

## PLANNING APPLICATION NUMBER: P09/1452

Type of approval sought	Full Planning Permission
Ward	ST THOMASS
Applicant	Messrs I. Macdonald/T. Wiltshire
Location:	<b>UNIT AT BATH STREET, DUDLEY, WEST MIDLANDS, DY2 8RP</b>
Proposal	<b>CHANGE OF USE OF VACANT CHILDRENS PLAY AREA (D2) TO B1, B2 AND B8</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

### SITE AND SURROUNDINGS

1. The application site comprises of a largely single storey, pitched roof, brick built former industrial premises that has most recently operated as a children's play barn (D2).
2. It is located on the outskirts of Dudley Town Centre. With the main frontage of the unit facing onto Bath Street. There is also vehicular access and off-street car parking located off Vicar Street. The car parking is enclosed by palisade fencing and gates.
3. The site is fairly flat, but Bath St drops from a north to south along the frontage, and results in a partly two storey element in the far south of the building. The rear parking area, is elevated in relation to the Bath Street level.
4. To the south of the application site is a general industrial use. The north-eastern boundary is adjoined by an office/employment office and on the opposite side of Bath Street, is the site of the former British Gas premises.
5. On the northern side of Martin Hill Street, there is a vacant nightclub, and extensive public car parking.
6. Established residential dwellings are located on the western side of Vicar Street.
7. The site is designated within a Central Employment Zone and Local Employment Area within the Adopted UDP.

## PROPOSAL

8. This application proposed the change of use of the building from D2 (children's play barn) to a use falling within either B1 (Light Industrial), B2 (General Industrial) or B8 (Warehousing, Storage and Distribution).
9. The application form suggests that approximately 25 car parking spaces are available on this site.

## RECENT HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P04/2622	CHANGE OF USE TO D2 (CHILDRENS PLAY AREA/MOTHER TODDLER GROUPS)	Approved with Conditions	28/02/05
86/51543	CHANGE OF USE FROM CASH AND CARRY TO SALE OF WINES TO TRADE AND PUBLIC.	Approved with Conditions	02/10/86
CC/78/895	ERECTION OF OFFICES.	Approved with Conditions	24/07/78

## PUBLIC CONSULTATION

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

## OTHER CONSULTATION

11. The Head of Environmental Health and Trading Standards: raises no objection, subject to conditions.
12. The Group Engineer, Development: raises no objection.

## RELEVANT PLANNING POLICY

13. Adopted UDP (2005)
  - DD5 – Development in Industrial Areas
  - DD6 – Access and Transport Infrastructure
  - DD7 – Planning Obligations
  - DD10 – Nature Conservation and Development
  - EE2 – Local Employment Areas
  - UR1 – Central Employment Zone
  - EP7 – Noise Pollution
14. Supplementary Planning Documents
  - Parking Standards and Travel Plans
  - Planning Obligations
  - Nature Conservation

## ASSESSMENT

15. The key issues in determination of this application are the principle of the use and impact upon;
  - upon character and appearance of the area
  - Residential amenities of nearby occupiers
  - Highway safety and;
  - Whether provision is made for a Planning Obligation

#### Principle of the use

16. UDP Policy EE2 – Local Employment Area recognises that these small pockets of employment activity are vital for providing local employment, and encourage sustainable development, given that residents potentially have lesser distances to travel to work. Policy EE2 states that acceptable uses include B1, B2 and B8.
17. Within the Central Employment Zone, Policy UR1 states that the Council will encourage and support development which provides sites, buildings and infrastructure to protect and create jobs.
18. The principle of the use would therefore be acceptable in policy terms, UDP Policies EE2 and UR1 are complied with.

#### Impact upon character and appearance of the area

19. Externally little alterations are proposed. However, to comply with the Planning Obligations SPD for Public Realm improvements, the applicant has confirmed that the current signage on the building would be removed, and the roller shutters will be refurbished.
20. The use of the site for B1, B2 or B8 would be compatible with the nature of surrounding commercial uses, furthermore it should be noted that the site has previously operated within similar use classes.
21. The proposed change of use with associated minor external works would enhance the character and appearance of the surrounding area and would therefore comply with UDP Policies DD1 and DD5.

