

## PLANNING APPLICATION NUMBER:P07/0574

Type of approval sought	Full Planning Permission
Ward	St. Thomas's
Applicant	Watin Limited
Location:	<b>41/42, HALL STREET, DUDLEY, WEST MIDLANDS</b>
Proposal	<b>ERECTION OF 19 NO APARTMENTS (15 X 2 BED AND 4 X 1 BED) TWO NO SHOPS (A1) AND ASSOCIATED ACCESS AND INFRASTRUCTURE.</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

### SITE AND SURROUNDINGS

- 1 The property previously existing on this site was used as two retail units with residential use above. This was a historic building of local interest, with brick detailing to the frontage and tilework internally. There was a central archway through between the two parts of the building, leading to a rear amenity area. The building was in a poor state of repair, and had been vacant for a long period of time. The site lies fronting Hall Street adjacent to the bridge over the Dudley southern by-pass, and therefore has main roads on two sides. The adjacent site on Hall Street is vacant waste ground. The building has recently been removed from the site due to its dangerous condition, and it is likely that it will be re-erected in the future at the Black Country Museum (subject to planning permission).

### PROPOSAL

- 2 The application proposes the erection of 19 flats and two shop units. The plans show a large building of T shape footprint, with two retail units on the Hall Street frontage, and a double doorway leading into the residential element of the proposal. The building has three storeys, with flats above the retail units, and then three storeys of flats to the rear. Those to the rear would be accessed via the central front

passageway and then external doors to the rear. There would be some external amenity space at ground floor level, including bin storage and cycle parking provision. Each retail unit would have a small storage area to the rear.

- 3 The application includes a design & access statement, unilateral undertaking, transport statement & travel plan and acoustic report. The supporting information states that it is intended that this proposal be considered as phase one of a larger regeneration programme for this area of Dudley centre. It also states that some parking provision could therefore be accommodated at a later stage if necessary, and shows a potential layout plan where the currently proposed amenity space is used alternatively for car parking provision. This, however, has no weight in the consideration of this application, due to its indicative nature. The information also notes that the state of the buildings was beyond repair and they were likely to pose a danger to public safety due to likely collapse, and therefore the buildings had to be removed from site.

## HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P05/2453	Erection of 2 retail units and 19 apartments	Refused	01/02/06
P06/1468	Conservation Area Consent to demolish	Approved	27/11/06
P06/1469	Erection of 2 retail units and 19 apartments	Refused and dismissed at appeal	12/03/07

- 4 The first refusal was of a similar scheme which had only minimal supporting information, on the grounds of the loss of the locally listed building, the lack of on site parking provision, the noise impact of the surrounding roads on the future residents of the site, the lack of a legal agreement to attain off site open space contributions, and the lack of a bat survey.
- 5 The second refusal was by Development Control Committee on the grounds of lack of amenity space and on-site car parking. However, this was dismissed at appeal

solely on the grounds of an inadequate unilateral undertaking. The Conservation Area Consent was approved in the interest of public safety.

## PUBLIC CONSULTATION

- 6 No responses received

## OTHER CONSULTATION

- 7 **Group engineer – development:** Concerns have been raised regarding the lack of on-site parking provision proposed due to the site being considered to be of medium accessibility when assessed against the criteria of the newly adopted SPD. Further, the travel plan is insufficient and additional details should be inserted to make it acceptable. This latter could be dealt with by the imposition of a condition.
- 8 **Environmental Protection:** No objection subject to a condition regarding noise mitigation measures and one regarding contaminated land (soil gases)
- 9 **Town Centre Managers:** Subject to parking, access, noise and S106 issues being resolved, no objections
- 10 **Historic Environment Team:** No objection received

## RELEVANT PLANNING POLICY

The buildings that were on the site are on the local list of historic importance, and the site lies within the Conservation Area.

