

PLANNING APPLICATION NUMBER:P13/1751

Type of approval sought	Full Planning Permission
Ward	Castle and Priory
Applicant	Dudley College of Technology
Location:	DUDLEY COLLEGE, THE BROADWAY, DUDLEY, WEST MIDLANDS, DY1 4AS
Proposal	VARIATION OF CONDITION 4 OF PLANNING APPROVAL P13/0932 TO BE REVISED TO 'THE EXISTING DRIVE ADJACENT TO NUMBER 12 THE BROADWAY SHALL NOT BE USED AT ANY TIME FOR VEHICULAR ACCESS OR EGRESS FROM THE CAR PARK OR AT ANY TIME BY CONTRACTORS'
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

ADDENDUM

This application is being reported back to committee after deferral on the 27th January 2014 for further information. The applicants, Dudley College have now complied a pedestrian count for the users of the path between numbers 10 and 12 The Broadway. The count was undertaken between the 3rd and 14th February 2014 when the gate was opened between the hours of 8am and 9.30pm Monday to Thursday and closed at 6.30pm on Fridays.

SITE AND SURROUNDINGS

1. This application relates to an access to an area of car parking, containing 30 spaces that is located adjacent to the larger car park serving Dudley College Campus. The Campus is accessed from The Broadway within Dudley Town Centre and Conservation Area. The 30 space car park is leased to the Council and is accessed via a service road to the east, located adjacent to the Cost Cutter store. This vehicle access had been previously restricted by way of planning condition number 3 to egress only, under planning approval P00/50833. This restriction has since been removed under planning application P13/0932. Pedestrians can access/egress both the car park and Dudley College campus from this point.

2. The site is set behind properties fronting The Broadway. Number 10 The Broadway (a residential dwelling) and Kelvin House (also known as Nexia house). Kelvin House was last occupied by office accommodation however consent has been granted for its conversion to residential accommodation. The building is located on the corner of The Broadway and the service road to the rear of number 4 The Broadway, the Cost Cutter store.
3. There is an access between numbers 10 and 12 The Broadway which could link the car park to The Broadway. This access is currently gated to the end closest to the car park and has a barrier to the back edge of the pavement with The Broadway preventing vehicle or pedestrian access.
4. Planning application P00/50833 and subsequent application P13/0932 which related to the car parking area associated with the college had a condition attached which reads:
 - *The existing drive adjacent to Number 12 The Broadway shall not be used at any time for access or egress from the car park or at any time by contractors.*
5. The condition is considered to be ambiguous in terms of whether it relates to pedestrian and/or vehicle access however the reason for the condition states 'in the interest of highway safety and the amenities of the adjacent residential occupiers'.

PROPOSAL

6. This application seeks approval for the variation of condition number 4 of planning approval P13/0932. This condition reads:
 - *The existing drive adjacent to Number 12 The Broadway shall not be used at any time for access or egress from the car park or at any time by contractors.*
7. The purpose of varying this condition is to include the word 'vehicular' within the condition. This will allow the college to have clarity with regards to the access/egress to and from the car park via this access path for pedestrians.

HISTORY

8.

APPLICATION	PROPOSAL	DECISION	DATE
P00/50833	Change of use of zoo land and private gardens and construction of additional college car park.	Approve with conditions.	22 nd May 2000
P13/0932	Variation of Condition 5 of planning approval P00/50833 to allow both access and egress from the 30 space car park at the rear of Kelvin House.	Approved with Conditions	20/08/2013

PUBLIC CONSULTATION

9. Four letters of objection have been received from the occupiers of three neighbouring properties following consultation with thirteen adjoining neighbours. The letters received are from the occupiers and from a solicitor on behalf of the two neighbouring occupiers at the same address. The main issues raised are as follows:

- The application submitted by the college is fundamentally flawed legally. The solicitors advise that their client has instructed a highways consultant and air quality professional to assess the impact of the proposed development in amenity terms. The solicitor request that the application not be determined until this information becomes available.
- The condition to be varied is considered at present to relate to both vehicle and pedestrian access.
- Noise and disturbance associated with the use of the access path. Many students would utilise the path.
- Concerns in relation to the white fencing which has been constructed adjacent to the access path. It is considered inappropriate within the conservation area and questions about its potential use as a graffiti wall.
- Application is flawed as it does not seek to vary the same condition related to P00/50833 only the condition related to P13/0932.

- Concerns that the remainder of the College car park could access the site and utilise the access/egress to the east of the site.
- Condition proposed does not meet the tests of Circular 11/95 due to lack of enforceability.
- The condition is relevant in its current form and should not be amended.
- Potential use of the path by cyclists and motorcyclists.

