

## **PLANNING APPLICATION NUMBER:P07/0440**

Type of approval sought	Outline Planning Permission
Ward	Brierley Hill
Applicant	Mr & Mrs P. Chand
Location:	<b>LAND AT REAR OF 38, HIGH STREET, BRIERLEY HILL, WEST MIDLANDS, DY5 3AE</b>
Proposal	<b>ERECTION OF A BUILDING FOR STUDENT ACCOMMODATION WITH FIVE BEDROOMS/SHOWER ROOMS AND KITCHEN (OUTLINE) (ACCESS AND LAYOUT TO BE CONSIDERED) (RESUBMISSION OF WITHDRAWN APPLICATION P06/1559)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### **SITE AND SURROUNDINGS**

1. The premises are located just outside the Brierley Hill District Shopping Centre Retail Core on the High Street.
2. The application site relates to 38 High Street is an established commercial unit forming part of a terraced block of established premises at the back of pavement line on this part of the High Street, currently used as a beauty salon.
3. To the rear of this unit is an overgrown and un-maintained area of land measuring 27m long by 7m wide. An access is located between no 38 and 40 leading to gates on this land and an adjacent private car park.
4. To the rear of the site, the land drops quite considerably. Recent planning permission has been approved for the Brierley Hill Parallel Route along this land.

5. The immediately adjoining land uses consist of a hot food takeaway on the ground floor of 40 with a taxi booking office above, whilst at 36 High Street, there is a retail shop with residential units above.
6. The immediate vicinity of units are quite varied consisting of A1, A3 and A5 units, many of which have had planning applications approved for residential uses above.

## PROPOSAL

7. Outline planning permission is sought for the erection of a single storey building for student accommodation, consisting of 5 bedrooms/shower rooms, with communal kitchen facilities. It is also stated that cycle storage facilities are to be provided.
8. Only access and layout are to be considered as part of this application.
9. The building is shown to be located 2.8m from the rear of 38 High Street, measuring 23m long by 4.4m wide.
10. The access will utilise the existing private right of way in between 38 and 40 High Street.

## RELEVANT HISTORY

11.

Application no.	Proposal	Decision	Decision Date
P06/1559	Outline application for the erection of 6 No apartments (design, landscaping and external appearance reserved for subsequent approval)	Withdrawn	27/11/2006
P05/1824	Installation of new shop front to include front extension.	Approved	16/09/2005

12. The most recent application P06/1559, consisted of a two storey building for 6 self-contained flats. Following concerns over noise and disturbance, smell from adjacent units, overlooking, no amenity space and parking, the application was requested to be withdrawn.

## PUBLIC CONSULTATION

13. Direct notification was carried out to all adjoining and adjacent premises as a result of which no letters of objection were received.

## OTHER CONSULTATION

14. The Head of Environmental Protection raises objections to the proposal in terms of noise and odour emission from adjacent uses, relevant comments are recorded in paragraphs 27-32.
15. The Group Engineer, Development raises objection on the lack of parking, comments are recorded in paragraphs 24-25.

## RELEVANT PLANNING POLICY

16. Planning Guidance Note 3 – Housing
17. Adopted UDP (2005)
  - Policy CR5 – Regeneration and Development of centres
  - Policy CR13 – Residential Development in Centres
  - Policy EP7 – Noise Pollution
  - Policy H3 – Housing Assessment Criteria
  - Policy DD1 – Urban Design
  - Policy DD6 – Access and Transport Infrastructure.

## ASSESSMENT

18. The impact of the new use to nearby centre and upon residential amenities of future residents and those nearby will be the main issues in determination of this application.

### **Principle of the use**

19. The property is not specifically designated within a UDP boundary, but falls just outside of the district centre of Brierley Hill High Street. Policy CR5 – Regeneration and development of centres is pertinent, acknowledging that the vitality and viability of established centres will be maintained and enhanced by ensuring that they remain the primary focus for a wide range of retail uses, as well as a preferred location for new residential.
20. On policy grounds, PPS3 and Policy H3 of the adopted UDP – encourages the re-use of vacant land within the urban area for housing, especially in environmentally sustainable locations.
21. Policy CR13 also recognises the benefits of developing a residential population within a town centre, which includes securing a major increase in the use and support for local shops and facilities, an increase in the choice of housing and a potential reduction in journeys.
22. It is apparent the ground floor of 38 High Street will remain unaltered and as such the street frontage would not be adversely affected. Consistent with Policy CR5, the vitality and viability is enhanced, as this unit will still retain its primary focus for retail as well as including a residential use for this much preferred town centre location. Given this, it is considered that the principle of the proposed use for student accommodation is acceptable.

### **Character and appearance**

23. At this stage only an indicative scheme has been submitted for external appearance, as this shows a single storey building with a pitched roof over, it is considered in principle to be acceptable in terms of scale, position and appearance. It does cover the entire rear yard of no. 38, however, the rear of nearby premises have been significantly extended thereby ensuring this would not have an adverse impact upon the visual amenities of this area, Policies DD1, CR5 and CR13 are complied with.

