



## North Warwickshire Borough Council

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Date: 15 January 2019

**The Town & Country Planning Acts**  
**The Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990**  
**The Town & Country Planning (General Development) Orders**  
**The Town and Country Planning (Control of Advertisements) Regulations 1992 (as amended)**

## DECISION NOTICE

Full Planning Application

**Application Ref: PAP/2018/0312**

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### Site Address

Dunton Wharf, Lichfield Road, Curdworth, B76 9EN

**Grid Ref:** Easting 418511.13  
Northing 293639.49

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### Description of Development

Demolition of existing buildings and erection of 3 buildings to provide offices, training/classrooms and industrial unit to facilitate the use of site for storage and ancillary digger driving school

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### Applicant

P Flannery Plant Hire

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Your planning application was valid on 25 May 2018. It has now been considered by the Council. I can inform you that:

Planning permission is **GRANTED** subject to the following conditions:

1. The development to which this permission relates must be begun not later than the expiration of three years from the date of this permission.

### REASON

To comply with Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004, and to prevent an accumulation of unimplemented planning permissions.

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2. The development hereby approved shall not be carried out otherwise than in accordance with the plan numbered PAL: FLAB769EN.01 received by the Local Planning Authority on 17 May 2018, to the plan numbered T18540- 002 REV A received by the Local Planning Authority on 21 August 2018, to the plans numbered PAL: FLAB769EN.04; PAL.049; PAL.048 (proposed part site plan), and PAL: FLAB769EN.03 D received by the Local Planning Authority on 10 September 2018, to the plans numbered PAL: 053 and PAL.045 received by the Local Planning Authority on 7 December 2018 and to the Training Hub Proposal received by the Local Planning Authority on 12 December 2018.

#### REASON

To ensure that the development is carried out strictly in accordance with the approved plans.

3. The use hereby approved shall enure solely for the benefit of P Flannery Plant Hire and for no other company or bodies. Upon vacation of the site, the buildings shall be removed with 3 months, and the land use of the site shall revert to a null planning use.

#### REASON

Planning permission is granted solely in recognition of the particular circumstances of the beneficiaries.

4. No development whatsoever within Class H of Part 7 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), shall commence on site without details first having been submitted to, and approved in writing by, the Local Planning Authority.

#### REASON

In order to prevent the over-intensive development of the site.

5. Prior to the commencement of development a scheme that includes the following components to deal with the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority:

- i. A site investigation scheme (including surveying the existing surface water drainage system) based on a detailed assessment of the risk to all receptors that may be affected, including those off site.
- ii. The results of the site investigation and detailed risk assessment shall be used to inform an options appraisal and remediation strategy giving full details of the remediation measures required and how they will be undertaken.
- iii. A validation plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy 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 written consent of the Local Planning Authority. The scheme shall be implemented in full as approved.

#### REASON

To ensure the protection of human health, ecology and avoidance of polluting controlled waters, including the Birmingham & Fazeley Canal. The site lies upon an old canal wharf and it is unclear if the lining was removed, or what it was filled with. Strong linkages may remain between the old canal basin and the canal which should be fully investigated and appropriately mitigated by the proposed scheme. This is in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. It is necessary to agree the site investigation and detailed risk assessment before development commences in order to secure an appropriate approach to all site demolition and site clearance, and agree and complete remediation methods prior to the commencement of construction works

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to ensure a safe environment is provided.