OTHER CONSULTATION

10. Group Engineer (Highways): No objection received subject to a condition requiring further details of the proposed gates and associated markings.
11. Head of Trading Standards and Environmental Health: Pedestrian count is low based on the survey data provided. Residents who were not previously disturbed by noise from people movements may now experience disturbance.

RELEVANT PLANNING POLICY

12. National Planning Guidance(2011)
National Planning Policy Framework
13. Black Country Core Strategy (2011)
TRAN2 Managing Transport Impacts of New Development
14. Unitary Development Plan (2005)
DD4 Development in Residential Areas
DTC2(v) Block 6 - Broadway/Castle Hill
15. Supplementary Planning Guidance/Documents
Parking Standards (2012)

ASSESSMENT

16. The main issues are
- Principle
 - Neighbour Amenity
 - Access and Parking

- Other Issues

Principle/Policy

17. The access has been present for some time however it has not been utilised recently due to the presence of the gates at the car park side of the access. These gates were erected in accordance with Condition 3 of P00/50883. However whilst this Condition required the installation of the gates (or a fence) before the car park was brought into use it did not require their future retention. As such the gates could now be removed without any requirement for Planning Permission or other approval from the Local Planning Authority. The use of the car park will remain unchanged as a result of the proposed development.

18. This application would result in Condition 4 being reworded to include the word 'vehicular' and is therefore proposed to read:

The existing drive adjacent to Number 12 The Broadway shall not be used at any time for vehicular access or egress from the car park or at any time by contractors.

19. This would allow pedestrians to utilise the access but would continue to prohibit vehicles from utilising it to access the car park.

20. On this basis the proposed development is considered to be in accordance with the requirements of saved UPD Policy DTC2 (v) Block 6 - Broadway/Castle Hill (2005) as there would be no detrimental impact on highway safety as a result of the proposed development.

Neighbour Amenity

21. The proposal would allow for the use of the access path by pedestrians passing from the car park to The Broadway. The recently completed pedestrian survey indicated that on average over the operational day 22.6 persons utilised the path. The college has noted that it has 752 students passing between Evolve and The Boulevard campus.

This is considered to be a low number of pedestrian movements. It is noted that this is likely to increase noise and disturbance to the neighbouring occupiers however it is not considered that this would be to a degree that would warrant refusal of the application. It is worthy of note that a condition has been recommended that a further gate be added to The Broadway end of the path to be locked outside the operational hours of the college, including weekends. This would prevent persons potentially loitering within this space. This combined with the path having always been present, albeit not recently used, results in the proposed development being considered acceptable in terms of the requirements of saved UDP Policy DD4 – Development in Residential Areas (2005).

Access and parking

22. There is no intention to utilise the access path by vehicles and the proposed reworded condition would ensure this would be enforceable in terms of the requirements of Circular 11/95 relating to planning conditions.
23. The Group Engineer (Highways) requested an additional site plan showing precise markings and the gate location, however as the gates are in situ and the car park already marked out at this is not considered necessary. No objection has been received from the Group Engineer and it is considered that the proposed development would be in accordance with the requirements of saved UDP Policy DD4 – Development in Residential Areas (2005), Policy TRAN 2 - Managing Transport Impacts of New Development of the Black Country Core Strategy (2011) and Parking Standards SPD (2012).

Other issues

24. It is worthy of note that it is planning application P13/0932 which has been implemented and on this basis in effect supersedes application P00/50833 planning application. In this regard there is no necessity to vary the same condition associated with this now superseded planning application. The planning system allows for conditions to be varied or removed at any point. On this basis any conditions associated with previous approvals are not to be deemed as to be in place for the

lifetime of a development. The Local Planning Authority are duty bound to determine the application as submitted.

25. The correspondence from the neighbouring occupiers makes reference to a white fence/boarding that has been erected by the college along the side of the existing access path. This does not form part of this application that is solely for the variation of a condition. The erection of the fence/structure has been determined by the Local Planning Authority after consideration as benefiting from permitting development as a means of enclosure.

CONCLUSION

26. The proposed variation of condition would be acceptable in principal and it is considered there would be no detrimental impact on highway safety or residential amenity.

