



Planning Committee Report

Committee Date: 7th February 2023

Application Number: N/2020/1212

Location: Former Howdens Joinery, Liliput Road, Northampton

Development: Revocation of Hazardous Substance Consent in relation to Condition 22 of 'Outline Application (with access details) for the demolition of existing building and structures and redevelopment to provide new warehouse and distribution floorspace (Use Class B8) with ancillary office accommodation, access from Liliput Road, with service yards, parking, landscaping and other associated infrastructure'

Applicant: Newlands Development Limited

Agent: Oxalis Planning Ltd

Case Officer: Hannah Weston

Ward: Nene Valley Unitary Ward

Title: Revocation of Hazardous Substance Consent

Report Of: Head of Planning Delivery

EXECUTIVE SUMMARY OF PROPOSALS AND RECOMMENDATION

To **AUTHORISE** the making of an Order under Section 14(2) of the Planning (Hazardous Substance) Act 1990 for the revocation of the Hazardous Substance Consent (HSC) at the site of MFI Group (also known as Howdens), Lilliput Road, Brackmills, Northampton, subject to confirmation by the Secretary of State.

1. PURPOSE OF REPORT

To obtain approval from Members of the Planning Committee for the making of an Order under Section 14(2) of the Planning (Hazardous Substance) Act 1990 to revoke the Hazardous Substance Consent (HSC) at the site of MFI Group (also known as Howdens), Lilliput Road, Brackmills, Northampton. Revocation would be subject to confirmation by the Secretary of State.

2. BACKGROUND AND RELEVANT LEGISLATION

- 2.1 A report was previously put before Members at Planning Committee on 4th October 2023 whereby Members were minded to approve the Officer recommendation for the making of an Order to revoke the Hazardous Substance Consent.
- 2.2 The matter is brought back to Committee to correct an incorrect reference in the recommendation of the previous committee report to the relevant part of the Planning (Hazardous Substance) Act 1990. The revocation of the Hazardous Substance Consent should be sought by the making of an Order under Section 14(2) of the Act and not Section 14(1) of the Act as previously advised.
- 2.3 West Northamptonshire, as the statutory Hazardous Substances Authority, are responsible for the control of Hazardous Substance and associated applications.
- 2.4 Under Section 14(1) of the Planning (Hazardous Substances) Act 1990, the Hazardous Substances Authority (HSA) may revoke or modify consent to such extent that it considers it expedient to do so. If the revocation is issued under Section 14(1) compensation may be payable to any person who has suffered depreciation or disturbance as a result of the Order being made. A revocation order is subject to confirmation by the Secretary of State.
- 2.5 Alternatively, the Hazardous Substance Authority may also under Section 14(2) of the Planning (Hazardous Substances) Act 1990 by Order revoke or modify a hazardous substance consent if it appears to them:
- a) There has been a material change of use of the land to which the hazardous substance consent relates; or
 - b) That planning permission has been granted for development the carrying out of which would involve a material change of use of such land and the development to which the permission relates has been commenced; or
 - c) in the case of a hazardous substances consent which relates to only one substance, that the substance has not for at least five years, been present on, over or under the land to which the consent relates in a quantity to or exceeding the controlled quantity; or
 - d) in the case of a hazardous substances consent which relates to a number of substances, that none of the substances have for at least five years been so present.
- 2.6 For the reasons set out below, it is considered appropriate that a revocation should be sought under Section 14(2) of the Act.

3. THE SITE AND RELEVANT HAZARDOUS SUBSTANCE CONSENT

- 3.1 The site is located on the south eastern fringe of Northampton on the western and northern sides of Liliput Road, near the A428, within the Brackmills Industrial Estate, a large commercial/industrial area. The site was previously occupied by a large warehouse building which has since been demolished as part of a recent planning approval for the redevelopment of the site for three warehouse and distribution units, currently under construction.
- 3.2 Hazardous Substance Consent (HSE reference: H0920) was granted on 27th November 1992 at Lilliput Road, Brackmills, Northampton for “the storage of LPG in

bulk vessels and the filling of fork lift trucks LPF cylinders from the bulk vessels” for MFI Group Merchandise Distribution Centre.

3.3 MFI Distribution have since vacated and no longer own the site.

4. DETAILS TO SUPPORT THE REVOCATION

4.1 An outline planning application (with access details) for the demolition of the existing building and structures on the site and redevelopment to provide new warehouse and distribution floorspace (Use Class B8) with ancillary office accommodation, access from Liliput Road, with service yards, parking, landscaping and other associated infrastructure, planning reference N/2020/1212, was approved by the former Northampton Borough Council on 4/05/21.

4.2 Following consultation with the Health and Safety Executive on the outline application the following Condition 22 was imposed:

‘No part of the development shall be occupied until all Hazardous Substances Consents for MFI Furniture Centre have been revoked in their entirety under the provisions of the Planning (Hazardous Substances) Act 1990 and written confirmation of the necessary revocations have been issued by the Hazardous Substances Authority.

Reason: To ensure the safety of the development in accordance with the requirements of the NPPF.’

4.3 Following the outline approval a reserved matters application was approved on 25/06/21, reference, WNN/2021/0250 for the following:

‘Reserved Matters Application (details of appearance, landscaping, layout and scale) pursuant to Outline Planning Permission N/2020/1212 for Phases 1, 2 and 3 for the construction of Warehouse and Distribution Units (Use Class B8) with ancillary office accommodation, means of access, with service yards, parking, landscaping, and other associated infrastructure.