6. No works shall commence, other than any detailed survey work, until a site specific Construction Environmental Management Plan (CEMP), including consideration of the demolition of the existing buildings, has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The approved CEMP shall be implemented in accordance with the approved details at all times during all demolition and construction of the approved development. The CEMP shall include, but not be limited to:
- i. Procedures for maintaining good public relations including complaint management, public consultation and liaison
  - ii. Arrangements for liaison with the Council's Pollution Control Team
  - iii. A Noise Mitigation Strategy to deal with emissions with particular cognisance of the noise sensitive Birmingham & Fazeley Canal and nearby residential property.
  - iv. All works and ancillary operations shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 13 00 Hours on Saturdays and; at no time on Sundays and Bank Holidays unless otherwise agreed in writing with the Local Planning Authority in advance of any such deviations from the agreed hours.
  - v. Deliveries to, and removal of plant, equipment, machinery and waste from the site shall only take place within the permitted hours detailed above.
  - vi. Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
  - vii. Procedures for emergency deviation of the agreed working hours.
  - viii. Details of measures to be adopted for all contractors to be 'Considerate Contractors' when working by being aware of the needs of neighbours and the environment.
  - ix. Air Quality Impact Assessment throughout the construction phases, inclusive of the demolition elements of the development. This must consider the neighbouring Birmingham & Fazeley Canal.
  - x. A dust mitigation strategy with control measures for dust and other air-borne pollutants. This shall fully consider impacts to the neighbouring Birmingham & Fazeley Canal and take into account the need to protect any local resident who may have a particular susceptibility to air-borne pollutants.
  - xi. Measures for controlling the use of site lighting during the construction period, whether required for safe working or for security purposes to prevent light spill onto the Birmingham & Fazeley Canal.
  - xii. Details of the storage of waste and materials for/from the demolition and construction process, where they are to be located on site, how they are to be protected from entering the canal environment, the regime for the safe removal and appropriate disposal of the waste from the from site.
  - xiii. Measures for preventing surface water run-off during demolition and construction works from the site into the canal environment.
  - xiv. Measures to prevent blown spray from the wash-down of demolition/construction vehicles entering the canal environment.

#### REASON

In the interests of preventing airborne/waterborne/light pollution of the canal waters to preserve and enhance the ecology and water quality of the Birmingham & Fazeley Canal and protect the canal users from noise detrimental to the quiet enjoyment of the waterway. This is in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. It is necessary to agree the CEMP before development commences in order to secure an appropriate approach to all site demolition, clearance, development and construction operations from the outset.

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7. No works shall commence, other than any detailed survey work, until a detailed surface water drainage scheme for the site has been submitted to, and approved in writing by, the Local Planning Authority (in consultation with the Canal & River Trust). The drainage strategy shall include:
- i. Restriction in run-off and surface water storage on site as outlined in the FRA.
  - ii. Use of appropriate interceptors to deal with pollutants from the roadways, carparks, wash-down area and re-fuelling area.
  - iii. Details of the long-term maintenance and management of the SUDs and interceptors.
- The scheme shall be implemented in accordance with the agreed details before the development is completed.

#### REASON

To prevent the increased risk of flooding, to improve and protect water quality, and improve habitat and amenity in accordance with part 15 of the National Planning Policy Framework 2018 and in the National Planning Practice Guidance.

8. No works of construction shall be carried out until measures to prevent the pollution of the water environment in the event of a fuel spill (in excess of that which would be dealt with by the interceptor) have been submitted to, and approved in writing by, the Local Planning Authority. Such details may include, but are not limited to, the provision of bunding and pollution prevention equipment. The scheme shall be implemented in accordance with the agreed details before the development is completed.

#### REASON

To protect the water environment including the Birmingham & Fazeley Canal and groundwater from pollution and/or further deterioration in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance.

9. No works shall commence, other than any detailed survey work, until full details of all external lighting to be used within the site, along its boundaries and accesses has been submitted to, and approved in writing by, the Local Planning Authority (in consultation with the Canal & River Trust). Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outside of the site boundary. The scheme shall be implemented in accordance with the agreed details and retained as such.

#### REASON

In the interests of the amenities of the area.

10. The development hereby permitted shall not commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

#### REASON

To ensure that the development is provided with a satisfactory means of drainage as well as reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution.

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11. The development hereby permitted shall not be commenced until a scheme for the provision of adequate water supplies and fire hydrants, necessary for firefighting purposes at the site, has been submitted to and approved in writing by the Local Planning Authority. The development shall not then be occupied until the scheme has been implemented to the satisfaction of the Local Planning Authority

#### REASON

In the interests of public safety from fire, and the protection of Emergency Fire Fighters

12. Before the completion of the site, a Landscape Management Plan (LMP) shall be submitted to the Local Planning Authority for approval, setting out the future land use and landscaping areas within the site. for the avoidance of doubt the site is defined as the red line location plan / site plan. The plan shall be submitted to the Local Planning Authority for approval and shall be implemented in accordance with the LMP unless agreed in writing by the Local Planning Authority.

#### REASON

In the interests of the amenities of the area.

13. The development hereby approved shall not be occupied until details of the grey colour used on the site buildings has been provided and approved in writing by the Local Planning Authority, and thereafter maintained to such an approved colour at all times.

#### REASON

In the interests of the amenities of the area.

