

**ITEM: 11**

**Application Number:** 09/01227/FUL

**Applicant:** Hydon Developments

**Description of Application:** Construction of 12 business units (use classes B1 and B8) in two blocks on existing car park. (Renewal of planning permission notice 06/01140/FUL)

**Type of Application:** Full Application

**Site Address:** CHRISTIAN MILL, TAMERTON FOLIOT ROAD  
PLYMOUTH

**Ward:** Budshead

**Valid Date of Application:** 29/09/2009

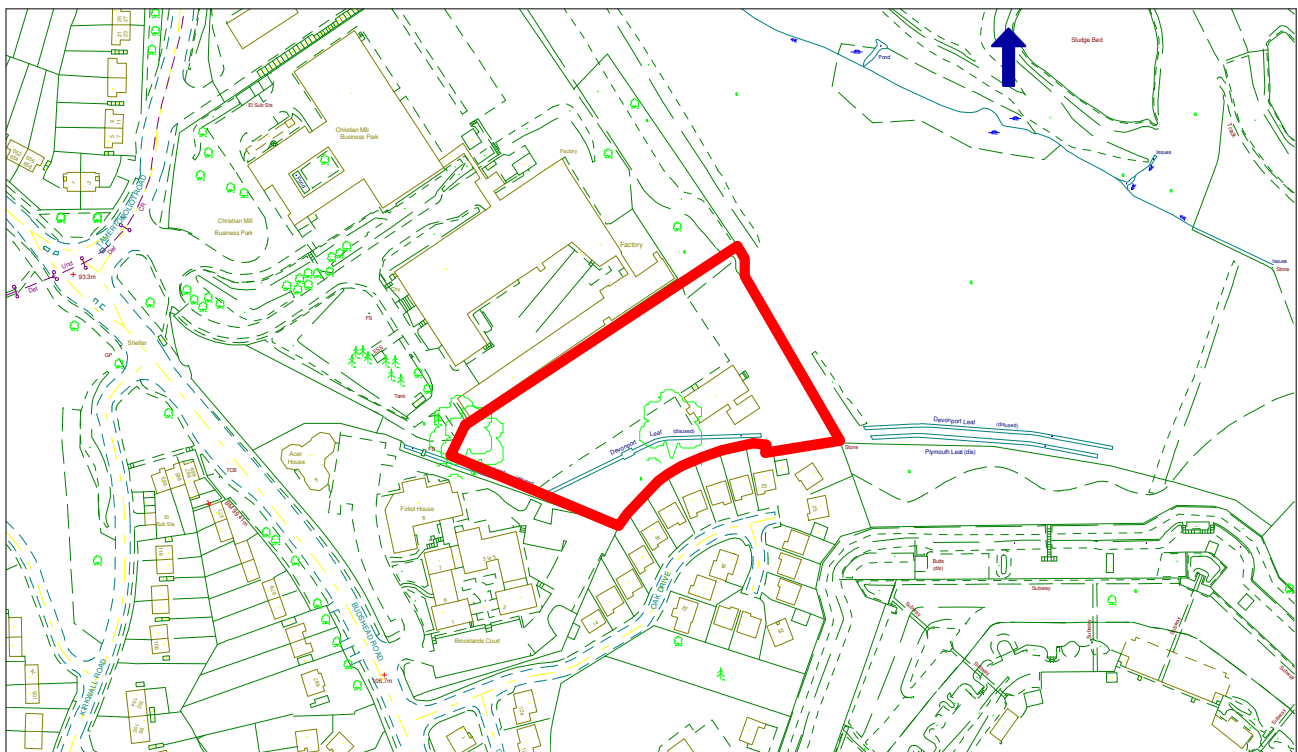
**8/13 Week Date:** **29/12/2009**

**Decision Category:** Delegated

**Case Officer :** Janine Warne

**Recommendation:** Grant conditionally subject to S106 Obligation delegated authority to refuse by 23/12/09

**Click for Application Documents:** [www.plymouth.gov.uk](http://www.plymouth.gov.uk)



(c) Crown Copyright. All rights reserved. Plymouth City Council Licence No. 100018633 Published 2009 Scale 1:3085