#### Residential amenities of nearby occupiers

22. A B1 class use can be carried out in any residential area without detriment to the amenity of that area, as long as suitable restrictions are placed on hours of deliveries/despaches, so as to protect the amenity of local residents. A B8 use could also be accommodated with similar restrictions.
23. Due to the relatively close proximity of this proposal to residential dwellings located on Vicar Street, a B2 class use would be likely to impact on the amenity of local residents in terms of noise and, dependent on the type of activities undertaken, odour and dust. More stringent conditions are therefore requested

by the Head of Environmental Health and Trading Standards to control the B2 use.

24. With appropriate conditions, it is considered that no adverse impact upon the residential amenities of nearby occupiers would arise in accordance with UDP Policy DD5 and EP7.

#### Highway safety

25. The previous application to change the use to D2 provided a layout plan showing 22 off-street parking spaces, which was considered to be acceptable provision.
26. Using the current Parking Standards SPD and based upon the internal footprint of the unit, assuming the unit is used solely for B1 (offices), the maximum parking requirement would be 29 spaces, this is significantly reduced to 8 spaces should B8 (warehousing) use be undertaken.
27. The applicant advises that their agent is currently in negotiation with a manufacturer who would use the site for B2 purposes. Based upon a B2, the parking requirement would be 17 spaces.
28. It is therefore considered, that as the site can accommodate 22 off-street parking spaces and is within walking distance of Council car parking, there would be adequate provision for future occupiers of the premises.
29. The proposed change of use would not have an adverse impact upon highway safety; therefore UDP Policies DD5 and DD6, and the Parking Standards UDP have been complied with.

#### Planning Obligations

30. The proposed development has a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community. Should permission be granted a S106 Agreement would be required in respect of the following contributions.

##### *Off-site Contributions:*

The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure:

- Transport Infrastructure Improvements - £642.09
- Nature Conservation Enhancements - £1244
- Management and Monitoring Charge - £250

Total Offsite Contribution equates to **£2136.09**

The applicant has agreed to the payment of these off-site planning obligations.

31. The justification for requiring obligations in respect of Public Realm is set out in Circular 05/2005 (Para B15) and the Design and Development and Town Centre chapters of the Dudley Unitary Development Plan (2005). Accommodating public realm improvements is necessary to ensure that the Council can achieve its aims of delivering sustainable development in the Borough, in particular in its town, district and local centres.
32. A contribution towards public realm enhancements is required based upon the site being within 400m, of Dudley Town Centre and the floorspace of the unit exceeding 100m<sup>2</sup>.
33. The Council would normally require off-site financial contributions in lieu of on-site provision, however for certain developments, in particular those within centres or close to centres, it may be more appropriate to incorporate public realm improvements on-site within the development rather than taking an off-site contribution.
34. As the site is within 400m of the town centre boundary the Council would normally have required a financial contribution of £40,887 (based upon a cost of 35.37 per sq m floorspace) to fund Public Realm improvements, in accordance with the Planning Obligations SPD.
35. However, as the application site is in close proximity to Dudley town centre in this instance it is considered more appropriate that in lieu of financial contributions, the Council would accept public realm improvements on-site.
36. The applicant has agreed to undertake a number of visual/aesthetic improvements which include refurbishing the existing roller shutters, removal of existing signage across the site and more substantially replacing Palisade

fencing along Vicar Street with Nylofor (paladin type) fencing. A condition is attached to ensure these improvements are implemented.

