

PLANNING APPLICATION NUMBER:P07/2236/E1

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|-------------------------|--|
| Type of approval sought | Full Planning Permission |
| Ward | NETHERTON WOODSIDE & ST ANDREWS |
| Applicant | Mr Spencer Claye, G.C. Netherton Ltd |
| Location: | 75, NORTHFIELD ROAD, NETHERTON, DUDLEY, WEST MIDLANDS, DY2 9JQ |
| Proposal | EXTENSION OF TIME OF PREVIOUSLY APPROVED APPLICATION P07/2236 FOR DEMOLITION OF EXISTING BUILDING AND ERECTION OF 54 DWELLINGS (OUTLINE) (ACCESS, LAYOUT AND SCALE TO BE CONSIDERED). |
| Recommendation Summary: | APPROVE SUBJECT TO A 106 AGREEMENT |

BACKGROUND

1. This is an application for a new planning permission to replace an extant planning permission, in order to extend the time limit for implementation, i.e. this is an extension of time of previously approved application P07/2236.

SITE AND SURROUNDINGS

2. The application site consists of a former industrial premise (Tinsley Works), on the south western side of Northfield Road, to the south of the Dudley Canal. The site area is approximately 0.81 hectares.
3. Part of the site has been cleared and now consists of a large area of hard standing. Some of the buildings remain on the north western part of the site and are in a semi derelict state.
4. To the north west of the canal is a modern industrial estate, with older industrial premises to the south. Semi derelict/part cleared industrial buildings are on the north eastern side of Northfield Road.

5. To the south west of the site the former timber yard site has been redeveloped for residential purposes and consists of houses and flats. Existing residential development is located some 60m away to the Northfield Road and Longboat Quay i and along St. Peter's Road 150m away to the east.
6. The site is primarily level, although the northern part of the site is lower than the rest of the site, before it rises up to the canal, which is some 3m higher up.

PROPOSAL

7. The application is identical to the previous approval in that it seeks outline approval for residential development with access, layout and scale being considered at this stage. All other matters comprising appearance and landscaping are reserved for future approval.
8. The proposal consists of 54 dwellings, with the indicative schedule indicating, 3 one-bed apartments, 24 two-bed apartments and 27 three-bed houses.
9. The houses cover the south western three quarters of the site with the proposed apartments on the north western part of the site, primarily facing onto the canal. Adjoining the apartments will be the parking court for the apartments, which will be approximately 2-3m lower than the apartments due to a change in levels. An area of amenity space is proposed around the apartments.
10. The houses principally face onto the proposed estate roads, with a strong frontage along Northfield Road as well. The housing element will have gardens of about 10m in length, with parking mainly to the side or within parking courts.
11. The overall density of the development is approximately 67 dwellings (gross) to the hectare.

12. The original application was accompanied by a Design & Access Statement, a noise assessment, a transport statement, a ground investigation report, an ecological assessment and a viability report. An additional costing report has also been received.

HISTORY

13.

| APPLICATION No. | PROPOSAL | DECISION | DATE |
|--------------------|--|----------|---------|
| P07/2236 | Demolition of existing building and erection of 54 dwellings (outline). Access, layout and scale to be considered. | Granted | 27.2.08 |

14. Previous to the above application the planning history for the site relates to its former use as industrial premises. Also of relevance are the adjoining timber yard site and the 2006 permission (P05/0224) for 189 no. dwellings that have now been built.

PUBLIC CONSULTATION

15. The application has been advertised by way of neighbour notification, press and site notice. Public Consultation time expired 23RD November 2010. No objections have been received.

OTHER CONSULTATION

16. Group Engineer (Development): No objection subject to conditions. Car parking numbers are acceptable and are in accordance with the maximum required by the SPD.
17. Head of Public Protection: Require houses along the south eastern boundary to have habitable rooms to front. Require an acoustic barrier along the south eastern boundary. Site affected by traffic noise. Require condition controlling on site noise mitigation. Conditions covering land contamination and ground gases and vapours are also required.
18. British Waterways: 'No comments to make'.