## **OFFICERS REPORT**

### **Site Description**

The site forms part of the Christian Mill complex which is located just off Tamerton Foliot Road, near the junction with Budshead Road. The application site under consideration is located at the top south-east corner which backs onto Oak Drive (residential street) and it also goes near to Brooklands Court (business offices). The land is laid out as a car park which is hardly used. Located between the houses and the proposed site of the buildings is a substantial tree belt (approximately 25 metres deep) which is mainly covered with mature and semi-mature deciduous trees. There is an earth bank (partly planted with trees) to one side of the site which at the maximum dimensions measures 50 metres in length and 20 metres in depth and to a height of circa 6-7 metres. The proposed distances between the backs of the new commercial buildings and the houses in Oak Drive would be a minimum of 35 metres and a maximum of 45 metres. The land slopes down from the backs of the houses in Oak Drive.

### **Proposal Description**

To erect 12 new business units within classes B1 and B8 of the Use Classes Order (Storage and distribution/business offices). The units would be provided in 2 blocks each having dimensions of 50 metres in length, 10 metres in depth and 6 metres in height.

### **Relevant Planning History**

06/01140/FUL – Construction of 12 business units (Use Classes B1 and B8) in two blocks on existing car park – Permitted.

### **Consultation Responses**

Highway Authority – No objections subject to various conditions relating to the provision of parking area, cycle parking, loading/unloading areas and a staff travel plan.

Environmental Services – No objections, subject to standard land contamination conditions.

Plymouth City Airport – No objections.

### **Representations**

No letters of representation have been received regarding this planning application.

## Analysis

This application turns upon Strategic Objective 6 (*Delivering the Economic Strategy*) and policies CS04 (*Future Employment Provision*), CS05 (*Development of Existing Sites*), CS22 (*Pollution*), CS28 (*Local Transport Considerations*), CS33 (*Community Benefits/Planning Obligations*), and CS34 (*Planning Application Considerations*) of the City's adopted Core Strategy 2006-2021. The primary planning considerations are discussed below.

The principle of the development is acceptable as Christian Mill is an existing employment site with a range of uses from office, storage, manufacturing, and retail. The expansion/development is supported by strategic objective 6 – delivering the economic strategy and policies CS04 and CS05 the adopted Core Strategy.

The application seek to renew an existing planning consent for the erection of twelve business units, for B1 (light industrial) and B8 (storage and distribution) use only. Each unit is approximately 650 square metres in floor area, being arranged over 2 floors. Uses within B1 by their very nature are those which do not raise issues in terms of noise, smell, dust generation etc. Storage and distribution uses tend to generate issues in terms of the hours of operation. The hours of use can be controlled to restrict the potential impact to neighbouring houses in Oak Drive.

The units themselves will be cut into the land currently laid out as a car park by between 1.5-2 metres, thus reducing the impact to the houses at the rear. The houses in Oak Drive are at least 35 metres from the position of the buildings, separated by a deciduous tree belt of circa 25 metres depth. The proposed buildings are a maximum height of 6 metres. The rear aspect of the building is proposed to be finished in steel sheeting with a beige colour finish. The top section of the elevation will be glazed (500mm down from the gutters), approximately 2 metres of the rear elevation will be seen with the steel sheeting. The roof will have a shallow pitch and will be clad in grey steel sheeting. The physical relationship is deemed to be acceptable due to a combination of the above factors.

As part of the previous planning application (no.06/01140), it was necessary to justify the loss of off road parking at the rear resulting from the proposed development. A survey was undertaken on 2 separate days, a weekday and a weekend day. It demonstrates, and has been accepted, that there is a gross over provision of parking in the region of 215 spaces during the week and 273 spaces on the weekend. The combination of the loss of spaces and demand for new spaces can be accommodated, in association with loading/unloading areas. The survey was conducted whilst the 'Playzone' was closed for refurbishment. In itself this does not have a bearing on the results of the survey as the peak times for this facility are mainly weekends when there is adequate capacity. Thus, the findings are felt to be sound. The Transport Officer has confirmed that the parking situation today is largely consistent with the survey results and therefore no further issues or observations have been raised in this case. The proposal has the positive effect of reducing parking

numbers in line with current thinking on reducing dependence on the private car (PPG13 refers).