## CONCLUSION

37. The uses being proposed within this Local Employment Area are to be encouraged as they offer the opportunity to provide and protect jobs within this area. The use would not harm the character and appearance of the surrounding area or highway safety. With the imposition of relevant conditions, no adverse impact upon highway safety would arise. The applicant has agreed to the payment of off-site planning obligations for Highway Infrastructure Improvements and Nature Conservation Enhancements, and would be making sufficient public realm improvements across the site. The proposal would comply with UDP Policies DD5 – Development in Industrial Areas, DD6 – Access and Transport Infrastructure, DD7 – Planning Obligations, DD10 – Nature Conservation and Development, EE2 – Local Employment Areas, UR1 – Central Employment Zone, EP7 – Noise Pollution, Supplementary Planning Documents - Parking Standards and Travel Plans, Planning Obligations and Nature Conservation.

## RECOMMENDATION

38. It is recommended that the application be approved subject to:
- a) The development not beginning until a scheme for the submission and approval of a planning obligation to guarantee the provision of Transport Infrastructure improvements and Nature Conservation Enhancements and managing and monitoring charge has been submitted to and agreed in writing by the Local Planning Authority
  - b) The Scheme shall include the method, timing and arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.
  - c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary;

## **REASON FOR GRANT OF PLANNING PERMISSION**

The uses being proposed within this Local Employment Area are to be encouraged as they offer the opportunity to provide and protect jobs within this area. The use would not harm the character and appearance of the surrounding area or highway safety. With the imposition of relevant conditions, no adverse impact upon highway safety would arise. The applicant has agreed to the payment of off-site planning obligations for Highway Infrastructure Improvements and Nature Conservation Enhancements, and would be making sufficient public realm improvements across the site. The proposal would comply with UDP Policies DD5 – Development in Industrial Areas, DD6 – Access and Transport Infrastructure, DD7 – Planning Obligations, DD10 – Nature Conservation and Development, EE2 – Local Employment Areas, UR1 – Central Employment Zone, EP7 – Noise Pollution, Supplementary Planning Documents - Parking Standards and Travel Plans, Planning Obligations and Nature Conservation.

## **INFORMATIVE**

For the avoidance of doubt, this permission relates to the 1:1250 Location Plan received 16<sup>th</sup> October 2009 and shall be implemented in strict accordance with this plan unless otherwise agreed in writing with the LPA.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Development shall not commence until a scheme for the provision of:
  - Transport Infrastructure improvements
  - Nature Conservation Enhancements
  - The managing and monitoring of the spend of those monieshas been submitted to and approved in writing by the Local Planning Authority.
3. Development shall not commence until details have been submitted to and approved in writing of a scheme to enhance and improve the public realm of the site. This will include the erection of new Nylofor fencing to the boundary adjoining Vicar Street, refurbishing existing roller shutters and removal of existing signage.