14. No occupation of the development shall take place until a verification report for the site demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation has been 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 a long-term monitoring and maintenance plan for longer term monitoring of pollution linkages, a maintenance timetable and arrangements for contingency action arising from monitoring, as identified in the verification report. The long term monitoring and maintenance plan shall be implemented in full as approved.

#### REASON

To protect the water environment including the Birmingham & Fazeley Canal and groundwater from pollution and/or further deterioration in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. Verification works should be completed prior to the use commencing on the site to ensure a safe environment.

15. The development shall not be occupied until the improvements to the existing vehicular access have been implemented, in general accordance with Drawing Number T18540.002.A (Proposed Site Access Improvements and Swept Paths).

#### REASON

In the interests of the amenities of the area and safety on the public highway.

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16. The development shall not be occupied until visibility splays have been provided to the vehicular access to the site passing through the limits of the site fronting the public highway with an 'x' distance of 2.4 metres and 'y' distance of 215 metres to the near edge of the public highway carriageway. No structure, tree or shrub shall be erected, planted or retained within the splays exceeds, or likely to exceed at maturity, a height of 0.6 metres above the level of the public highway carriageway.

**REASON**

In the interests of the amenities of the area and safety on the public highway.

17. If during the demolition or construction works, contamination not previously identified is found to be present then work shall cease (unless otherwise agreed in writing with the Local Planning Authority) until a remediation strategy to deal with the contamination has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

**REASON**

To protect the water environment including the Birmingham & Fazeley Canal and groundwater from pollution and/or further deterioration in accordance with part 15 of the National Planning Policy Framework 2018 and the National Planning Practice Guidance. Verification works should be completed prior to the use commencing on the site to ensure a safe environment.

18. For the avoidance of doubt the uses of the three buildings as per the drawing PAL.049 (layout and elevations), shall not be changed from site offices, storage (use class B8) and training rooms. The site shall be used for training of digger drivers.

**REASON**

In the interests of the amenities of the area.

19. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which, within a period of 5 years from the date of planting die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

**REASON**

In the interests of the amenities of the area.

20. No vehicle shall leave or enter the site, or engine or other machinery started up before 06:00 hours or after 19:00 hours on any day. No other on site works shall take place outside of these hours including loading or unloading. There shall be no servicing or repair of vehicles on the site.

**REASON**

To protect the amenities of nearby residential property.

21. There shall be no more than 100 plant machinery vehicles stored on the site.

**REASON**

In the interests of the amenities of the area and safety on the public highway.

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## INFORMATIVES

1. The submitted plans indicate that the proposed works come very close to, or abut neighbouring property. This permission does not convey any legal or civil right to undertake works that affect land or premises outside of the applicant's control. Care should be taken upon commencement and during the course of building operations to ensure that no part of the development, including the foundations, eaves and roof overhang will encroach on, under or over adjoining land without the consent of the adjoining land owner. This planning permission does not authorise the carrying out of any works on neighbouring land, or access onto it, without the consent of the owners of that land. You would be advised to contact them prior to the commencement of work.
2. You are recommended to seek independent advice on the provisions of the Party Wall etc. Act 1996, which is separate from planning or building regulation controls, and concerns giving notice of your proposals to a neighbour in relation to party walls, boundary walls and excavations near neighbouring buildings. An explanatory booklet can be downloaded at <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>
3. The applicant/developer is advised to contact the Canal & River Trust in order to ensure that any necessary consents are obtained and the works are compliant with the Trust's current "Code of Practice for Works Affecting the Canal & River Trust". Please contact Shomsur Khan (Senior Works Engineer) in the first instance on 07714 412759 for further advice.
4. The applicant/developer is advised that any surface water discharge into waterspace belonging to the Canal & River Trust will require written consent. Please contact Joanna Bryan (Senior Utilities Surveyor) in the first instance for further information (Joanna.Bryan@canalrivertrust.org.uk).
5. The applicant is advised that to comply with the condition relating to the protection of trees, the measures should be in accordance with British Standard BS 5837:2012 "Trees in relation to design, demolition and construction - Recommendations".
6. Advertisement Consent is required under a separate procedure of the Town and Country Planning Act 1990. Should any advertisements, signs, name boards, or other devices to attract attention, be intended in respect of this development, the Local Planning Authority will be pleased to advise you on all associated aspects prior to the erection of any such advertisements, and provide you with application forms.
7. There may be bats present at the property that would be disturbed by the proposed development. You are advised that bats are deemed to be European Protected species. Should bats be found during the carrying out of the approved works, you should stop work immediately and seek further advice from the Ecology Section of Museum Field Services, The Butts, Warwick, CV34 4SS (Contact Ecological Services on 01926 418060).
8. Before carrying out any work, you are advised to contact Cadent Gas about the potential proximity of the works to gas infrastructure. It is a developer's responsibility to contact Cadent Gas prior to works commencing. Applicants and developers can contact Cadent at [plantprotection@cadentgas.com](mailto:plantprotection@cadentgas.com) prior to carrying out work, or call 0800 688 588 Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building. Should you require any further information please contact us on the telephone number or email below. Asset Protection Waste Water East, Wholesale Operations, Severn Trent Water Ltd  
Tel: 024 7771 6843  
email: [Planning.APEast@severntrent.co.uk](mailto:Planning.APEast@severntrent.co.uk)

