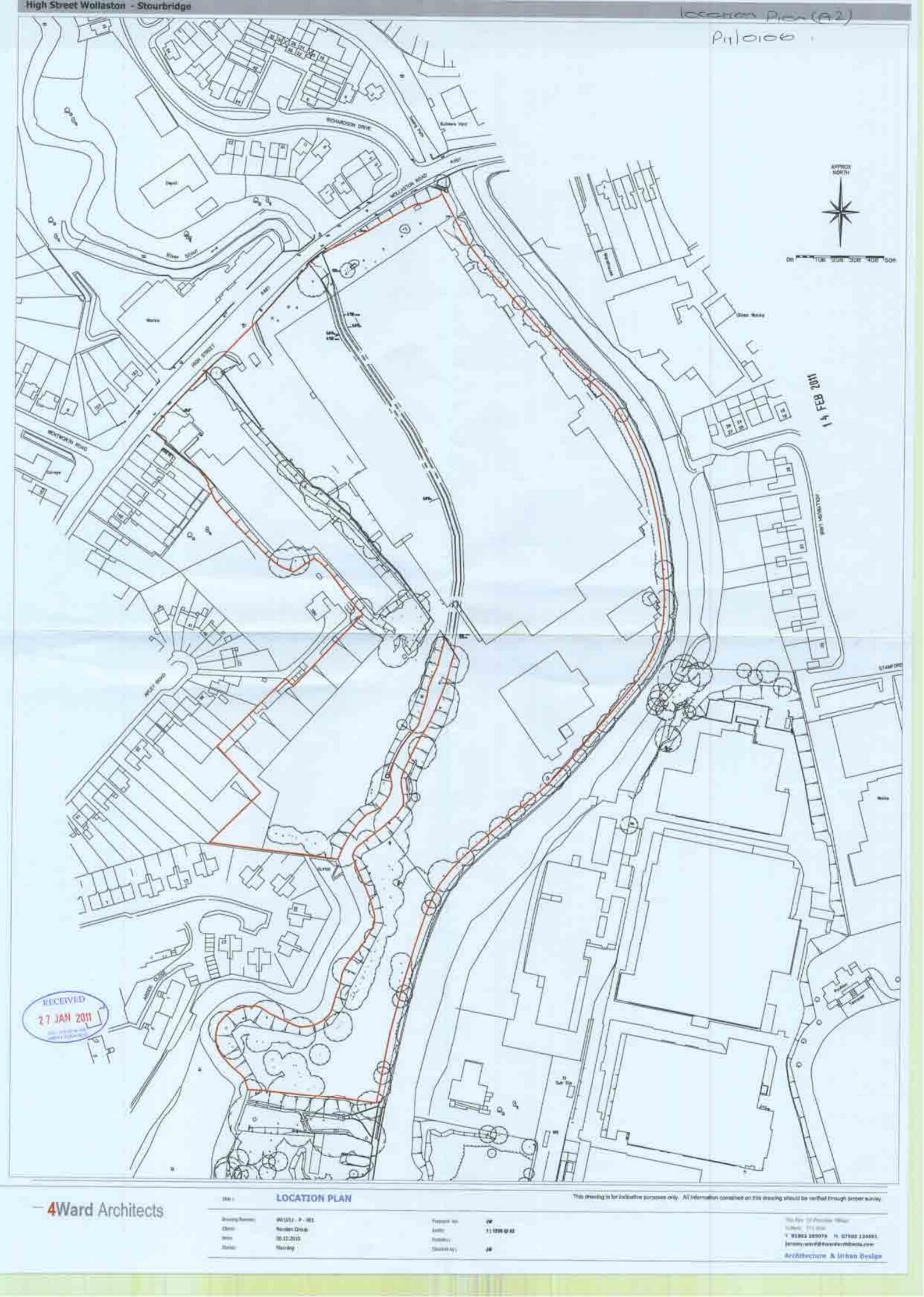
4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

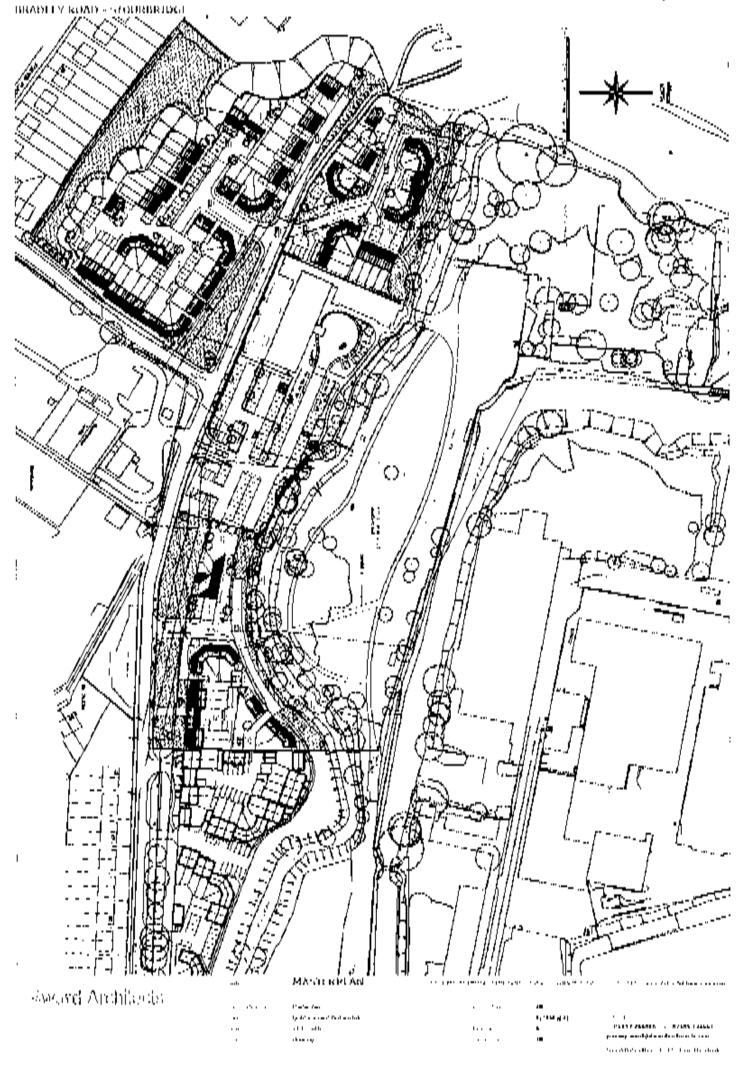
- 28. Prior to commencement of development, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.