RECOMMENDATION

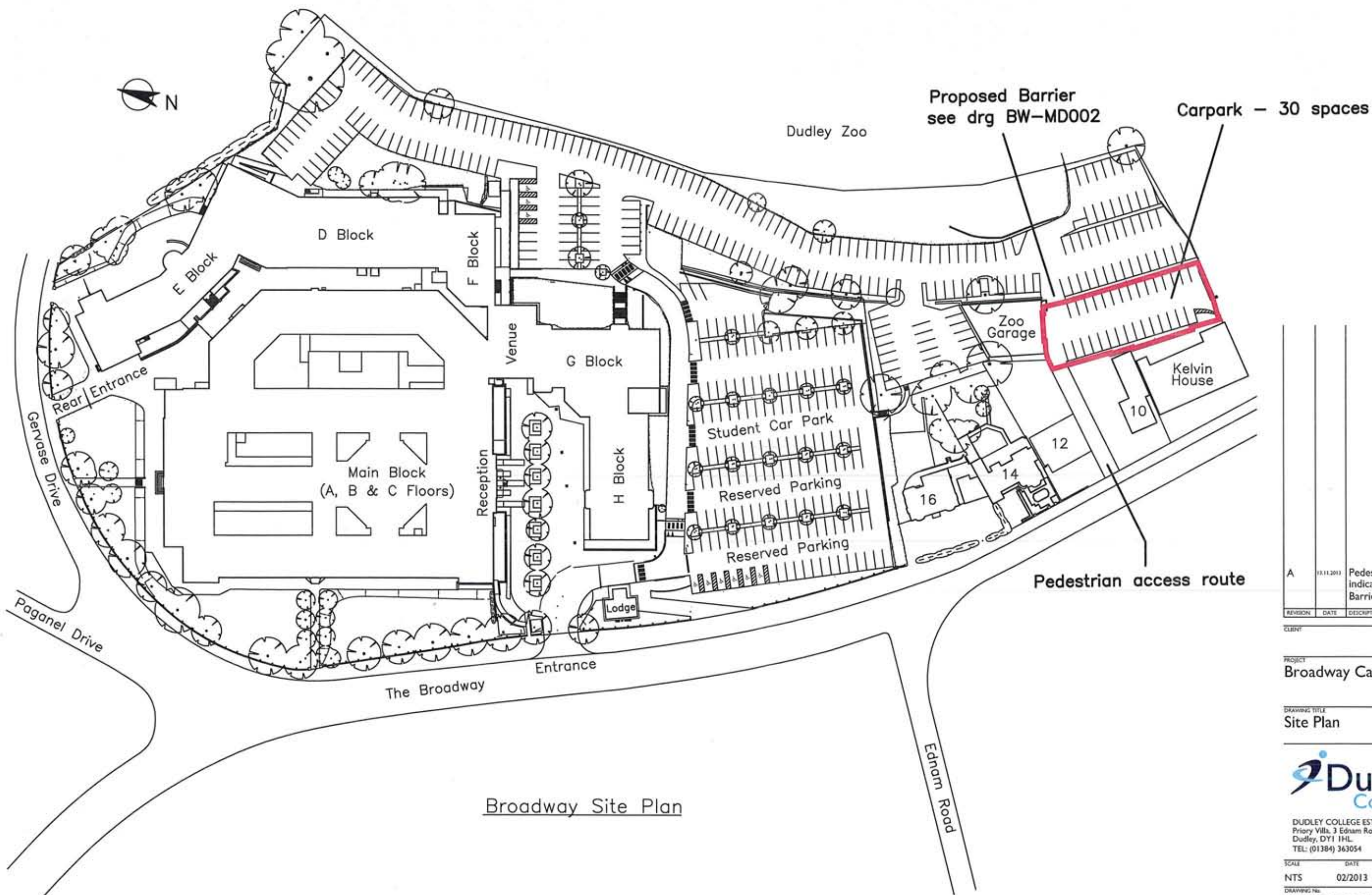
27. It is recommended that the application be APPROVED subject to the following conditions:

Informative

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

Conditions and/or reasons:

1. The development hereby permitted shall be carried out in complete accordance with the following approved plan: BW-MD001/b and BM--MD002.
2. The approved barrier shall be erected in full accordance with the approved details as outlined on plans BW-MD001/b and BM--MD002 and it shall be retained as such thereafter unless otherwise agreed in writing by the Local Planning Authority.
3. The existing path adjacent to Number 12 The Broadway shall not be used at any time for vehicular access or egress from the car park . The gates to the North West end of the access path shall remain in situ for the lifetime of the development and shall be closed and locked between the hours of 2130 and 0800 Monday to Friday and at all times on Saturday, Sunday and Public Holidays.
4. Within one month of the date of this permission details of a gate to be erected across the South Eastern end of the access way shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved details within one month of that written approval and shall be retained as such thereafter for the lifetime of the development. The approved gates shall be closed and locked between the hours of 21:30 and 08:00 Monday to Friday and at all times on Saturday, Sunday and Public Holidays.



Broadway Site Plan

A	12.11.2013	Pedestrian access route indicated Barrier note added
REVISION	DATE	DESCRIPTION

CLIENT

PROJECT
 Broadway Campus

DRAWING TITLE
 Site Plan



DUDLEY COLLEGE ESTATES
 Priory Villa, 3 Ednam Road
 Dudley, DY1 1HL
 TEL: (01384) 363054

SCALE	DATE	DRAWN
NTS	02/2013	M Corrigan
DRAWING No.	REVISION	

BW-MD001/b