It should be noted that Devonport Leat lies in close proximity to the site, though it would not be affected by the development. The Leat is not protected by any formal designation and its' preservation relies on development not prejudicing it. The design has avoided the Leat.

The existing trees are not affected by the proposed development. They are located away from the canopy and away from the root systems. There would be no reason for the development to affect the existing trees and they are afforded protection by previous permission on the land. Further planting to the bund will be requested by condition.

During the determination of the previous application, there was local concern regarding the existing floodlights that cause problems for people with bedrooms at the rear of the house. The existing lights will be removed and should there be a need for further lights the position and details will be requested by condition, in the same way that CCTV would be controlled by condition.

It is recommended that a code of practice during the construction condition is placed on any grant of planning consent, to ensure that the works do not demonstrably harm neighbouring amenity. The nature of the use will not generate dust, noise, smells etc, this would be associated with a heavy industrial use. In addition, a condition regarding external plant being used is recommended.

It should be noted that the applicant has requested a five year planning consent (rather than three years as standard). Therefore the case officer has sought legal advice, which confirms the following:

S91(1) (a) Town and Country Planning Act 1990 provides that any planning permission granted or deemed to be granted is subject to the condition that the development to which it relates must be begun no later than the expiration of 3 years beginning on the date which the permission is granted; or (b) such other period (whether longer or shorter) beginning with that date as the authority concerned with the terms of the planning permission may direct. The legislation provides the time period mentioned in S91(b) "shall be a period which the authority consider appropriate having regard to the provisions of the development plan and to any other considerations".

Your officers are currently assessing whether it would be appropriate to allow an extended consent in this case. Therefore, a restrictive condition relating to commencement of development has not been included in this report and will be presented to Committee by Addendum.

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights

included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

### **Equalities and diversities issues**

There are no additional issues to be discussed here.

### **Section 106 Obligations**

The following Section 106 Obligation is required in line with adopted Core Strategy policy:

1. A financial contribution of £30,646 towards strategic transportation improvements in the city, payable upon commencement of development.
2. Administrative fee of £1,532.

### **Conclusions**

The application is recommended for approval subject to conditions and the successful completion of a Section 106 Agreement by 23 December 2009, with delegated authority sought to refuse permission if the Section 106 Agreement is not signed within that time.

### **Recommendation**

In respect of the application dated **29/09/2009** and the submitted drawings, **Site Location Plan, Block Plan, Section Drawings (A-A and B-B), Proposed Layout (drg no.15), Elevations and Floor Plans of 'Block A' (drg no.16), Elevations and Floor Plans of 'Block B' (drg no.17), and accompanying Design and Access Statement** , it is recommended to: **Grant conditionally subject to S106 Obligation delegated authority to refuse by 23/12/09**

### **Conditions**

#### **CODE OF PRACTICE DURING CONSTRUCTION**

(1) Prior to the commencement of the development hereby approved, a detailed management plan for the construction phase of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the management plan.

Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects during construction works and avoid conflict with Policy CS22

of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CAR PARKING PROVISION

(2) The development shall not be occupied until space has been laid out within the site in accordance with the Approved plan.

#### Reason:

In the opinion of the Local Planning Authority, although some provision needs to be made, the level of car parking provision should be limited in order to assist the promotion of sustainable travel choices in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CYCLE PROVISION

(3) The development shall not be occupied until space has been laid out within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority for six bicycles to be parked.

#### Reason:

In order to promote cycling as an alternative to the use of private cars in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### CYCLE STORAGE

(4) The secure area for storing cycles shown on the approved plan shall remain available for its intended purpose and shall not be used for any other purpose without the prior consent of the Local Planning Authority.