### **Supplementary Planning Guidance**

Dudley Area Development Framework (ADF)

Conservation Area Appraisal

### **Supplementary Planning Documents**

Parking standards and travel plans

New housing development

**Relevant UDP Policies**

DD1 Urban design

DD6 Access and transport infrastructure

DD7 Planning obligations

DD8 Provision of open space, sport and recreation facilities

DD10 Nature conservation and development

UR1 Central employment zone

DTC2(xiv) Street Block 23

AM1 An integrated, safe, sustainable and accessible transport strategy

AM3 Strategic highway network

AM11 Cycling

AM14 Parking

AM16 Travel plans

H1 New housing development

H3 Housing assessment criteria

H6 Housing density

NC6 Wildlife species

HE1 Local character and distinctiveness

HE4 Conservation areas

HE5 Buildings of local historic importance

EP7 Noise pollution

**Regional/national policy**

Regional Spatial Strategy

PPS1 Delivering sustainable development

PPS3 Housing

PPS6 Planning for town centres

PPG13 Transport

PPG15 Planning and the historic environment

## ASSESSMENT

### Background information

- 11 It should be noted from the planning history on this site that there have been two previous refusals, the second of which was dismissed at appeal. This scheme now proposed is identical to that previously proposed, and therefore the key issues for consideration here are the decision of the planning inspector, and any changes in policy since that decision was made that would result in any altered material considerations. The policies that have changed since the Inspector's decision are discussed below.
- 12 The previous application was dismissed solely on the basis of an unacceptable legal agreement. Whilst this application has been submitted with a unilateral undertaking, following consultation with colleagues in the legal team this is not considered to be acceptable, and therefore it is not accepted. However, this does not prevent the granting of planning permission subject to a S106 legal agreement, which could then be drafted by the council's legal officers to the satisfaction of the UDP policies and the Committee members.

### Principle

- 13 The principle of retail and residential uses on this site is considered acceptable, as it is encouraged both in the UDP and in the ADF. Whilst the ADF specifically refers to the retention of the existing buildings on the site, and this is supported by UDP policies due to their designation as locally listed buildings, it has been demonstrated that they were unsafe and likely to cause danger to public safety, and have therefore been removed. Therefore, additional information to justify the loss of these buildings is not required.

### Density

- 14 The proposal would result in development at a density of 271dph, which is far in excess of the guidance in PPS3. However, the principle of increased densities in central locations is recognised in PPS3 and in UDP Policy H6, and therefore this can be considered. The proposed units are small, and are considered to be of an

appropriate type for central, sustainable and accessible locations such as this, and can therefore be considered favourably subject to all other details also being acceptable. The Inspector at the appeal supported this.

### **Design, layout, amenity and landscaping**

- 15 The elevational treatment of the proposed building is considered to be acceptable, being quite plain, of brick and tile construction. The separation to surrounding built form is adequate to prevent any harm from overlooking or loss of privacy, overshadowing or loss of light. It is considered that it would not have an unduly overbearing impact on the outlook from any of the surrounding properties. The Inspector at the appeal supported this.
- 16 PPS3 requires that a flexible approach be taken to amenity space standards. Given that there should be sufficient provision for bin storage and drying washing, and there is internal and external space available for these uses, then it is considered that the amenity space provision is on balance acceptable. The Inspector at the appeal supported this.
- 17 Minimal details of landscaping have been provided at this stage, however these can be required through the imposition of conditions.

### **Noise**

- 18 The impact of noise pollution from the adjacent road network is not of concern, as the EP team have indicated that suitable mitigation can be required through the imposition of conditions. Therefore the standard of the development can be ensured to be acceptable to future occupants.

### **Transport**

- 19 Whilst reduced parking provision might be considered acceptable on a site such as this, close to the town centre and bus station so accessible by public transport, a case should be made, and normally at least some parking within the site is required. Further, additional measures to ensure that sustainable patterns of travel are encouraged should also form part of the proposed scheme, such as a travel plan.

