

**Addington**  
Downs & Mereworth

**566383 158727 5 June 2014**

**TM/14/01688/FL**

Proposal: Change of use of land to depot for demolition company with associated demolition of existing industrial buildings and redevelop with new workshop and office buildings. Installation of vehicle wash facility and associated hard surfacing and parking

Location: Winsor Works London Road Addington West Malling Kent ME19 5AN

Applicant: Downwell Demolition

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**1. Description:**

1.1 This application was originally reported to APC2 on 27 May 2015 when it was deferred to enable a Members' Site Inspection, which was subsequently held on 22 June 2015. Copies of the Committee and Supplementary reports are annexed for ease of information.

**2. Consultees (since 27 May 2015):**

2.1 Several neighbouring residents have submitted a number of photos and other media showing the activities on the site as well as the large low-loader used to carry the largest plant machine entering and leaving the site. These are available to inspect online.

**3. Determining Issues:**

3.1 Before addressing the matters arising from the Member's Site Inspection itself, it is necessary to mention that it appears that some of the commentary included in my previous report may have led to some confusion, particularly with regard to the historic uses of the site and the consideration of what could occur on site without the need of a planning application and permission from the Borough Council. The following information is therefore intended to clarify that position.

3.2 Residents have suggested that the Council should be seeking to enforce the hours mentioned within the previous Planning Committee report, being the 'permitted hours'. To clarify, the hours of operation condition cited at paragraph 6.36 of the previous committee report related to an historic planning permission granted in the early 1990's (our reference TM/90/0171) for aluminium recovery operations. The use currently being undertaken by Downwell Demolition is a wholly different use (requiring a planning permission of its own) to that previously granted on the site and as such the conditions imposed on the 1990's planning permission do not have any enforceable status on the current operations at the site.

3.3 The purpose of making reference to this aspect of the planning history of the site was to demonstrate that restrictions have applied to the site in the past, albeit for a

different use, and to identify that the nature of the current use is such that it would be appropriate to impose conditions concerning the hours of operation on any new permission granted by the Council.

- 3.4 Residents have also drawn upon statements put forward by the applicant that they believe they are operating in accordance with the previous uses. Having investigated this matter in some detail, it is my view that the applicants are not operating in such a way. Taking into account the use classes set out in the Town and Country Planning (Use Classes) Order 2014, my considered view is that the operations undertaken currently are classed as "*sui generis*", meaning that they do not fall within any of the categories defined in that Order. It is for this reason that a planning application has been submitted.
- 3.5 The references drawn between the historic lawful uses on site and the current use are intended to demonstrate that there is a baseline for comparative analysis which forms a material consideration against which the current use by Downwell Demolition may be judged. That is not to say that the Council believes the applicant could operate within the terms of those historic permissions/uses; rather that there are some comparisons that can be drawn. B2 (General Industry) relates to the carrying out of an industrial process, with the general assumption being that these types of uses include manufacturing and other uses that generate noise, dust and vibration.
- 3.6 It has been suggested that the original industrial building approved within the northeast corner of the site for aluminium recovery in the early 1990's under reference TM/90/0171 may have been dismantled prior to 2000 and that the existing steel framed structure appeared late in 2013. The Council's aerial photo from 2009 appears to show the existing structure in situ and photos from 2000 and 2003 appear to show an area of iron cladding covering this same area. Although not totally conclusive, the Council is satisfied that the existing structure is consistent with the plans of the building erected under reference TM/90/0171 and that the cladding applied would be repairs to the building that would not require planning consent.
- 3.7 I recognise entirely that this site, and the current use in particular, has caused significant concern to local residents. In some respects the historical authorised use of the site for general industrial purposes sets a context for how the Borough Council can respond to the current planning application. For this reason, the recommendation remains to grant planning permission and in so doing to take the opportunity to restrict the use of the site in its current/proposed use through the imposition of restrictive conditions. Equally if Members, having visited the site, decide to refuse planning permission that would also be a legitimate stance if sufficient amenity grounds can be advanced and if the Committee is not satisfied that the impact of the current use can be adequately controlled by planning conditions. It is important to remember however that the latter course of action would not remove the historical authorised use of the site for general industry; it

would simply be a refusal of the use advanced by the current application by Downwell.

