

PLANNING APPLICATION NUMBER: P13/1343

Type of approval sought	Outline Planning Permission
Ward	Cradley and Wollescote
Applicant	Mr Satwant Singh Aujla
Location:	LAND ADJ TO THE REAR, 84/86, LYDE GREEN, HALESOWEN, B63 2PG
Proposal	OUTLINE RESIDENTIAL DEVELOPMENT (ALL MATTERS RESERVED)
Recommendation Summary:	1. SUBJECT TO ENTERING INTO S106 AND 2.APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site measures approximately 0.47 hectares and is currently open land which is rectangular in shape, being located between Lyde Green to the south and The River Stour to the north. The ground level within the site reduces towards the rear near to the river. The site is bounded by a fence to the south. The site originally featured two industrial units but the unit on the eastern part of the site was demolished in 2008. This part of the site is now open land with hard-standing which is enclosed by 2m high palisade fencing. This site has road frontage, with the boundary also wrapping around behind the Lyde Green café at the eastern end.
2. On the western part of the site is the Osprey fabrications building, set back from the road frontage with a car parking area and 2m high palisade fencing along the frontage.
3. To the west of the site is a vacant area of land enclosed by tall conifers with residential properties beyond, and 2m high fencing to the other boundaries.
4. There are some residential properties to the south / east of the site. The Lyde Green Cafe is also located within the nearest two storey building on the south-eastern edge of the site. The Vine Inn, a public house with associated car park, is located to the south and across the highway. The Vine Inn sits within an island

development where the highway splits. To the west are residential properties on Wesley Avenue and Lyde Green.

5. The surrounding area is fairly mixed in use and features residential and industrial properties in close proximity to the application site. There is a Drop Forge located to the north-east of the site within the Sandwell borough. The nearby residential properties are generally mixed in age, design and size. There are is a mix of well established residential and industrial properties in the area.
6. The site is located within Regeneration Corridor 13 and within an area of Linear Open Space.

PROPOSAL

7. This proposal seeks outline approval for the erection of residential properties on-site with all matters reserved.
8. A design and access statement, noise assessment and Extended Phase 1 Habitat Survey has been submitted in support of the proposal.

HISTORY

9. This property has two previous relevant applications.

APPLICATION	PROPOSAL	DECISION	DATE
P07/0753	Residential development of 24 no. 3 bed dwellings.	Withdrawn	07.06.07
P07/1889	Residential development of 18 no. 1 and 2 bedroom apartments and 20 no.2 and 3 bedroom houses. (Resubmission of withdrawn application P07/0753)	Approved with conditions	05.02.2008

10. P07/1889 was approved at the Development Control Committee on 4th February 2008. This approval is no longer extant.

PUBLIC CONSULTATION

- Direct notification was carried out to thirty-nine surrounding properties to advertise the proposal. A site notice has also been displayed as well as an advert placed in a local newspaper. Five written representations objecting to the scheme have been received; the latest date for receipt of comment was 1st November 2013.
- The objections were based on the following material planning considerations:
 - The proximity of the buildings to No. 53 Lyde Green and impact on privacy
 - The impact of more cars on the highway on this stretch of Lyde Green, particularly as there is no pavement along this stretch of Lyde Green;
 - The increase in traffic;
 - The area is nice and quiet and the resident objects to development of this site.

Other non material planning considerations such as a request to cut down a tree and any possible disturbance from the works have also been mentioned.

- Following receipt of an amended description a further 7 day neighbour notification period was provided to all previously consulted neighbours. No further comments have been received.

OTHER CONSULTATION

- Group Engineer (Highways): No objections.
- Head of Environmental Health and Trading Standards: No objections subject to the suggested conditions.
- West Midlands Fire Service: No objections.
- West Midlands Police: No objections.
- Environment Agency: Objects to the proposal (see further details in paragraphs 37 and 38)
- Sandwell MBC: No comments received.

RELEVANT PLANNING POLICY

National Planning Policy

- National Planning Policy Framework (NPPF) (2012)

Black Country Core Strategy (2011)

- Vision, Objectives and Sustainability Principles
- CSP2 – Development Outside the Growth Network
- CSP5 – Transport Strategy
- HOU1 – Delivering Sustainable Housing Growth
- HOU2 – Housing Density, Type and Accessibility
- DEL1 - Infrastructure Provision
- DEL 2 – Managing the Balance Between Employment Land and Housing
- TRAN2 – Managing Transport Impacts of New development
- TRAN5 – Influencing the Demand for Travel and Travel Choices

Saved Unitary Development Plan (2005)

- DD1 Urban Design
- DD4 Development in Residential Areas
- DD10 Nature Conservation and Development
- NC10 Urban Forest

Supplementary Planning Document(s)

