

Council/Committee:	Planning Committee
Date of Meeting	1 April 2026
Application Reference	DC/26/71369
Application Description	Proposed variation of conditions 11, 12 and 19 of planning permission DC/21/66125 (Proposed industrial/warehousing development (use classes B2/ B8) together with associated access, servicing, parking and landscaping).
Application Received	16 January 2026
Application Address	Newcomen Drive Open Space Newcomen Drive Tipton
Report Author	William Stevens william_stevens@sandwell.gov.uk
Lead Officer	Tammy Stokes
Ward	Tipton Green
Appendices (if any)	1. Location plan

1. Application Summary

- 1.1 The application is being reported to Planning Committee because three material planning objections have been received.
- 1.2 To assist members with site context, a link to Google Maps is provided below:

[Aerial View](#)

[Street View](#)

2. Recommendations

- 2.1 That planning permission is granted subject to the conditions relating DC/21/66125 and amendments to conditions 11, 12, and 19.

3. Reasons for the recommendation and conditions

The proposed development would be acceptable as the site benefits from planning permission; and this proposal is only altering the triggers for three conditions under section 73 of the Town and Country Planning Act.

4. Key Considerations

4.1 The site is allocated in the development plan for housing; however, Members already granted the departure in the previous application. The site is allocated for industrial use in the new plan; therefore, no further approvals are required to set aside the departure.

4.2 Material planning considerations (MPCs) are matters that can and should be taken into account when making planning decisions. By law, planning decisions should be made in accordance with the development plan unless MPCs indicate otherwise. This means that if enough MPCs weigh in favour of a development, it should be approved even if it conflicts with a local planning policy.

4.3 The material planning considerations which are relevant to this application are:

- Government policy (NPPF);
- Proposals in the development plan;
- Planning history

5. The Application Site

5.1 The application site is an area of green space sandwiched between industrial units to the west and residential properties to the east. Access to the site would remain as it is now, through Coneygree Road.

5.2 Planning History

Planning permission was granted for industrial/warehousing development (use classes B2/ B8) together with associated access, servicing, parking and landscaping at your planning committee in February 2023 under reference DC/21/66125.

A full list of the planning history is provided below:

DA/18345	Infilling of site to plans R/C/BQ/1 & 2.	Grant permission subject to conditions 14/02/1985
BCS0315	Residential development, landscaping and woodland planting and relocated and improved football pitch and clubroom.	Grant Outline Permission with Conditions 07/10/1988
BCS0585	Residential development, landscaping and woodland planting; relocated and	Grant Conditional Reserved Matters

	improved football pitch and clubroom.	19/06/1989
BCS0827	General industrial and associated open storage/car parking.	Non-Determination 25/11/1992
BCS0828	General industrial and associated open storage/car parking.	Non-Determination 25/11/1992
BCS3553	Recycling and waste transfer station	Withdrawn 23/03/1998
DC/08/49278	Demolition of industrial units to enable vehicular access into the site, regrading of the site and stabilisation of the old mine workings, residential development of up to 300 dwellings comprising access alterations onto Coneygre Road and Burnt Tree Road and erection of a landscaped acoustic bund (outline application).	Appeal Allowed 23/04/2009
DC/12/54472	Renewal of extant planning permission DC/08/49278: Demolition of industrial units to enable vehicular access into the site, re-grading of the site and stabilisation of the old mine workings, residential development of up to 300 dwellings comprising access alterations onto Coneygre Road and Burnt Tree Road and erection of a landscaped acoustic bund (outline application).	Not determined
DC/21/65676	Screening opinion for proposed industrial and warehouse units with associated access and works.	EIA not required 26/05/2021

DC/21/66125	Proposed industrial/warehousing development (use classes B2/ B8) together with associated access, servicing, parking and landscaping.	Grant Permission Subject to Conditions 20/07/2023
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6. Application Details

6.1 The applicant proposes to implement the previous permission granted under DC/21/66125 but to alter the triggers for three of the conditions. For ease, below is the list of three conditions that were approved and under each the proposed alternative wording:

6.2 Condition 11 of DC/21/66125 stated:

- a) Prior to the commencement of development, a scheme detailing a further intrusive site investigation to be undertaken on the site (in respect of mine shafts) shall be submitted to and approved in writing by the local planning authority.
- b) – d) remains unchanged

The applicant proposes to change the wording to read (changes in **bold**):

- a) **Prior to the laying of foundations for the proposed units and road access (excluding a 2.0m entrance strip)**, a scheme detailing a further intrusive site investigation to be undertaken on the site (in respect of mine shafts) shall be submitted to and approved in writing by the local planning authority.
- b) – d) remains unchanged

6.3 Condition 12 of DC/21/66125 stated:

No development shall take place (excluding ground investigation works, site clearance, demolition) unless and until a Risk Assessment and Method Statement has first been submitted to and approved in writing by the Local Planning Authority to demonstrate that the proposed development can be safely carried out without adversely affecting the stability of the land (with particular regard to the cutting slope, Old Mainline canal and any infilled canal basins). This detail should include full details of the construction methodology including cross sections to the canal, full details on any re-profiling of the cutting slope, the compaction method to be used on the crest, proposed structural loadings and foundation designs and any necessary mitigation measures, vibration monitoring etc. Thereafter the

development shall be carried out in full accordance with the approved details.