- 3.8 A number of matters were raised at the Members' Site Inspection and these are addressed in detail below:
- 3.9 Members were keen to understand how the large low-loaders that transport the heaviest excavators enter and leave the site safely and took the opportunity to spend some time at the site entrance. Several photos from a neighbouring resident highlighted local concern in this respect. Since the Members' Site Inspection, KCC (H&T) has reviewed this aspect further and provided the following additional comments:

*From the information received it is considered that special procedures and practices should be adopted for any exceptional vehicles or load combinations to satisfactorily operate from this site. I would be grateful if the applicant could confirm an appropriate procedure for adoption within their health and safety practices. It is considered that advanced placement of livered escort vehicles to the east and west using orange flashing lights would be helpful in this regard when movement of vehicles of this type and heavily loaded vehicles into and out of the site are undertaken. It would be helpful if the applicant could consider, specify and confirm an inclusion of a procedure of this type. I would hope and expect that practices of this type are undertaken by the applicant at sites from which they operate.*

*Having visited the site, it is also considered that it would be helpful if a construction management plan could be provided, should this application be approved. The area of the site appeared to be quite well used/covered and I anticipate that the proposals to fully concrete the yard and surface the access road will require some vacation of the site in order to satisfactorily undertake this work.*

*From observations of the existing gates to the site confirmation of the location of any gates to the proposed reconfiguration of site is also sought.*

- 3.10 The applicant has since been requested to submit details relating to the special procedures and practices to be adopted for the largest vehicles and the proposed location of any gates and this information will be reported to Members within the Supplementary Report. I would then anticipate a construction management plan being required by planning condition.
- 3.11 At the Members' Site Inspection, one resident suggested that a central reservation island could be provided in the interests of pedestrian safety. However, I do not consider this to be reasonable or necessary in this case given what the application entails when compared to the historic, lawful use of the site.
- 3.12 The matter of the type of hard surfacing to be used on the upgrade of the access road was also raised by Members. Details of this hard surfacing, which should be

satisfactorily durable, are required by condition. The suitability of the surfacing proposed in terms of highway safety and potential for noise disturbance would then be fully assessed and give sufficient control over this aspect of the development.

- 3.13 It should be noted that the applicant does not own the access road; however the implementation of the permission will be reliant on the phasing of the development being able to be undertaken
- 3.14 The issue of demolition waste and materials being brought onto the site and separated into different containers to be transported off-site to landfill was raised by neighbours. The applicant explained to Members that, on some occasions, waste was separated out on site. Since the Members' Site Inspection, photos and video media of this type of activity have been presented to the Council by a neighbouring resident. I do not consider this to be an activity that is consistent with the proposed depot use and which clearly creates a noise impact beyond what is being assessed in terms of the depot use. It is important to acknowledge that any such activities would constitute waste transfer which is licensed by the County Council. However, given that this particular activity would clearly cause an unacceptable impact in terms of noise and disturbance, I consider it reasonable to recommend a suitable condition ensuring that no demolition or other materials are stored or sorted on the site. This would inevitably require some changes in the way the applicant currently operates but I do not consider this would be insurmountable by any means. Should the condition be breached, there is a clear recourse through planning enforcement powers and would involve serving a breach of conditions Notice.
- 3.15 Members questioned how fuel and chemicals would be stored on the site and the applicant explained that such items still required an open storage location for health and safety reasons. Whilst I appreciate that part of the justification behind the proposals for the new building centres on the improvements to the site in visual terms (reducing the amount of open storage and the resultant impact on the landscape) it is appreciated that a certain amount of open storage will still be required. However, it is my view that this should be tightly controlled to avoid a situation where open storage prevails across remaining parts of the site to an extent that would be visually harmful, diminishing the justification behind the new building. As such, I would suggest that details of the proposed siting and bunding associated with the storage of fuel and chemicals can be required by condition. This has been incorporated within the condition requiring a scheme for open storage on the site which is set out in the recommendation that follows.
- 3.16 A question was raised concerning contamination as to whether a more detailed site investigation should be required prior to determination of the planning application in order to deal with the historic contamination of the site. The EA has stated that it is satisfied with a more detailed site investigation being undertaken prior to commencement of the development (other than demolition of buildings,

removal of hardstanding and site survey works) and I consider this is common practice for a site of this nature and for this scale of development.