- New Housing Development (2013)
- Parking Standards (2012)
- Planning Obligations (2011)
- Nature Conservation (2006)
- Design for Community Safety SPG (2002)

ASSESSMENT

11. The proposed development must be assessed with regard to its principle, design and siting within the context of the local area. The amenity of the occupiers of nearby residential properties as well as the parking standards and relevant planning obligations must also be assessed.
12. The key issues are
 - Principle
 - Design and siting
 - Residential Amenity
 - Prospective Occupier's Amenity
 - Access and Parking
 - Nature Conservation
 - Flood Risk
 - Impact on trees
 - Planning obligations

Principle

13. Central to the National Planning Policy Framework (NPPF) with respect to decision making is a presumption in favour of sustainable development meaning that:
 - Development proposals should be approved that accord with the development plan without delay; and
 - Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - Specific policies in this Framework indicate development should be restricted.
14. Section 6 of the NPPF has specific relevance to this proposal seeking to significantly boost the supply of housing advising that housing applications should be considered

in the context of the presumption in favour of sustainable development. This site is also located within Regeneration Corridor 13 where housing is a preferred form of development.

15. The NPPF and Black Country Core Strategy requests the provision of housing on previously developed land (PDL). This plot of land is situated within a mixed area comprising residential and industrial uses and in land use terms the principal of residential development in this location is considered as acceptable. The proposed development would constitute the re-use of brown field land in an existing urban area.
16. The general principle of new residential development on the site has previously been found acceptable under application P07/1889. Following the grant of that consent the NPPF and the BCCS have both been adopted. Both documents weigh in favour of this proposal and it is considered that the residential development of this size is acceptable subject to all other material planning considerations.
17. There is no Planning Policy objection to the proposed residential development as sufficient information regarding the loss of employment land has been submitted. The proposal would therefore be considered to comply with the requirements of Policy DEL2 of the BCCS.
18. Given the size of the site it is likely that it would ultimately provide more than 15 dwellings and as such there is a Planning Policy requirement to provide affordable housing.
19. The West Midlands Fire Safety Officer has no objection to the principle of residential development on the site.
20. In this regard the proposed residential development would be consistent with the requirements of Policies HOU1 and HOU2 of the BCCS and the NPPF. The proposal would therefore be found to be in accordance with Policy DD4 – Development in Residential Areas and the New Housing Development SPD.

Design and Siting

21. Policy DD4 of the saved UDP seeks to ensure that new developments do not have any adverse effect on the character of an area. At this outline stage, exact details of the layout, scale and appearance of the proposed houses are not matters for consideration.
22. It is considered that there would also be sufficient space provided on the site for the development to provide an appropriate amount of private amenity space to serve the needs of the occupants of the proposed properties.

Residential amenity

23. The siting of the dwellings has not been assessed at this stage but it is considered that dwellings could be positioned within the site so as not to impact on the amenity of the occupiers of any neighbouring houses through the provision of adequate separation distances. This has previously been achieved under the now expired application P07/1889 where the layout was found acceptable at that time with regards to the impact on the occupiers of existing residential properties. No other properties would be impacted upon by the proposal due to adequate separation distances; thus the proposal would comply with Policy DD4 of the saved UDP and PGN3.

Prospective Occupier's Amenity

24. The application site would be accessed from the highway to the front and car parking spaces would be provided; however the parking provision and access is not to be assessed at this stage.
25. The proposed housing would be partly surrounded by residential properties as well as industrial uses. There are industrial units across the River Stour to the north but the Head of Environmental Health and Trading Standards has no objection in principle to residential development on the site subject to the imposition of suitable conditions.

26. Policy EP7 of the saved UDP (2005) advises that where development would be subject to high noise levels the Council will require the proposal to include measures to reduce noise intrusion to an acceptable level. The findings of the applicant's noise survey indicated that noise levels generated at nearby industrial units would generally not cause nuisance to future residents of the site for the majority of the site. The position of habitable rooms and outside amenity areas within the site would be assessed at the reserved matters stage to ensure that the development would meet recognised guidelines for exposure to noise. The Head of Environmental Health and Trading Standards has recommended a condition be applied to any approval to ensure future residents are protected from nearby industrial noise (condition No. 3).
27. Policy DD5 of the UDP (2005) requires development within industrial areas to safeguard the viability and environmental quality of adjacent industrial and commercial areas – the use of the site for residential purposes should not affect the viability of nearby industrial premises in this case. Given that the noise survey demonstrates that the majority of the site can be development for residential purposes the use would be compatible with existing industrial activity in the immediate vicinity of the site.
28. It is considered that the new dwellings could be designed and positioned so as to ensure that future residents are not adversely affected by noise from nearby industry. The previous application P07/1889 addressed this matter at that time, but as that permission has now expired there is a condition attached to this permission which requires that a scheme of works designed to protect residents from the nearby industrial units is submitted as part of the subsequent Reserved Matters planning application.
29. The proposal would therefore not adversely impact on residential amenity for prospective occupiers and would comply with saved Policy DD4 – Development in Residential Areas.
30. The siting and resultant separation distances between properties can not be assessed until the reserved matters stage, but it is considered that residential

properties could be positioned to not adversely impact on amenity for the prospective occupiers. The siting and resultant separation distances were previously found acceptable under application P07/1889.