The applicant proposes to change the wording to read (changes in **bold**):

No development shall take place (excluding ground investigation works, site clearance, demolition **and the 2.0m entrance strip**) unless and until a Risk Assessment and Method Statement has first been submitted to and approved in writing by the Local Planning Authority to demonstrate that the proposed development can be safely carried out without adversely affecting the stability of the land (with particular regard to the cutting slope, Old Mainline canal and any infilled canal basins). This detail should include full details of the construction methodology including cross sections to the canal, full details on any re-profiling of the cutting slope, the compaction method to be used on the crest, proposed structural loadings and foundation designs and any necessary mitigation measures, vibration monitoring etc. Thereafter the development shall be carried out in full accordance with the approved details.

6.4 Condition 19 of DC/21/66125 stated:

- a) Before development is commenced (excluding site investigation and remediation) a detailed method statement setting out job and apprenticeship opportunities which may arise during the construction of the development and/or when the development is brought into use, shall be submitted to and approved in writing by the local planning authority.
- b) Remains unchanged

The applicant proposes to change the wording to read (changes in **bold**):

- a) **Prior to the laying of foundations for the proposed units and road access (not including a 2.0m entrance strip)** a detailed method statement setting out job and apprenticeship opportunities which may arise during the construction of the development and/or when the development is brought into use, shall be submitted to and approved in writing by the local planning authority.
- b) Remains unchanged

6.5 To avoid confusion, the original decision notice is attached.

7. **Publicity**

- 7.1 The application has been publicised by 71 neighbour notification letters and by site and press notice. Three objections have been received and are summarised below:
- i) The developer has failed to provide justification as to why the conditions require amending, increasing environmental risks.
- 7.2 Various other objections have been received that relate to the principal of the development which is not for the committee to determine. Whilst I will not address these comments in this report, for transparency purposes, these objections are summarised as:
- ii) The development will affect the private amenity of families in terms of noise,
 - iii) The site has wildlife such as badgers that are protected under the Protection of Badgers Act 1992 that are in the area regularly and likely live in the greenery,
 - iv) Emissions from the industrial complex are a risk to the health of all residents,
 - v) Higher volume of HGV traffic through the estate road,
 - vi) There is a play area and school so near to the estate, large vehicles pose a risk to their safety,
 - vii) Levelling this ground will disturb wildlife and protected trees currently on this land
 - viii) Concerns over land contamination,
 - ix) Access and egress from the proposed warehousing and distribution development into Coneygree Road/Burnt Tree/Dudley Port and Birmingham Road will compromise further the existing traffic density experienced by existing businesses on the trading estate and residents in the area.
 - x) Any additional traffic will significantly deplete the level of road safety in the area and the resultant air pollution resulting from increased traffic volume particularly due to slow movement and delays due to hindered access and egress to the proposed site onto the busy adjacent road network.

8. Consultee Responses

8.1 Planning Policy

No objections received.

8.2 Highways

Changing the wording to these conditions has no impact on the highway.

8.3 Public Health (Contaminated land)

No objections.

8.4 Urban Design

No objections raised

8.5 Canal and Rivers Trust

No objections, areas of works proposed fallout the canal.

9. Relevant Planning Policy Considerations

9.1 National Planning Policy Framework (NPPF)

The NPPF sets out government's planning policies for England and how these are expected to be applied. There are no policy issues with the chances to the trigger points of conditions.

9.2 Development Plan Policy

To avoid confusion, there are no relevant following polices for the change in wording of conditions, however the extant permission DC/21/66125 was compliant with relevant policies which were considered at the time of the original consent.

10. Material Considerations

- 10.1 **Justification** - the conditions have been worded to safeguard the safety of end users of the site and to prevent any cross contamination. The amended condition do not pose any environmental risk and have raised not objections from both the Highways and Pollution Control services.

11. Conclusion

- 11.1 All decisions on planning applications should be based on an objective balancing exercise. This is known as applying the 'planning balance'. To summarise: the proposal should be approved unless any adverse impacts of granting the permission would significantly and demonstrably outweigh the benefits when assessed against development plan policies or, where those policies are out of date, the NPPF as a whole. Where national policy takes

precedence over the development plan, this has been highlighted in paragraph 9 (National Planning Policy Framework).

- 11.2 There are no relevant policies to determine this slight change in wording, and no significant material considerations which warrant refusal that could not be controlled by conditions.

12. Legal and Governance Implications

The Planning Committee has delegated powers to determine planning applications within current Council policy. Section 78 of the Town and Country Planning Act 1990 gives applicants a right to appeal when they disagree with the local authority's decision on their application, or where the local authority has failed to determine the application within the statutory timeframe.

13. Other Relevant Implications

- 13.1 None

14. Background Documents

- 14.1 Previous decision notice application DC/21/66125.

15. How does this deliver the objectives of the Strategic Themes?

- 15.1 Encourage a positive environment where businesses and our community and voluntary organisations are supported to grow; and investment into the borough is maximised, creating job opportunities for local residents. (employment uses).