

## Development Management Officer Report Committee Application

<b>Summary</b>	
<b>Committee Meeting Date:</b> 17 November 2020	
<b>Application ID:</b> LA04/2020/1478/F	
<b>Proposal:</b> Variation of Conditions 4 and 5 of Z/2014/1373/F - relating to proposed gas protection measures, design and verification.	<b>Location:</b> Blackstaff Way, Kennedy Way Industrial Estate, Belfast
<b>Referral Route:</b> Varying conditions relating to Major development	
<b>Recommendation:</b>	<b>Approval</b>
<b>Applicant Name and Address:</b> U Store It Unit 1 North Park North Road Finglas Dublin	<b>Agent Name and Address:</b> Andrew Nesbitt Architects Carnegie Studio Library Hill 121 Donegall Road Belfast
<p><b>Executive Summary:</b> The application seeks to vary conditions 4 and 5 of planning permission Z/2014/1373/F under Section 54 of the Planning Act (Northern Ireland) 2011. The original application grants planning permission for the erection of a warehouse/office building. Z/2014/1373/F was granted permission on 17/08/15 and given the length of time since the approval date officers sought confirmation that the development had commenced. On the basis of evidence submitted by the applicant, it appears to officers that development commenced within the time limits and the variation of the conditions can be assessed under Section 54 of the Act. This is not a formal determination of lawful development under Section 170 of the Planning Act.</p> <p>The site is located within the development limits of Belfast within the Belfast Urban Area Plan and Draft Belfast Metropolitan Area Plan (2015). The site is within a zoned area of existing employment/industry (BT011/30).</p> <p>The variation of conditions 4 and 5 proposes to update the proposed gas remediation protection measures, design and verification. The approval of Z/2014/1373/F included a Contamination Assessment Report, by Pentland MacDonald PM14-1205. Since this report was produced and subsequent to the original planning permission, BS8485 has been updated twice (in 2015 and again in 2019).</p> <p>DAERA Land and Groundwater Team and BCC Environmental Health were consulted in relation to the amended wording of the conditions and both responded with no objections to the proposed variations.</p> <p>On this basis, it is recommended that the proposal is approved subject to the conditions set out in the report with delegated authority for the Director of Planning and Building Control to finalise the wording of conditions.</p>	

## Case Officer Report

### Site Location Plan



#### Representations:

Letters of Support	None Received
Letters of Objection	None Received
Number of Support Petitions and signatures	No Petitions Received
Number of Petitions of Objection and signatures	No Petitions Received

#### Characteristics of the Site and Area

##### 1.0 Description of Proposed Development

1.1 This is a Section 54 application to vary conditions 4 and 5 (related to gas remediation protection measures, design and verification) of planning permission reference Z/2014/1373/F to reflect the updated BS8485.

##### 2.0 Description of Site

2.1 The application site is approximately 0.78ha in size of vacant land. The site is located within the development limits of Belfast within the Belfast Urban Area Plan and Draft Belfast Metropolitan Area Plan (2015), and within a zoned area of existing employment/industry (BT011/30). It is located at the end of Blackstaff Way, directly adjacent to a fitness centre.

## **Planning Assessment of Policy and Other Material Considerations**

### **3.0 Site History**

3.1 Planning history on the site relates to the full application to which this Section 54 application seeks to vary:

Z/2014/1373/F - Erection of warehouse/office building – Permission granted – 17/08/15

LA04/2020/0360/NMC – Non material change to Z/2014/1373/F - Consent granted – 06/03/20

3.2 There is a current application on the site under LA04/2020/1313/NMC for a non-material change to Z/2014/1373/F which is currently under assessment.

### **4.0 Policy Framework**

4.1 (Draft) Belfast Metropolitan Area Plan 2015 (BMAP 2015), (Draft) Belfast Metropolitan Area Plan 2004 (BAMP 2004) and Belfast Urban Area Plan 2001 (BUAP)