#### Reason:

To ensure that there are secure storage facilities available for occupiers of or visitors to the building. in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### LOADING AND UNLOADING PROVISION

(5) Before the development hereby permitted is first brought into use, adequate provision shall be made to enable goods vehicles to be loaded and unloaded within the site in accordance with details previously submitted to and approved in writing by the Local Planning Authority.

#### Reason:

To enable such vehicles to be loaded and unloaded off the public highway so as to avoid:- (i) damage to amenity; (ii) prejudice to public safety and convenience; and (iii) interference with the free flow of traffic on the highway in accordance with Policies CS28 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### STAFF TRAVEL PLAN

(6) The development hereby permitted shall not be occupied) until a Staff Travel Plan (STP) has been submitted to and approved in writing by the Local Planning Authority. The said STP shall seek to encourage staff to use modes of transport other than the private car to get to and from the premises. It shall also include measures to control the use of the permitted car parking areas; arrangements for monitoring the use of provisions available through the operation of the STP; and the name, position and contact telephone number of the person responsible for it's implementation. From the date of (the commencement of the use)) the occupier shall operate the approved STP.

#### Reason:

In the opinion of the Local Planning Authority, such measures need to be taken in order to reduce reliance on the use of private cars (particularly single occupancy journeys) and to assist in the promotion of more sustainable travel choices in accordance with Policy CS28 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### NOISE LEVEL RESTRICTION

(7) The level of noise emitted from the site shall not exceed 5 dB above the current background noise at any other time, as measured on of the boundary of the site. The noise should be free from any distinct tones or other characteristics which would draw attention to it. If it contains tones or other characteristics, the measured noise level should have 5dB added to it and this higher figure used as its characteristic level.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting noise and avoid conflict with Policies CS22 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021)2007.

#### HOURS OF OPERATION

(8) No machinery shall be operated, no process shall be carried out and no deliveries taken at or dispatched from the site outside the following times: 0800 - 1800 hours Monday to Saturday inclusive; nor at any time on Sundays, Bank or Public Holidays.

#### Reason:

To protect the residential and general amenity of the area from any harmfully polluting effects and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### NO FURTHER PLANT/MACHINERY W/O CONSENT

(9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no further plant or machinery shall be installed or provided on the site under or in accordance with Part 8 of Schedule 2 to that Order without the prior consent in writing of the Local Planning Authority.

Reason: To protect the residential and general amenity of the area from any harmfully polluting effects and avoid conflict with Policy CS22 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### FURTHER DETAILS

(10) No work shall commence on site until details of the following aspect of the development have been submitted to and approved in writing by the Local Planning Authority:

(a) Security lighting/floodlighting around the perimeter of the site or attached to any of the new buildings

(b) CCTV cameras to be used on or around the building/perimeter of the site.

The works shall conform with the approved details.

Reason:

To ensure that these further details are acceptable to the Local Planning Authority and that they are in keeping with the standards of the vicinity.

#### PROVISION FOR TREE PLANTING

(11) No works shall take place until full details of all proposed tree planting required to take place on the earth bund in the eastern corner of the site, and the proposed times of planting, have been approved in writing by the Local Planning Authority and all tree planting shall be carried out in accordance with those details and at those times.

Reason:

To ensure that satisfactory landscaping works are carried out in accordance with policy CS18 of the adopted Core Strategy.

#### PROTECTION OF LEAT DURING CONSTRUCTION

(12) No work shall commence on site until on site until details to indicate how the building work will avoid disturbance to the Devonport Leat have been submitted to and approved in writing by the Local Planning Authority. The works shall conform with the approved details.

Reason:

In order to preserve a locally importance archaeology feature in accordance with guidance in PPG15.

#### EXISTING TREE/HEDGEROWS TO BE RETAINED

(13) In this condition "retained tree or hedgerow" means an existing tree or hedgerow which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from

(a) No retained tree or hedgerow shall be cut down, uprooted or destroyed, nor shall any tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of the Local Planning Authority. Any topping or lopping approved shall be carried out in accordance with BS 3998:1989(Recommendations for Tree Work).