4.4 Construction has commenced on site and is nearing completion and the applicant is therefore seeking the discharge of Condition 22 of the outline consent for the revocation of the Hazardous Substance Consent prior to occupation of the buildings.

4.5 In respect of the requirements under Section 14(2) of the Planning (Hazardous Substances) Act 1990:

a) Whilst the proposed use of the land remains as per the previous storage and distribution use, the use of the site by MFI Distribution with whom the LPG storage tanks and fork lift trucks were associated and to whom the Hazardous Substance Consent was granted has now ceased. MFI have vacated and no longer own the site and the former MFI building has been demolished.

b) Planning permission has been granted under applications N/2020/0212 (outline) and WNN/2021/0250 (reserved matters) for the development of the site for three warehouse and distribution units and development has commenced on site.

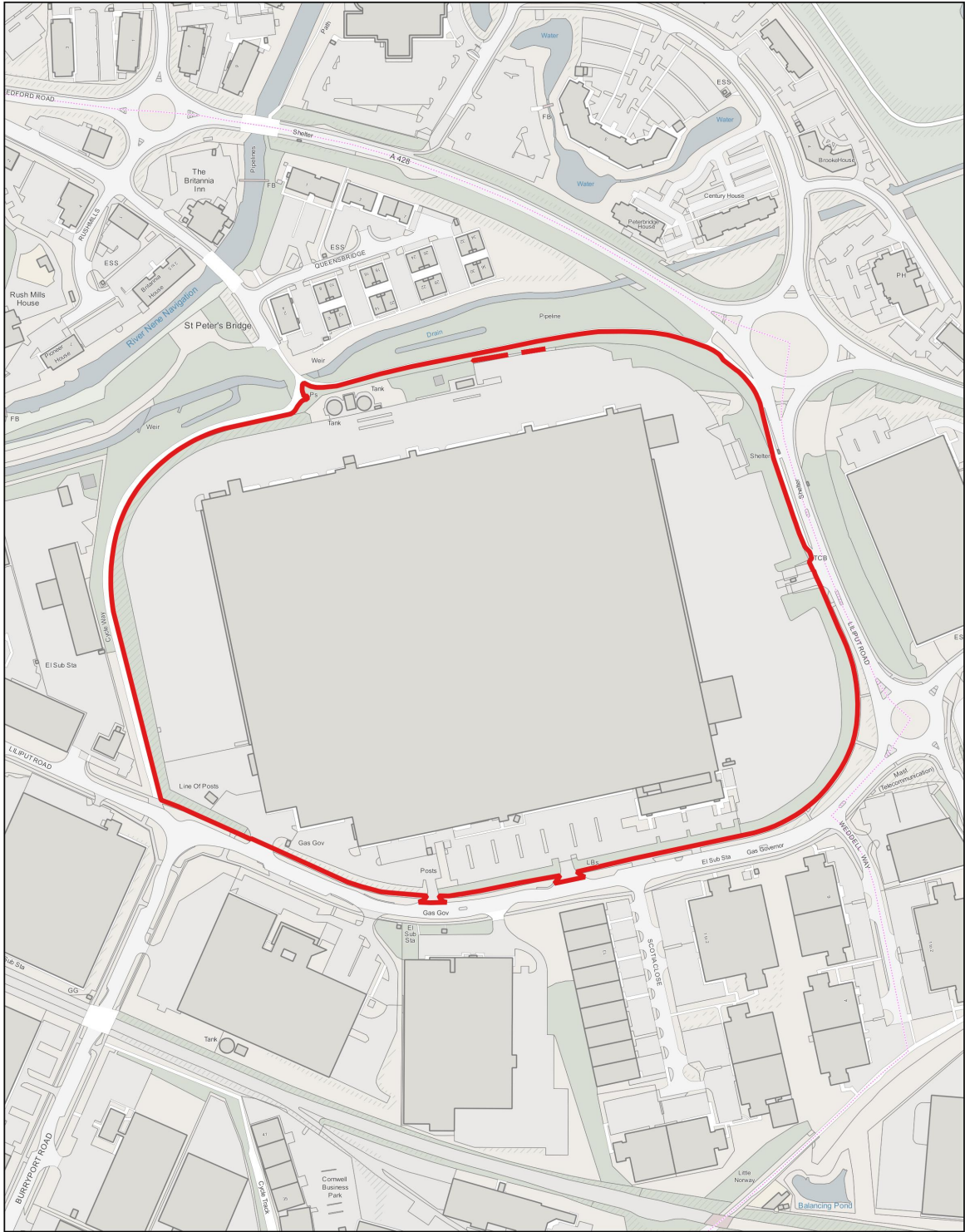
c) Aerial photographic evidence dated 2017 show that the petrol tanks are no longer in situ and supporting evidence accompanying the planning applications confirms that the substance has not been present on, over of under the land to which the

hazardous substance consent relates in a quantity equal to or exceeding the controlled quantity for at least five years.

- d) The hazardous substance consent related to the use of LPG only, and not a number of substances, and has not been present on site for at least five years.

5. CONCLUSION

- 5.1 It is considered, in relation to the Hazardous Substance Consent as detailed above, that the requirements under Section 14(2) of the of the Planning (Hazardous Substances) Act 1990 are met and that an Order for revocation of the Hazardous Substance Consent should be made subject to confirmation by the Secretary of State.



**West
Northamptonshire
Council**

Title: **Liliput Road - Howdens Joinery**

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Drawn: M Johnson