- 3.17 One Member asked whether there was any potential for noise bounce back and forth between the proposed acoustic fence and the new building. This matter is currently being investigated in more detail and further information will be presented as a Supplementary matter.
- 3.18 Other matters raised since previously reporting to the Planning Committee include suggestions that pipework was being directed into the stream, that asbestos may be being stored in skips on the site and that it is likely that some form of lighting would be needed on site.
- 3.19 The applicant has advised that no waste has ever been discharged to the stream and that the pipe which overhangs the stream is a rainwater discharge for the workshop building. I note the issue of the storage of asbestos. The applicant, however, is required to adhere to a strict licensing regime under the remit of the Health and Safety Executive which regulates the storage and disposal of asbestos. Although there is evidence that Downwell Demolition has been transferring demolition waste on site from one container to another, I have no reason to believe this material to be asbestos. I do not therefore believe that these matters specifically can be planning considerations material to the determination of this application, and Members should note the suggested condition preventing the storage or sorting of materials on site which would prevent such activity. A condition has also been suggested requiring details of any lighting proposed to be submitted for approval.
- 3.20 As a result of the previous debate and the Members' Site Inspections, I have taken the opportunity to revise several of the previously suggested conditions. These relate to the following matters:
- Levels of finished hard surfaces;
  - A specific hard landscaping requirement removed with details of the hard surfacing of the site and access road dealt with as part of the condition relating to the access improvements;
  - Hours of the proposed use of the site altered to be specific to vehicle movements and loading and unloading;
  - Rewording of the acoustic fence condition to require it to be integrated with the high safety fence along the western boundary;
  - The open storage condition to include details for the storage of fuel and chemicals;

- Added a suggested condition prohibiting the ancillary storing of demolition or other materials on the site;

3.21 If the Committee is minded to grant planning permission then it is likely that the precise wording of these conditions will need careful drafting in order to ensure they are robust and enforceable but the recommendation that follows sets out the matters they are intending to address and seeking to control.

3.22 This is clearly a challenging case to balance in a somewhat unusual background and circumstances. There is undoubtedly a detrimental impact on nearby residents as a result of the current/proposed use. That has to be set and judged against the lawful use that can take place on the site without further permission from the Council. In that context, in granting permission for the application the Council has the ability to control and manage the current use by way of conditions as recommended. That would be a reasonable way to proceed if the Committee can be satisfied that conditions can achieve a level of protection. If that is not the case then Members will need to direct themselves to reasons for refusal based upon the impact of the use on the amenity of nearby residents.

#### **4. Recommendation:**

4.1 **Grant Planning Permission** in accordance with the following submitted details: Photo montage 3D ILLUSTRATION received 12.05.2014, Letter received 12.05.2014, Location Plan received 12.05.2014, Site Plan received 12.05.2014, Existing Floor Plans KWTP-01 received 12.05.2014, Existing Plans and Elevations KWTP-04 received 12.05.2014, Topographical Survey S05/1582/01 received 12.05.2014, Planning Statement received 05.06.2014, Arboricultural Survey GRS/TS/TCP//AIA/TPP/8/14 received 05.06.2014, Flood Risk Assessment received 05.06.2014, Contaminated Land Assessment EES 12.497.1 received 05.06.2014, Email received 18.06.2015, Supporting Information received 26.01.2015, Existing Elevations KWTP-02 received 24.10.2014, Existing Elevations KWTP-03 received 24.10.2014, Proposed Plans and Elevations KWTP-05 received 24.10.2014, Proposed Plans and Elevations KWTP-06 received 24.10.2014, Email received 27.10.2014, Details KWTP-01 Fencing received 27.10.2014, Supporting Information received 08.09.2014, Email received 31.03.2015, Email received 23.06.2015, subject to the following conditions, **the detailed wording of which to be agreed by the Director of Central Services:**

#### **Conditions:**

- 1 Within 2 months of the date of this decision, a detailed scheme of phasing of the development, including a timetable of works, shall be submitted to the Local Planning Authority for approval and the development shall be undertaken in accordance with this approved scheme and timetable of works, unless the Authority gives written consent to any variation.

Reason: To ensure that the development is undertaken in an orderly manner that would minimise impact on neighbouring residential amenity and the character of the area.