The impact on surrounding streets and likely increase in on street parking should also be adequately addressed. Given the highly sustainable nature of the site, it is considered that it is acceptable not to provide on-site parking, and in line with current government guidance which seeks to reduce car use in favour of more sustainable options such as public transport. Therefore, a travel plan for the site is recommended in order to encourage the use of such options and a condition is attached accordingly, as well as one to ensure that the proposed secure cycle storage is provided. The Inspector at the appeal supported this.

20 The location of the proposed bin store is not within the normal distances of the highway that are required for operational reasons in order to ensure that they are emptied regularly. However, this is a minor area of concern, which could be addressed through a condition.

21 Since the Inspector's decision on the previous application, the new SPD on parking standards has been adopted. This includes criteria for defining whether a site is of high, medium or low accessibility and therefore whether it is appropriate to accept a reduction in on site parking provision relative to the maximum standards now required. The Inspector notes in his decision:

*'This is a highly accessible town centre site and in my opinion there should be little need for the occupiers of the new dwellings to have their own vehicles: indeed to provide no parking facilities should encourage public transport usage. Even if the residents do have a car, there is ample public parking in the near vicinity.'*

Given the comments of the Inspector in his appeal decision, and the planning history on this site, it is not considered reasonable to refuse planning permission on this matter.

## **Contributions**

22 The proposal is for a development in excess of four residential units, and therefore attracts a requirement for a commuted sum to be paid towards the provision and enhancement of public open space and play areas in the locality. This can be dealt with in a legal agreement to accompany the application due to the unsuitability of

the proposed unilateral undertaking. The applicant has indicated their acceptance of this principle and the recommendation is made on this basis.

### **Other issues**

- 23 The proposal is considered to be unlikely to cause any harm to the character and appearance of the Conservation Area, and therefore is compliant with policy.
- 24 Whilst the ADF seeks to ensure that this area of central Dudley is regenerated, it is not considered that this proposal would prejudice the comprehensive development of a larger area of land, however it is contrary to the element of the ADF that seeks the retention of these buildings, which is now no longer possible on this site.

### **CONCLUSION**

- 25 It is considered that following the decision of the inspector at the appeal, and the recent introduction of new SPDs, there are no material considerations to outweigh the Inspector's comments, and that providing a suitable legal agreement is arrived at, there are no other material considerations to outweigh the favourable consideration of this application.

### **RECOMMENDATION**

- 26 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, maintenance and enhancement of off-site public open space and play provision has been submitted to and agreed in writing by the Local Planning Authority.
  - b) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

### Reason for approval

It is considered that following the decision of the inspector at the appeal, and the recent introduction of new SPDs, there are no material considerations to outweigh the Inspector's comments, and that providing a suitable legal agreement is arrived at, there are no other material considerations to outweigh the favourable consideration of this application.

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley UDP (2005) and to all other relevant material considerations.

The above is intended as a summary of the reasons for the grant of planning permission. For further detail on the decision please see the application report.

### 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 an arrangement for the submission and approval of a means to guarantee the financial payment of a total sum of £20,322.86 to the Council together with the timing of the payment for the:
  - \* Provision, maintenance and enhancement of off site public open space and play area improvements
  - \* the managing and monitoring of the spend of those monies has been submitted to and agreed in writing with the Council.
3. Development shall not begin until a scheme for protecting the proposed dwellings from noise from road 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 and retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.
4. 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.

5. Prior to the commencement of development, details of the types, colours and textures of the materials to be used in the external surfaces of the development hereby approved, including external floor hard surfacing, 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.
6. Prior to the commencement of development hereby permitted, a plan showing the location and elevations of the proposed bin store shall be submitted to and approved in writing by the local planning authority, and it shall be implemented on site prior to the occupation of the development hereby approved.
7. Prior to the commencement of development, details of the boundary treatments to be installed on the site, including materials, height and location, shall be submitted to and approved in writing by the local planning authority. The treatment shall be implemented in strict accordance with the approved details prior to the occupation of the site.
8. Prior to the commencement of development, additional details in support of the proposed travel plan, to the agreed requirements of the local planning authority, shall be submitted to and approved in writing by the local planning authority and the details agreed shall be implemented in accordance with timing to be agreed.