31. The proposed housing could also be served by adequate garden / outside amenity areas given the overall size of the site. As such, the proposal would be in accordance with the New Housing Development SPD (2013).
32. The Crime Prevention Design Advisor has no objection in principle to residential development on the site but has commented on some specific issues such as lock systems and the requirement of doors and windows to be accredited by Secured by Design. Comments on the parking provision as well as boundary treatment heights has been mentioned but these would be assessed fully as part of the reserved matters stage.

Access and Parking

33. The indicative plan of the proposed development shows the provision of access from Lyde Green. Parking spaces would be provided on-site but no indicative parking plans have been submitted to enable assessment of the parking provision; this would be assessed at reserved matters stage.
34. The Group Engineer (Highways) has not objected to the principle of residential development on the site. A detailed assessment of whether the access and sufficient parking would be acceptable for the needs of the development, so as to ensure it would not result in unacceptable highway safety concerns would be undertaken at the reserved matters stage. However, the principle of the access and parking provision has previously been found acceptable under application P07/1889.
35. A 2m footpath would be required at the front of the site to ensure that the proposal would have no adverse impact on pedestrians and highway safety. As such, a condition requiring improvements to be made to the footpath at the front of the site would also be required.

Nature Conservation

36. Due to the location of the site adjacent to the River Stour nature conservation enhancements would be required in order to ensure the development would not impact adversely on nature conservation. These requirements would be dealt with at the reserved matters stage, however a relevant Condition was attached to the previous approval and it is proposed to repeat that Condition.
37. An Extended Phase 1 Habitat Survey has been submitted which suggests a number of conditions regarding the eradication of Japanese knotweed, the provision of garden areas to increase the ecological value of the site and that any survey work, such as a further Ecological Survey (to particularly consider the presence of bats) in the event of redevelopment of the properties on the south-east corner of the site, which should be completed between May and September. These conditions would be included on any approval to ensure that the proposal does not impact adversely on nature conservation within the area.

Flood Risk and Environmental Factors

38. Part of the northern edge of the site is located within the Flood Zone of the River Stour. The Environment Agency has not objected in principle to the proposal for residential development.
39. However, the Environment Agency has objected as insufficient information has not been provided to enable a full assessment of the possible contaminants on the site and the resultant ground water contamination as a result. A desktop study has subsequently been submitted to the Environment Agency and an update on their comments will be provided to the Development Control Committee by way of a pre-committee note.

Impact on trees

40. The majority of the site is hard-standing, although there are trees located around the periphery of the site. The Tree Preservation Officer has not objected to the proposals which would comply with Policy NC10 of the saved UDP (2005).

Planning Obligations

41. Black Country Core Strategy (BCCS) Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
42. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
43. In determining the required planning obligations on this specific application the following three tests as set out in the Community Infrastructure Levy (CIL) Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
 - a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development;
 - c) fairly and reasonably related in scale and kind to the development.
44. Following consideration of the above tests no off-site planning obligations are required as part of this planning application.
45. However, on-site planning obligations are required in the form of public realm, nature conservation enhancement and affordable housing provision as these obligations would comply with the CIL tests.
46. However, in order to comply with the Planning Obligations SPD (2011) the proposal would trigger the requirement for the provision of affordable housing on the site. Therefore, 25% of the proposed dwellings to be provided should be affordable units. This would be secured by a Section 106 agreement.

47. The applicant has agreed to enter into a S106 Agreement to ensure that Affordable Housing is provided should the development exceed 15 dwellings.

CONCLUSION

48. It is considered that the proposed residential development would be acceptable in principle, not impacting on amenity for existing or prospective occupiers subject to the suggested conditions. There would be no impact on highway safety and no requirement for planning obligations except the provision of affordable housing. The proposed housing would be acceptable within this area subject to approval at reserved matters stage. The proposal would therefore comply with PGN3 – New Housing Development or Policy DD4 of the saved UDP and all other relevant policies.

RECOMMENDATION

It is recommended that the application is APPROVED subject to the following conditions and:

- a) The applicant entering into a Section 106 Agreement for 25% onsite provision of affordable housing and a management and monitoring fee of £250;
- b) The completion of the Agreement no later than January 3rd 2014, and in the event of this not happening, the application being refused if appropriate, and
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

Conditions and/or reasons:

- 1. Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereafter called the ('reserved matters')) shall be obtained from the Local Planning Authority before any development is begun.