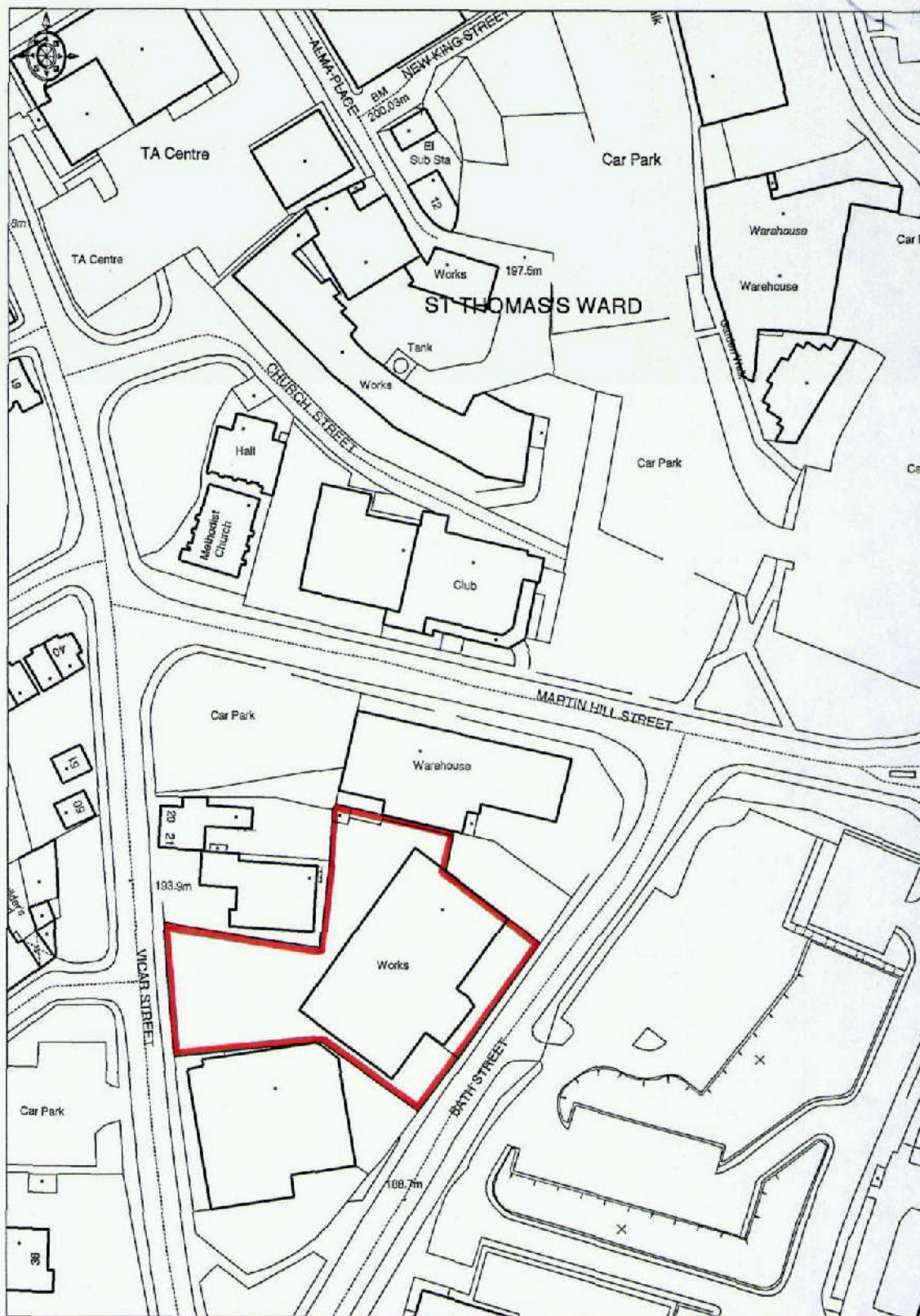


The public realm scheme shall be implemented in accordance with the approved details and shall be put in place upon implementation of the approved use. The approved public realm scheme shall be retained for the lifetime of the development.

4. No deliveries or despatches shall be made to or from the site, and no delivery or despatch vehicles shall enter or leave the site (whether laden or unladen), before the hours of 0800 nor after 1800 Monday to Saturday, or at all on Sundays and Bank Holidays.
5. The operation of fixed plant and/or machinery associated with the development when a B2 use is carried on shall not cause background noise levels at any nearby dwelling to be exceeded by a Noise Rating Level of more than 5 dB(A), as assessed under the methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments.
6. Any B2 class use activities hereby approved shall not be operated before 0800 hours or after 1800 Monday to Saturday and not at all on Sundays and Public Holidays.
7. Before any B2 use hereby permitted commences, a scheme for the adaptation of the external structure of the building to provide sound attenuation against internally generated noise of not less than 35 dB averaged over the frequency range of 100-3150Hz shall be submitted to and approved in writing by the local planning authority. All works that form part of the approved scheme shall be completed before commencement of the permitted development.
8. Prior to the commencement of any B2 class use operations, a scheme containing the details of arrangements for air extraction from internal operations likely to emit grit, dust or fumes, control of grit dust/fumes, and discharge to atmosphere, including any external ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's equipment specifications throughout the life of the development.
9. 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.

Location Plan  
PO9/1452

RECEIVED  
16 OCT 2009



Ordnance Survey

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