### **Access and Parking**

24. Access to the site will be by means of pedestrian access only along the shared access. Although used by vehicles as well, users of these vehicles would need to walk along the said access very frequently. It is therefore considered that the access intended would not conflict with Policy DD6 of the Adopted UDP.
25. The GED comments that as no off street parking, the application is recommended for refusal as there is potential for additional on-street parking.
26. Whilst accepted there are no-off street parking spaces, the application site is in an environmentally sustainable location, reasonably close to public car parks and a bus route, planning policy (PPS3) allows the LPA to apply its parking standards flexibly in such circumstances, given that this would be purpose built student facilities, the provision of cycle storage would be acceptable not to warrant any off-street parking provision.

### **Impact upon residential amenities**

27. The Head of Environmental Protection (HEP) considers that residential dwellings are not suitable on this site for a number of reasons.
28. For point of clarification, the development being sought is not comparable to the scheme previously withdrawn. This essentially refers to a single block consisting of 5 bedrooms that will have communal kitchen facilities.

29. At no. 40 High Street, there is a 24-hour taxi booking office, which the HEP considers uses the shared access to use the private car park to the rear, thereby exposing future occupants to noise disturbance.
30. It must be noted that a 2m-boundary wall currently separates this car park from the proposed building, providing substantial screening from the adjacent car park. At this stage the appearance of the building is reserved for future consideration, therefore the location of windows can be arranged to further avoid this potential conflict. Furthermore, given the type of transitory type of accommodation for students similar to houses of multiple occupation, it is reasonable to assume that residential amenities cannot be expected to be provided that would replicate the standards to those required by permanent occupiers in residential areas.
31. Although there are nearby commercial uses operating as A5 takeaways in close proximity to the proposed development, it must be considered that consistent with national policy for town centre development, the Local Authority has supported the re-use of first and second floors for residential uses which are a lot closer than the proposal, to refuse the application on this basis could not be justified. It is further tempered with the fact that this is a town centre location, where mixed uses are encouraged.
32. Future plans of the Brierley Hill Parallel Route would not interfere with this use, as this is located on considerably lower land level, and with appropriate conditions, the boundary treatment around this site could be improved to better enclose the development from traffic noise, therefore Policy EP7 is complied with.
33. No. 26 High Street is a residential dwelling associated with St Marys Presbytery located north-east of the site. This dwelling has windows in the side elevation, which serve non-habitable rooms. Although the external appearance of the building with positions of windows is yet to be determined, it is not anticipated that any adverse impact upon this dwelling would be likely to occur.

## CONCLUSION

34. This proposal represents an opportunity for development on underused land with an appropriate residential use class for the Brierley Hill town centre, which would support its continued vitality and viability. It is compatible with character and function of the area, and whilst concerns have been expressed by the Head of Environmental Protection in relation to potential odour and noise on future residential occupiers, the future design of the building and appropriate conditions will alleviate any adverse impacts upon future occupiers. As such policies CR5 – Regeneration and Development of centres, CR13 – Residential Development in Centres, EP7 – Noise Pollution, H3 – Housing Assessment Criteria and DD1 – Urban Design and Policy DD6 – Access and Transport Infrastructure of the Adopted UDP (2005) are complied with.

## RECOMMENDATION

35. It is recommended that this application be approved subject to the following conditions;

### REASON FOR GRANT OF PLANNING PERMISSION

This proposal represents an opportunity for development on underused land with an appropriate residential use class for the Brierley Hill town centre, which would support its continued vitality and viability. It is compatible with character and function of the area, and whilst concerns have been expressed by the Head of Environmental Protection in relation to potential odour and noise on future residential occupiers, the future design of the building and appropriate conditions will alleviate any adverse impacts upon future occupiers. As such policies CR5 – Regeneration and Development of centres, CR13 – Residential Development in Centres, EP7 – Noise Pollution, H3 – Housing Assessment Criteria and DD1 –

Urban Design and Policy DD6 – Access and Transport Infrastructure of the Adopted UDP (2005) are complied with.

### **INFORMATIVE**

1. For the avoidance of doubt, this permission relates to drawing marked PC.2766/07/Rev A and shall be implemented in strict accordance with this plan unless otherwise agreed in writing with the LPA.
2. Future changes of use of the property would be likely to require planning permission and advice should be sought from the planning department if it is proposed.

#### Conditions and/or reasons:

1. Approval of the details of the scale and appearance of the building and the landscaping of the site (hereinafter 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 matters to be approved.
3. No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected across the site. The boundary treatment shall be completed before the building is occupied, development shall be carried out in accordance with the approved details.
4. Development shall not begin until a scheme for protecting the proposed dwellings from noise from traffic has been submitted to and approved by the local planning authority, and all works which form part of the scheme shall be completed before any of the permitted dwellings is occupied.
5. Prior to the commencement of the development details of a covered and secure cycle storage shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be provided on the site prior to the occupation of the development and retained at all times thereafter.
6. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed by the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of contaminants and permit the risk based assessment of the development site. Where the investigations identify the presence of contamination, development shall not begin until a scheme to protect the development from the effects of such contamination has been submitted to and approved by the local



planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.

7. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed by the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of methane & carbon dioxide. Where the investigations identify the presence of methane and/or carbon dioxide the development shall not begin until a scheme to protect the development from the effects of such gases has been submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.
8. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1972 (As amended) the hereby approved development shall be used for the communal accommodation of persons in receipt of full time education or training only.