- 2 Prior to the construction of the buildings hereby permitted, a detailed schedule of all materials to be used externally on the buildings shall be submitted to and approved by the Local Planning Authority, and the development shall be carried out in accordance with the approved details.

Reason: To ensure that the development does not harm the character and appearance of the area or the visual amenity of the locality.

- 3 Within 2 months of the date of this decision, a plan showing the existing levels of the site and adjoining land and the proposed finished levels of the slabs of the buildings and hard surfacing of the site shall be submitted to the Local Planning Authority for approval. The works shall be carried out in strict accordance with the approved details.

Reason: To ensure that the development does not harm the character of the area or visual amenity of the locality.

- 4 The new buildings shall not be occupied until the areas shown on the submitted layout as vehicle parking spaces and turning areas have been provided, surfaced and drained. Thereafter those areas shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking and re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to these reserved parking spaces and turning areas.

Reason: Development without provision of adequate parking and turning is likely to lead to hazardous highway conditions.

- 5 Within 2 months of the date of this decision, a scheme of landscaping and boundary treatment shall be submitted to the Local Planning Authority for approval. The scheme of landscaping shall take into account any landscaping to be removed to widen and resurface the access road and to construct the acoustic fence along the western boundary, and additional landscape plantings shall be proposed to compensate any landscaping lost. Suitable plantings shall also be provided around the office building and car parking area. The buildings shall not be occupied until the landscaping scheme has been approved. All planting, seeding and turfing comprised in the approved scheme of landscaping shall be implemented during the first planting season following occupation of the buildings or the completion of the development, whichever is the earlier. Any trees or shrubs removed, dying, being seriously damaged or diseased within 10 years of planting shall be replaced in the next planting season with trees or shrubs of

similar size and species, unless the Authority gives written consent to any variation.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect and enhance the appearance and character of the site and locality.

- 6 The development hereby approved shall be carried out in such a manner as to avoid damage to existing trees, including their root system, or other planting to be retained as part of the landscaping scheme, other than those specified for removal within the approved scheme, by observing the following:

(a) All trees to be preserved shall be marked on site and protected during any operation on site by a fence erected at 0.5 metres beyond the canopy spread (or as otherwise agreed in writing by the Local Planning Authority).

(b) No fires shall be lit within the spread of the branches of the trees.

(c) No materials or equipment shall be stored within the spread of the branches of the trees.

(d) Any damage to trees shall be made good with a coating of fungicidal sealant.

(e) No roots over 50mm diameter shall be cut and unless expressly authorised by this permission no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches of the trees.

(f) Ground levels within the spread of the branches of the trees shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.

Reason: Pursuant to Section 197 of the Town and Country Planning Act 1990 and to protect the visual amenity of the locality.

- 7 Within 2 months of the date of this decision, a sustainable surface water drainage scheme for the site shall be submitted to the Local Planning Authority for approval. The drainage strategy should demonstrate the surface water run-off generated up to and including the 100yr critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event, and so not increase the risk of flooding on or off the site. The scheme shall be implemented in accordance with the approved details and timetable of works.

Reason: To prevent flooding by ensuring the satisfactory disposal of surface water from the site.

- 8 Within 2 months of the date of this decision, details and a timetable of works to enhance the access road from London Road A20 and provision of hard surfacing to the site, to include durable hard surfacing and the widening of the access road to a minimum width of 4.8m for its entire length, shall be submitted to the Local



Planning Authority for approval. The works shall be implemented in accordance with the approved details and timetable of works, and shall be retained and maintained thereafter.

Reason: To ensure the safe and free flow of traffic and to protect the aural environment of nearby dwellings.

- 9 Within 2 months of the date of this decision, details of the construction of an acoustic fence along the full length of the western boundary of the site, including the full length of the site's common boundary with the residential property of 'Emlyn', shall be submitted to and approved by the Local Planning Authority. The fence shall also be integrated within the full extent of the proposed high safety fence to be erected to protect the site from stray golf balls. The acoustic fence shall be installed in accordance with the approved details and timetable of works, and shall be retained at all times thereafter.

Reason: In the interests of the aural amenity of neighbouring residents.

- 10 The premises shall be used only for the purposes of a demolition company depot for the storage and repair of plant and vehicles only and for no other purpose (including any other purpose in Class B1, B2 or B8 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument amending, revoking or re-enacting that Order).