2. Application for reserved matters approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
3. The Reserved Matters application that includes siting shall include full details of a scheme for protecting residents in the proposed dwellings from noise from the nearby industrial units. All works which form part of the approved scheme shall be completed before the first occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development.
4. Development shall not begin until details of plans and sections of the lines, widths, levels, gradients and form of construction of service/access roads and drainage systems have been submitted to and approved by the Local Planning Authority. The development shall be built in accordance with the approved plans and retained for the life of the development.
5. Prior to the commencement of development, details of the existing and proposed levels of the site (including finished floor levels), which should be related to those of adjoining land and highways shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved levels.
6. No development shall commence until details of the proposed boundary treatment to the site has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected in accordance with the approved plans prior to the first occupation of any of the dwellings, and shall be retained as such thereafter.
7. Prior to the commencement of development, parking layout details shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details and all parking shall be provided on site prior to the occupation of the development hereby approved.
8. Prior to the commencement of development the Japanese knotweed on the site should be appropriately eradicated.
9. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
10. No development shall commence until details for the provision of external electric charging points have been submitted to and approved in writing by the Local Planning Authority. The Electric Charging point(s) shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
11. No development shall commence until details of nature conservation enhancement works have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.

12. No development shall commence until details of public realm works have been submitted to and approved in writing by the Local Planning Authority. The public realm works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
13. No development shall commence until details of secure cycle parking facilities in accordance with the Council's parking standards have been submitted to and approved in writing by the Local Planning Authority. The cycle parking shall thereafter be provided in accordance with the approved details prior to first occupation of the development, shall be made available at all times and be maintained for the life of the development.
14. Full details of works of public art shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in full accordance with the approved details prior to first occupation of the development and shall be maintained thereafter for the life of the development.
15. Prior to the redevelopment of the properties on the south-east corner of the site (Nos. 84 / 86 Lyde Green) a further Ecological Survey with a focus on the potential presence of roosting bats shall be submitted and approved by the Local Planning Authority. Any development should proceed in accordance with the approved details.
16. No development shall commence until there has been submitted to and approved by the Local Planning Authority a scheme of landscaping for the whole site which shall also contain details of specific materials to be utilised for hardscaping and differentiation of surface areas. Unless otherwise agreed in writing by the Local Planning Authority, the scheme shall also include details of the landscape enhancement of the River Stour corridor, between the development area and the river course, specifically to - i) enhance that area's nature conservation value, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection of that area in the course of the development; ii) the potential for the forging of a footpath link through that land, from the application site to the river and also parallel with the river. The approved landscaping scheme shall be implemented in accordance with a timetable to be agreed with the Local Planning Authority.
17. No development approved by this permission, including the construction of any building, shall be commenced until a scheme to deal with contamination of land (including ground gases and vapours) has been submitted to and approved by the Local Planning Authority (LPA). Furthermore, no part of the development shall be occupied until the LPA has been satisfied that the agreed scheme has been fully implemented and completed.

The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically in writing:

- i) A desk-top study to formulate a conceptual model of the site. The requirements of the LPA shall be fully established before the desk-study is commenced;
- ii) Once the desk study has been approved by the LPA, a site investigation shall be carried out to identify and evaluate all potential sources and impacts of

identified contamination in accordance with the conceptual model. The findings of site investigation shall be presented in report format for approval by the LPA and shall include a risk-based interpretation of any identified contaminants in line with UK guidance;

iii) Following the approval of both desk-top study and site investigation reports, a written remediation scheme and method statement (the contamination proposals) shall be agreed in writing with the LPA prior to commencement of the development. The contamination proposals shall include provisions for validation monitoring and sampling, including a scheme and criteria for both the use of imported materials and reuse of site-won materials, and be retained throughout the lifetime of the development.

iv) The contamination proposals shall be implemented in full and no deviation shall be made from the contamination proposals without the express written agreement of the LPA.

v) If during development works any contamination should be encountered which was not previously identified or is derived from a different source and/or of a different type to those considered under the contamination proposals then the LPA shall be notified immediately and remediation proposals formulated/amended for consideration.

vi) If during development work, contaminants are found in areas previously expected to be acceptable, then the LPA shall be notified immediately and remediation proposals formulated/amended for consideration.

vii) A completion report confirming the objectives, methods, results and conclusions and demonstrating that the contamination proposals have been fully implemented and completed shall be submitted to the LPA for approval.

18. The Reserved Matters application that includes the means of access shall include details of a footpath to be provided at the front of the site. The footpath shall be provided in full accordance with the approved details prior to the first occupation of any of the dwellings and shall be retained as such thereafter for the lifetime of the development.