(b) If any retained tree or hedgerow is removed, uprooted or destroyed or dies, or is lopped or topped in breach of (a) above in a manner which, in the



opinion of the Local Planning Authority, leaves it in such a poor condition that it is unlikely to recover and/or attain its previous amenity value, another tree or hedgerow shall be planted at the same place and that tree or hedgerow shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.

(c) The erection of fencing for the protection of any retained tree or hedgerow shall be undertaken in accordance with the approved plans and particulars (or in accordance with Section 9 of BS 5837:2005 (Guide for Trees in relation to construction) before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground areas within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority.

Reason:

To ensure that trees or hedgerows retained in accordance with Policies CS18 and CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 are protected during construction work and thereafter are properly maintained, if necessary by replacement.

#### LAND QUALITY

(14) Unless otherwise agreed in writing by the Local Planning Authority, the development hereby approved (other than that required to be carried out as part of an approved scheme of remediation) shall not commence until conditions 15 to 17 have been complied with. If unexpected contamination is found after the development hereby approved has commenced, development shall be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition 18 has been complied with in relation to that contamination.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the use can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### SITE CHARACTERISATION

(15) An investigation and risk assessment, in addition to any assessment provided with the planning application, shall be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings shall include:

- (i) a desk study characterising the site and identifying potential risks from contamination;
  - (ii) a survey of the extent, scale and nature of contamination;
  - (iii) an assessment of the potential risks to:
    - human health,
    - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
    - adjoining land,
    - groundwaters and surface waters,
    - ecological systems,
    - archaeological sites and ancient monuments;
  - (iv) an appraisal of remedial options, and proposal of the preferred option(s).
- This shall be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### SUBMISSION OF REMEDIATION SCHEME

(16) A detailed remediation scheme to bring the site to a condition suitable for the use hereby approved (by removing unacceptable risks to human health, buildings and other property and the natural and historical environment) shall be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### IMPLEMENTATION OF APPROVED REMEDIATION SCHEME

(17) The approved remediation scheme shall be carried out in accordance with its terms prior to the commencement of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report

(referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out shall be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### REPORTING UNEXPECTED CONTAMINATION

(18) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with current guidance, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 16, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 17.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007.

#### INFORMATIVE - CODE OF PRACTICE DURING CONSTRUCTION

(1) The management plan required by condition 2 shall be based upon the Council's Code of Practice for Construction and Demolition Sites which can be viewed on the Council's web-pages, and shall include sections on the following:

- a. Site management arrangements including site office, developer contact number in event of any construction/demolition related problems, and site security information;
- b. Construction traffic routes, timing of lorry movements, weight limitations on routes, initial inspection of roads to assess rate of wear and extent of repairs required at end of construction/demolition stage, wheel wash facilities, access points, hours of deliveries, numbers and types of vehicles, and construction traffic parking; and
- c. Hours of site operation, dust suppression measures, and noise limitation measures.

### **Statement of Reasons for Approval and Relevant Policies**

Having regard to the main planning considerations, which in this case are considered to be: the impact on neighbouring amenity, the impact on the character and visual appearance of the area, the impact on conditions of highway safety, the impact on environmental and public health, and the impact on an existing/future employment site, the proposal is not considered to be demonstrably harmful. In the absence of any other overriding considerations, and with the imposition of the specified conditions, the proposed development is acceptable and complies with (a) policies of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 and supporting Development Plan Documents (the status of these documents is set out within the City of Plymouth Local Development Scheme) and the Regional Spatial Strategy, (b) non-superseded site allocations, annex relating to definition of shopping centre boundaries and frontages and annex relating to greenscape schedule of the City of Plymouth Local Plan First Deposit (1995-2011) 2001, and (c) relevant Planning Guidance (SPG) Notes, Government Policy Statements and Government Circulars, as follows:

- CS28 - Local Transport Consideration
- CS33 - Community Benefits/Planning Obligation
- CS34 - Planning Application Consideration
- CS22 - Pollution
- CS05 - Development of Existing Sites
- CS04 - Future Employment Provision
- SO6 - Delivering the Economic Strategy Targets