4.2 Strategic Planning Policy Statement (SPPS)

### **5.0 Statutory Consultees Responses**

5.1 DAERA Land and Groundwater Team – No objection

### **6.0 Non Statutory Consultees Responses**

6.1 BCC Environmental Health – No objection subject to conditions

### **7.0 Representations**

7.1 The application has been neighbour notified and advertised in the local press. No comments have been received.

### **8.0 Other Material Considerations**

8.1 None

### **9.0 Assessment**

9.1 Following the Court of Appeal decision relating to BMAP, the extant development plan is now the Belfast Urban Area Plan 2001. However, given the stage at which the Draft BMAP had reached pre-adoption through a period of independent examination, the policies within the Draft BMAP still carry weight and are a material consideration in the determination of planning applications. The weight to be afforded is a matter of judgement for the decision maker. Given the advanced stage at which Draft BMAP had reached it is considered to hold significant weight (save for policies around Sprucefield which remain contentious). The site is unzoned within BUAP and sited within the development limits of Belfast. The site is located inside the development limits of Belfast as shown in the draft Belfast Metropolitan Area Plan 2015 and within an area of existing employment/industry (BT011/30).

9.2 The development permitted under Z/2014/1373/F was required by Section 61 of the Planning Act (Northern Ireland) 2011 to commence before 17th August 2020. Accordingly evidence was requested from the applicant to demonstrate that development had commenced and that the permission remains extant. Based on the evidence submitted it appears that the development commenced prior to expiration of the permission and therefore this application can be assessed under Section 54 of the Planning Act (Northern Ireland) 2011. This does not represent a formal decision under Section 170 of the Planning Act (Northern Ireland) 2011.

9.3 This application seeks to vary Conditions 4, and 5 of planning permission Z/2014/1373/F under Section 54 of the Planning Act (Northern Ireland) 2011 to allow for reference to the updated British Standard 8485. It is proposed to amend Section 6.1 and 6.4 of the originally submitted Pentland Macdonald Contamination Assessment and Remediation Strategy NoPM14-1205 with updated Pentland Macdonald report NoPM20-1049; and to omit reference to BS8485 and substitute reference to updated BS8485:2015 and A1:2019.

9.3 Currently Condition 4 of Z/2014/1373/F reads as follows:

*“The development hereby permitted shall not be occupied until the remediation measures as described in Pentland MacDonald Report NoPM14-1205 have been implemented to the satisfaction of the Council. The Council must be given 2 weeks written notification prior to the commencement of remediation work.*

*Reason: Protection of environmental receptors to ensure the site is suitable for use.”*

9.4 Currently Condition 5 of Z/2014/1373/F reads as follows:

*‘Prior to the occupation of the proposed development, the applicant shall provide to the Council, for approval, a Verification Report. This report shall demonstrate the successful completion of remediation works that the site is now for end-use (Commercial). It must demonstrate that the potential pollutant linkages identified in Pentland Macdonald Report NoPM14-1205 are effectively broken and that the remediation measures identified in the report have been implemented. In particular, the Verification Report should provide evidence that:*

*Gas protection measures have been designed and installed in accordance with BS8485 and that their installation has been verified in line with CIRIA C735*

*Risks from Asbestos Containing Materials have been appropriately managed in accordance with guidance provided in CIRA C733.*

*The Verification Report shall be prepared in accordance with current best practice and guidance as outlined by the Environment Agency.*

*Reason: Protection of environmental receptors to ensure the site is suitable for use.”*

9.5 The application is accompanied by a Pentland Macdonald Ltd letter dated 17th July 2020 referenced 'Further gas assessment and updated gas remediation strategy - U Store It, Blackstaff Way, Belfast' (Pentland Macdonald reference: PM20-1049), as well as the original Pentland Macdonald Ltd report entitled 'Contamination Assessment and Remediation Strategy, Site at Blackstaff Way, Belfast, for Andrew Nesbitt Architects, Planning ref: Z/2014/1373/F' (dated January 2015 and referenced PM14-1205). These were forwarded to BCC Environmental Health and DAERA Land and Groundwater Team for comment.

9.6 BCC Environmental Health responded to consultation on 26/08/20 with no objections subject to proposed variations. Their response notes suggested variations as below. DAERA Land and Groundwater Team responded on 07/09/20 stating since these issues concern human health receptors only they had nothing further to add to BCC Environmental Health's comments.