Reason: To protect the amenity of nearby residents and the openness of the Green Belt.

- 11 No vehicles shall arrive, depart, be loaded or unloaded within the application site outside the hours of 07:00 to 18:30 Mondays to Fridays and 08:00 to 17:00 Saturdays, with no working on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

- 12 Any servicing, maintenance or repair works associated with the use shall not be carried on outside the hours of 07:30 to 17:00 Mondays to Fridays and 08:00 to 13:00 Saturdays, with no working on Sundays or Public and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To avoid unreasonable disturbance outside normal working hours to nearby residential properties.

- 13 Within 2 months of the date of this decision, a scheme of open storage and storage of fuel and other chemicals on the site, including any associated bunding, shall be submitted to the Local Planning Authority for approval. The development

shall be undertaken in accordance with the approved scheme and no storage specified other than plant machinery and vehicles shall exceed 4m in height, unless agreed in writing by the Local Planning Authority for any variation.

Reason: To avoid obstruction of vehicle parking/manoeuvring areas, to safeguard the site from pollution and to ensure the character and appearance of the site and locality is not significantly harmed.

- 14 Within 2 months of the date of this decision, details of a scheme for the storage and collection of refuse shall be submitted to the Local Planning Authority for approval. The buildings shall not be occupied except in compliance with the approved scheme which shall be retained at all times thereafter.

Reason: To facilitate the collection of refuse and preserve visual amenity.

- 15 No external lighting shall be installed on the premises without the prior approval of the Local Planning Authority. If any external lighting is proposed then details must include a layout plan with beam orientation and a schedule of equipment including luminaire type, mounting height, aiming angles and luminaire profiles.

Reason: In the interests of amenity of nearby residential occupiers.

- 16 No sewage or trade effluent (including vehicle wash or vehicle steam cleaning effluent) shall be discharged to any surface water drainage system.

Reason: To prevent pollution of the water environment.

- 17 Foul water shall be disposed of directly to the main sewer.

Reason: To prevent pollution of the water environment.

- 18 Piling or any other foundation designs using penetrative methods shall not take place other than with the prior 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.

Reason: To protect controlled waters, including groundwater.

- 19 No demolition, waste or other associated materials shall be stored or sorted on the site at any time.

Reason: To protect the amenity of nearby residents.

- 20 Within 2 months of the date of this decision, a scheme for the management of demolition and construction traffic going to and from the site (including hours of operation and arrangements for the delivery of materials to the site and the associated parking of vehicles) shall be submitted to the Local Planning Authority

for approval. The development shall be carried out in accordance with the approved scheme unless any variation is agreed in writing by the Local Planning Authority beforehand.

Reason: To ensure that the development does not harm the amenities of the locality.

21 No construction works shall be commenced on the site until:

(a) a site investigation has been undertaken to determine the nature and extent of any contamination, and

(b) the results of the investigation, together with an assessment by a competent person and details of a scheme to contain, treat or remove any contamination, as appropriate, have been submitted to and approved by the Local Planning Authority. The assessment and scheme shall have regard to the need to ensure that contaminants do not escape from the site to cause air and water pollution or pollution of adjoining land.

The scheme submitted pursuant to (b) shall include details of arrangements for responding to any discovery of unforeseen contamination during the undertaking of the development hereby permitted. Such arrangements shall include a requirement to notify the Local Planning Authority of the presence of any such unforeseen contamination.

Prior to the first occupation of the development or any part of the development hereby permitted

(c) the approved remediation scheme shall be fully implemented insofar as it relates to that part of the development which is to be occupied, and

(d) a Certificate shall be provided to the Local Planning Authority by a responsible person stating that remediation has been completed and the site is suitable for the permitted end use.

Thereafter, no works shall take place within the site such as to prejudice the effectiveness of the approved scheme of remediation.

Reason: In the interests of amenity and public safety.

### **Informatives**

1 The applicant is reminded that the relevant licenses from the Health and Safety Executive should be in place in respect to works involving asbestos and the storage of vehicles, plant machines and containers used for such works.

- 2 The applicant should be aware that the disposal of waste material by incineration or use of bonfires on the site can lead to justified complaints from local residents and would be contrary to Waste Management Legislation.

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