- 29. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
- 30. No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to controlled waters. The development shall be carried out in accordance with the approval details.
- 31. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning

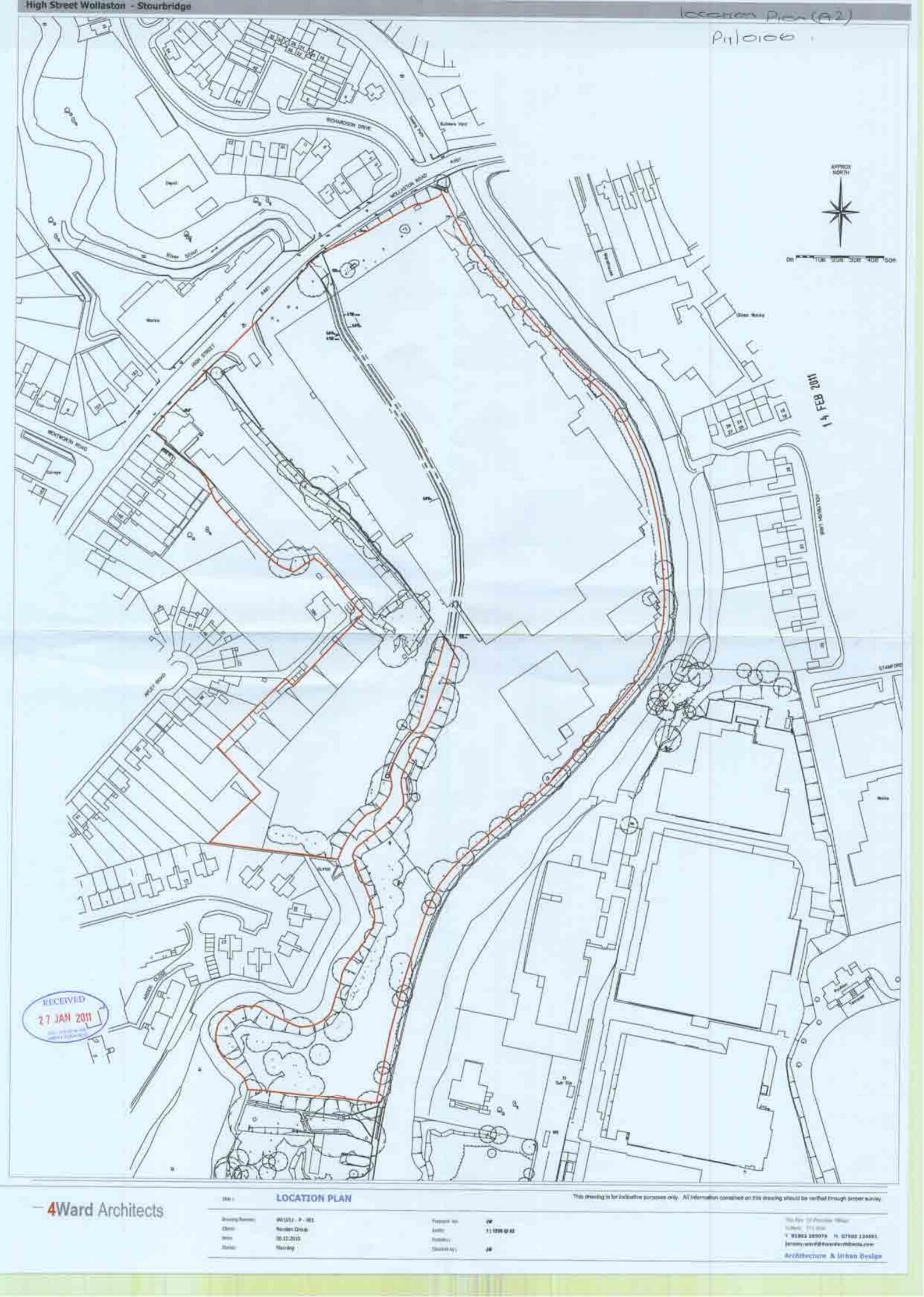
Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

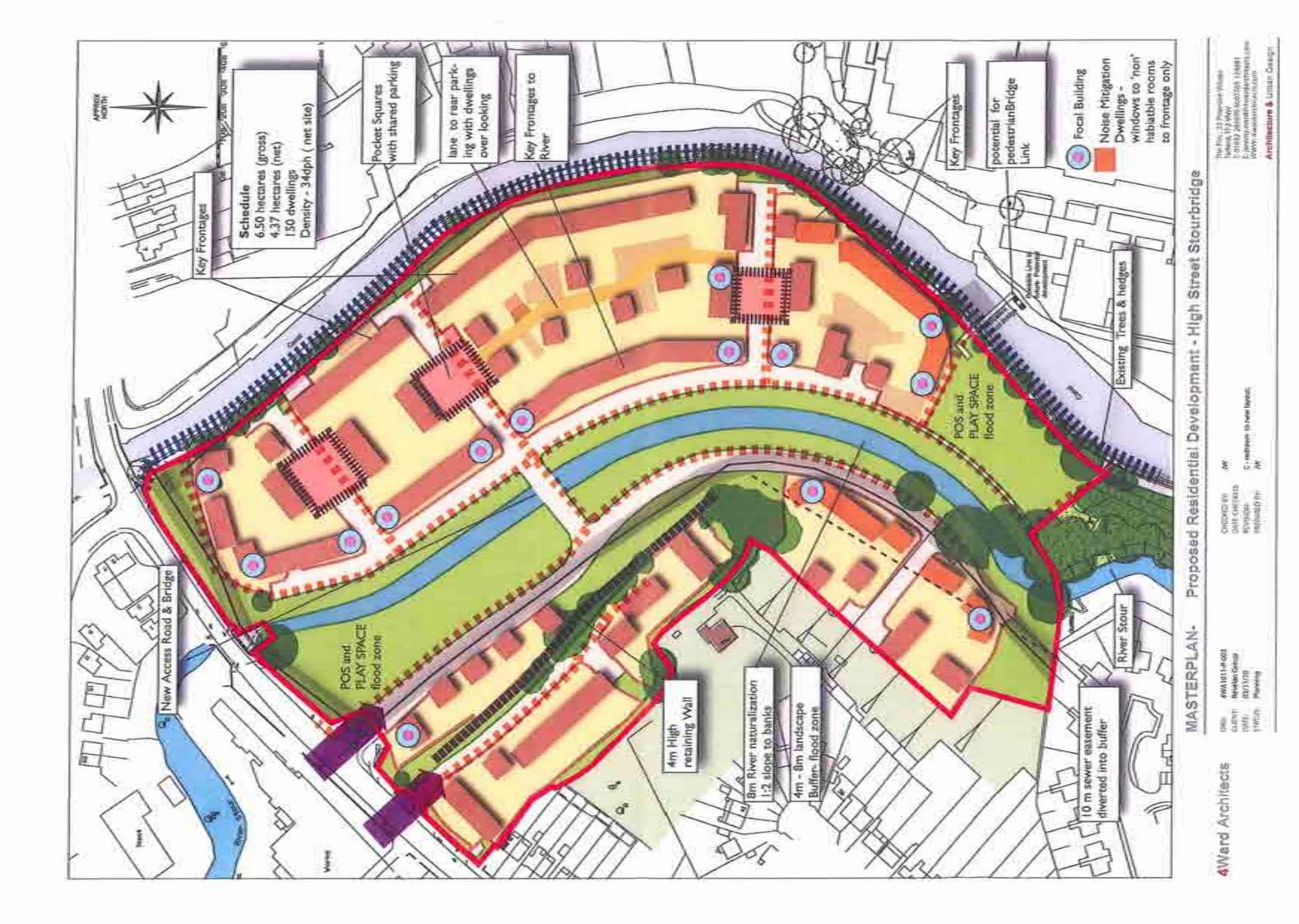
- 32. No development shall commence until details of any proposed lighting along the River Stour has been submitted to and approved in writing by the Local Planning Authority. All works must be carried out in accordance with the approved plan and retained throughout the lifetime of the development.
- 33. This outline permission does not relate to the layout, in detail, or authorise the erection of any builidngs nor the potential pedestrian bridge link, shown on the plans accompanying the application.
- 34. Prior to commencement of development details of the parking areas and access roads shall be submitted and approved in writing by the local planning authority, including, lines, widths, levels, gradients, lighting, drainage and cross sections. These development shall thereafter be implemented in accordance with the approved details.
- 35. Notwithstanding the plans submitted prior to the commencement of development, details of the proposed access to the canal towpath be constructed shall be submitted to and agreed in writing by the Local Planning Authority and thereafter implemented in accordance with the agreed details unless otherwise agreed in writing.



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