9.7 Condition 4 has been proposed to read

*“The development hereby permitted shall not be occupied until the remediation measures as described in the Pentland Macdonald Ltd Report No. PM14-1205, and as amended within the Pentland Macdonald Ltd Letter No. PM20-1049, have been implemented to the satisfaction of the Planning Authority. The Planning Authority must be given 2 weeks written notification prior to the commencement of remediation work.*

*Reason: Protection of human health and environmental receptors and to ensure the site is suitable for use.”*

9.8 A variation of Condition 5 has been proposed to read

*“Prior to the occupation of the proposed development, the applicant shall provide to and have agreed in writing by the Planning Authority, a Verification Report. This report must demonstrate that the remediation measures outlined in the Pentland Macdonald Ltd report entitled ‘Contamination Assessment and Remediation Strategy, Site at Blackstaff Way, Belfast, for Andrew Nesbitt Architects, Planning ref: Z/2014/1373/F’ (dated January 2015 and referenced PM14-1205), and as amended by the Pentland Macdonald Ltd letter dated 17th July 2020 referenced ‘Further gas assessment and updated gas remediation strategy - U Store It, Blackstaff Way, Belfast’ (Pentland Macdonald reference: PM20-1049), have been implemented.*

*The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). It must demonstrate that the identified potential pollutant linkages are effectively broken. The Verification Report shall be in accordance with Environment Agency guidance, British Standards and CIRIA industry guidance. In particular, this Verification Report must demonstrate that:*

- Gas protection measures commensurate with the Characteristic Situation 3 classification of the site have been installed within the proposed building, consisting of:*
- A reinforced concrete cast in situ suspended floor slab with minimal penetrations.*
- A gas resistant membrane which meets all requirements of Table 7 of BS 8485:2015+A1:2019.*
- Gas protection measures have been verified in line with the requirements of CIRIA C735.*
- Risks from asbestos and asbestos containing materials (ACMs) have been appropriately managed in accordance with guidance provided in CIRIA C733.*

*Reason: Protection of human health and environmental receptors and to ensure the site is suitable for use.”*

## **9 Conclusion**

9.1 The proposal to vary conditions 4 and 5 to reference the updated British Standard 8485 is considered reasonable. There are no technical objections to the application. Having regard to the planning policy context, the variation of conditions is considered acceptable.

9.2 The variation of conditions will create a new standalone planning permission and it will be necessary to repeat the conditions on the original permission, subject to the variations granted by this decision.

## **10 Recommendation**

10.1 Having regard to the policy context and other material considerations above including the planning history, the proposal is considered acceptable and approval of planning permission is recommended subject to conditions with delegated authority for the Director of Planning and Building Control to finalise the wording of conditions.

**Neighbour Notification Checked: Yes**

### **Conditions**

1. As required by Section 61 of the Planning Act (Northern Ireland) 2011, the development hereby permitted shall be begun before 17<sup>th</sup> February 2021.

Reason: Time Limit.

2. The vehicular access shall be provided in accordance with approved Drawing No 03/A, dated stamped received 18/03/15, approved under Z/2014/1373/F prior to the operation of any other works or other development hereby permitted.

Reason: To ensure there is a satisfactory means of access in the interests of road safety and the convenience of road users.

3. The development hereby permitted shall not become operational until hard surfaced areas have been constructed and permanently marked in accordance with approved Drawing 03/A, date stamped received 18/03/15, approved under Z/2014/1373/F, to provide for parking and traffic circulation within the curtilage of the site. No part of these hard surfaced areas shall be used for any purpose at any time other than for the parking and movement of vehicles in connection with the approved development.

Reason: To ensure that adequate provision has been made for parking and traffic circulation within the curtilage of the site.

4. The development hereby permitted shall not be occupied until the remediation measures as described in the Pentland Macdonald Ltd Report No. PM14-1205, and as amended within the Pentland Macdonald Ltd Letter No. PM20-1049, have been implemented to the satisfaction of the Planning Authority. The Planning Authority must be given 2 weeks written notification prior to the commencement of remediation work.

Reason: Protection of human health and environmental receptors and to ensure the site is suitable for use.”