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9. Condition number 15 requires works to be carried out within the limits of the public highway. The applicant / developer must enter into a Minor Highway Works Agreement made under the provisions of Section 278 of the Highways Act 1980 for the purposes of completing the works. The applicant / developer should note that feasibility drawings of works to be carried out within the limits of the public highway which may be approved by the grant of this planning permission should not be construed as drawings approved by the Highway Authority, but they should be considered as drawings indicating the principles of the works on which more detailed drawings shall be based for the purposes of completing an agreement under Section 278.

10. An application to enter into a Section 278 Highway Works Agreement should be made to the Planning & Development Group, Communities Group, Warwickshire County Council, Shire Hall, Warwick, CV34 4SX.

11. In accordance with Traffic Management Act 2004 it is necessary for all works in the Highway to be noticed and carried out in accordance with the requirements of the New Roads and Streetworks Act 1991 and all relevant Codes of Practice. Before commencing any Highway works the applicant / developer must familiarise themselves with the notice requirements, failure to do so could lead to prosecution

12. In dealing with this application, the Local Planning Authority has worked with the applicant in a positive and proactive manner through seeking to resolve planning objections and issues, and by suggesting amendments to improve the quality of the proposal. As such it is considered that the Council has implemented the requirement set out in paragraph 38 of the National Planning Policy Framework.

13. It is understood that the existing buildings on the site may contain asbestos, and therefore the applicant / developer is advised to determine the building materials and if Asbestos, it should be handled in the correct manner and disposed of at Licenced premises.

14. With regards to condition 19, the Inland Waterways Association (IWA) has suggested a reinstated towpath hedge of native species, perhaps planted on a low earth bund to increase its visual and noise screening properties, and incorporation of the historic canal arm side bridge as a landscaped feature. Also, any security fencing should be set behind this landscaping strip. The landscaping proposal should consider the IWA comments and be set out on the a plan.

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## APPEALS TO THE SECRETARY OF STATE

1. If you are aggrieved by the decision of the Local Planning Authority to grant permission subject to conditions, you can appeal to the Department for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
2. If you want to appeal against your local planning authority's decision, then you must do so within 6 months of the date of this notice.
3. Appeals must be made using a form which you can get from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN, or online at [www.planning-inspectorate.gov.uk](http://www.planning-inspectorate.gov.uk) and [www.planningportal.gov.uk/pes](http://www.planningportal.gov.uk/pes).
4. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

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5. The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
6. The Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by him.

## PURCHASE NOTICES

1. If either the Local Planning Authority or the Department for Communities and Local Government grants permission to develop land subject to conditions, the owner may claim that he/she can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
2. In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his/her interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

## NOTES

1. This decision is for the purposes of the Town and Country Planning Act only. It is not a decision under Building Regulations or any other statutory provision. Separate applications may be required.
2. A report has been prepared that details more fully the matters that have been taken into account when reaching this decision. You can view a copy on the Council's web site via the Planning Application Search pages <http://www.northwarks.gov.uk/planning>. It will be described as 'Decision Notice and Application File'. Alternatively, you can view it by calling into the Council's Reception during normal opening hours (up to date details of the Council's opening hours can be found on our web site <http://www.northwarks.gov.uk/contact>).
3. Plans and information accompanying this decision notice can be viewed online at our website <http://www.northwarks.gov.uk/planning>. Please refer to the conditions on this decision notice for details of those plans and information approved.

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