5. Prior to the occupation of the proposed development, the applicant shall provide to and have agreed in writing by the Planning Authority, a Verification Report. This report must demonstrate that the remediation measures outlined in the Pentland Macdonald Ltd report entitled 'Contamination Assessment and Remediation Strategy, Site at Blackstaff Way, Belfast, for Andrew Nesbitt Architects, Planning ref: Z/2014/1373/F' (dated January 2015 and referenced PM14-1205), and as amended by the Pentland Macdonald Ltd letter dated 17th July 2020 referenced 'Further gas assessment and updated gas remediation strategy - U Store It, Blackstaff Way, Belfast' (Pentland Macdonald reference: PM20-1049), have been implemented. The Verification Report shall demonstrate the successful completion of remediation works and that the site is now fit for end-use (commercial). It must demonstrate that the identified potential pollutant linkages are effectively broken. The Verification Report shall be in accordance with Environment Agency guidance, British Standards and CIRIA industry guidance. In particular, this Verification Report must demonstrate that:
  - Gas protection measures commensurate with the Characteristic Situation 3 classification of the site have been installed within the proposed building, consisting of:
    - A reinforced concrete cast in situ suspended floor slab with minimal penetrations.
    - A gas resistant membrane which meets all requirements of Table 7 of BS 8485:2015+A1:2019.
  - Gas protection measures have been verified in line with the requirements of CIRIA C735.
  - Risks from asbestos and asbestos containing materials (ACMs) have been appropriately managed in accordance with guidance provided in CIRIA C733.

Reason: Protection of human health and environmental receptors and to ensure the site is suitable for use.

<b>ANNEX</b>	
<b>Date Valid</b>	24th July 2020
<b>Date First Advertised</b>	14th August 2020
<b>Date Last Advertised</b>	
<p>Details of Neighbour Notification (all addresses)</p> <p>The Owner/Occupier, 4a ,Blackstaff Way,Belfast,Antrim,BT11 9DS</p> <p>The Owner/Occupier, 51-59 ,Boucher Crescent,Belfast,Antrim,BT14 7BT</p> <p>The Owner/Occupier, 65 Boucher Crescent,Belfast,Antrim,BT12 6HU</p> <p>The Owner/Occupier, 67 Boucher Crescent,Belfast,Antrim,BT12 6HU</p> <p>The Owner/Occupier, 69-71 ,Boucher Crescent,Belfast,Antrim,BT12 6HU</p> <p>The Owner/Occupier, Blackstaff Way,Belfast,Antrim,BT11 9DS</p> <p>The Owner/Occupier, Blackstaff Way,Belfast,Antrim,BT11 9DS</p> <p>The Owner/Occupier, Blackstaff Way,Belfast,Antrim,BT11 9DS</p> <p>The Owner/Occupier, Unit 1,4 Blackstaff Way,Ballymurphy,Antrim,BT11 9DT</p> <p>The Owner/Occupier, Unit 18,21-59 ,Boucher Crescent, Boucher Retail Park,Belfast,Antrim,BT12 6HU</p> <p>The Owner/Occupier, Unit 2,4 Blackstaff Way,Ballymurphy,Antrim,BT11 9DT</p> <p>The Owner/Occupier, Unit 7-8,M1 Business Park, Blackstaff Way,Belfast,Antrim,BT11 9DS</p>	
<b>Date of Last Neighbour Notification</b>	24th August 2020
<b>Date of EIA Determination</b>	N/A
<b>ES Requested</b>	N/A
<p>Planning History</p> <p>Ref ID: Z/2012/0525/DETEIA  Proposal: Regional Stadia Programme  Address: Casement Park, 88-104 Anderstonstown Road, Belfast, BT11 9AN,  Decision: DRES  Decision Date:</p> <p>Ref ID: LA04/2020/1313/NMC</p>	

Proposal: Non material change Z/2014/1373/F.  
Address: Blackstaff Way, Kennedy Way Industrial Estate, Belfast, BT11 9DT.,  
Decision:  
Decision Date:

Ref ID: LA04/2020/1478/F  
Proposal: Variation of Conditions 4 and 5 of Z/2014/1373/F - relating to proposed gas protection measures, design and verification.  
Address: Blackstaff Way, Kennedy Way Industrial Estate, Belfast, BT11 9DT.,  
Decision:  
Decision Date:

Ref ID: Z/2014/1373/F  
Proposal: Erection of warehouse/office building.  
Address: Kennedy Way Industrial Estate, Blackstaff Way, Belfast, BT11 9DT.,  
Decision: PG  
Decision Date: 19.08.2015

Ref ID: LA04/2020/0360/NMC  
Proposal: Non material change to Z/2014/1373/F  
Address: Kennedy Way Industrial Estate, Blackstaff Way, Belfast, BT11 9DT.,  
Decision: CG  
Decision Date:

Ref ID: Z/2014/0059/F  
Proposal: Retention of gymnasium/fitness centre and all associated works  
Address: Unit 1, M1 Business Park, Blackstaff Way, Kennedy Way Industrial Estate, Belfast, BT11,  
Decision: PG  
Decision Date: 18.04.2014

Ref ID: Z/1999/2637  
Proposal: Development of an urban nature reserve including paths, habitat creation, bird hide, pond dipping area, hardstanding area, re-alignment of ditches, pond and landscape works.  
Address: BOG MEADOWS, ADJACENT TO THE M1 MOTORWAY, BELFAST BT12  
Decision:  
Decision Date:

Ref ID: Z/2014/0344/F  
Proposal: Provision of new footpaths + resurface existing footpaths: erection of railings + fencing + gates: refurbish existing bridge crossing + provide a new bridge crossing  
Address: Bog Meadows Nature Reserve, Milltown Row, Belfast, BT12,  
Decision: PG  
Decision Date: 11.06.2014

Ref ID: Z/2012/0701/F



Proposal: Extension to factory, additional servicing and car parking  
Address: Unit 10 Kennedy Way Industrial Estate, Blackstaff Road, Belfast, BT11 9DT,  
Decision: PG  
Decision Date:

Ref ID: Z/1997/6011  
Proposal: Factory unit. Kennedy Way Industrial Estate, Belfast.  
Address: Kennedy Way Industrial Estate,  
Decision:  
Decision Date:

Ref ID: Z/1999/2136  
Proposal: Extension to existing industrial unit (manufacture of timber frame structures) to provide additional industrial floorspace and ground and 1st floor office accommodation.  
Address: UNIT 11, KENNEDY WAY INDUSTRIAL ESTATE, BLACKSTAFF ROAD, BELFAST BT11  
Decision:  
Decision Date:

Ref ID: Z/2004/1792/F  
Proposal: Change of use from use classes 4 & 11 (light industrial/warehousing) to sui generis use (for the sale or for the display for sale of motor vehicles). (Amended Description)  
Address: Units 2+3, Kennedy Way Industrial Estate, Blackstaff Way, Belfast  
Decision:  
Decision Date: 29.11.2004

Ref ID: Z/1995/3065  
Proposal: Erection of twelve industrial units and associated car parking.  
Address: 6 BLACKSTAFF WAY, KENNEDY WAY INDUSTRIAL ESTATE, BELFAST BT11  
Decision:  
Decision Date:

Ref ID: Z/2004/2759/F  
Proposal: Fit out of building: including new mezzanine floor and sub division incorporating office, training area, vehicle garage, workshop, storage and ancillary uses.  
Address: Units 7 & 8, M1 Business Park, 6 Blackstaff Way, Kennedy Way Industrial Estate, Belfast  
Decision:  
Decision Date: 19.05.2005

Ref ID: Z/1995/3050  
Proposal: Extension to existing access road.  
Address: KENNEDY WAY INDUSTRIAL ESTATE, BLACKSTAFF WAY, BELFAST BT11  
Decision:  
Decision Date:

Ref ID: Z/2000/1057/F

Proposal: (Removal of Condition) (continuance of use without compliance with condition) no. 03 attaching to planning permission (application ref Z/97/2786), that adjacent site be retained as car parking.

Address: 10 Kennedy Way Industrial Estate, Blackstaff Road, Belfast.

Decision:

Decision Date: 19.09.2000

Ref ID: Z/1999/2411

Proposal: Extension to existing factory to provide heating/waste recycling plant.

Address: 10 KENNEDY WAY INDUSTRIAL ESTATE, BLACKSTAFF ROAD, BELFAST BT11

Decision:

Decision Date:

Ref ID: Z/2006/2838/F

Proposal: Commercial warehouse building, including ancillary offices with associated external parking.

Address: Lands at Kennedy Way Industrial Estate (adjacent to M1 Motorway and Bog Meadows), Blackstaff Way, Belfast, BT11 9DT

Decision:

Decision Date: 23.07.2008

Ref ID: Z/1990/3149

Proposal: Erection of development centre for the clothing industry incorporating production area, offices and ancillary accommodation

Address: OFF BLACKSTAFF WAY KENNEDY WAY INDUSTRIAL ESTATE, BT11

Decision:

Decision Date:

**Notification to Department (if relevant)**

Date of Notification to Department: N/A

Response of Department: N/A