RELEVANT PLANNING POLICY

19. **Unitary Development Plan**

- DD1 Urban Design
- DD4 Development in Residential Areas
- DD6 Access and Transport Infrastructure
- DD7 Planning Obligations
- DD8 Provision of Open Space, Sport and Recreation Facilities

20. Unitary Development Plan

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|------|--|
| DD1 | Urban Design |
| DD4 | Development in Residential Areas |
| DD6 | Access and Transport Infrastructure |
| DD7 | Planning Obligations |
| DD8 | Provision of Open Space, Sport and Recreation Facilities |
| DD10 | Nature Conservation and Development |
| UR8 | Derelict Land |
| UR9 | Contaminated Land |
| EE2 | Local Employment Site |
| AM11 | Cycling |
| H1 | New Housing Development |
| H4 | Housing Mix |
| H5 | Affordable Housing |
| H6 | Housing Density |
| LR1 | Open Space |
| NC5 | Sites of Local Importance for Nature Conservation |
| NC9 | Mature Trees |
| HE1 | Local Character and Distinctiveness |
| HE7 | Canals |
| EP7 | Noise Pollution |
| S02 | Linear Open Space |

21. Supplementary Planning Guidance/Documents

Supplementary Planning Document on Open Space, Sport and Recreation Provision
Affordable Housing Supplementary Planning Document
Nature Conservation Supplementary Planning Document
Parking Standards and Travel Plans Supplementary Planning Document
New Housing Development Supplementary Planning Document
Design for Community Safety Supplementary Planning Guidance
Planning Obligations Supplementary Planning Guidance

22. National Planning Guidance

PPS1 Delivering Sustainable Development

PPS3 Housing

PPG4 Industrial and Commercial Development and Small Firms

PPS9 Biodiversity and Geological Conservation

PPG24 Planning and Noise

ASSESSMENT

23. The main issues are:-

- Principle
- Design and Layout
- Density
- Neighbour Amenity
- Noise
- Ground Condition Issues
- Ecological Issues
- Trees
- Access and Parking
- Planning Obligations
- Other Issues

Principle

24. The site has a previous planning permission from 2008 for outline residential development. This application is identical and proposes to extend the time of the planning permission.

25. Given this existing extant planning permission, it is considered that the principle of residential development has been established in accordance with policies DD4, EE2 and H3 of the adopted UDP (2005).

Design and Layout

26. The proposed layout of the site is dictated by a levels difference between the canal and the site; by the 'humped back' canal bridge which dictates the only safe vehicular access into the site; and the adjoining B2 uses to the southeast. The access road is also defined by the location of two former mine shafts.
27. The proposed layout consists of two distinct parts. The south eastern three quarters is principally of family housing, with the remaining north western part of the site consisting of apartments. A mix of house types is generally encouraged by Policy H4 of the UDP.
28. The apartments are proposed along the canal to ensure a strong frontage to the canal as encouraged by Policy HE7 of the UDP. Apartments are also proposed in this location as the provision of family housing combined with the change in levels would likely to have lead to an unsatisfactory relationship with the canal.
29. Despite these constraints, the proposed layout integrates into the locality with development facing onto Northfield Road and the Dudley No. 2 Canal. Within the site the proposed development generally addresses the street.
30. There are some concerns about the two large parking courts, however, these are necessary due to the sites constraints. However, appropriate soft and landscaping would ensure these areas would not detract from the developments general layout.
31. Due to the constraints of the adjoining B2 units modifications have been made to the layout which means there is no longer a building ending the vista along the main access road. However, planting or another feature could satisfactorily address this issue.

32. Within the site the family housing would generally have rear garden lengths of 10m. Whilst this is slightly shorter than required by PGN3 – New Housing Development, there is a need to balance against the advice in PPS1 and PPS3. In this case the depth of the gardens is considered acceptable.
33. The back to back distance of 22m (PGN3) would be complied with ensuring there are adequate levels of privacy to the private areas of the proposed dwellings.
34. There is an area of space around the proposed apartments, which allows a siting out area. The occupants of the apartments will also benefit from the open aspect onto the attractive canal corridor.
35. The site is presently unattractive, consists of a number of derelict buildings which turn their back on the canal. It is considered the redevelopment of the site for housing with regard given to the external road and canal frontages would clearly enhance the appearance of the area, in accordance with Policies DD1, DD4 and H3 of the adopted UDP (2005).

Density

36. The density of the proposed development is approximately 67 dwellings to the hectare. This is towards the upper end of the indicative density figures outlined in the New Housing Development Supplementary Planning Document and is in accordance with Policy H6 of the UDP and PPS3 which seek to maximise the use of land.
37. The adjoining residential development (the former timber yard) which includes a significant element of apartments and three storey house types is approximately 55 dwellings to the hectare. However, the net figure is probably higher as there is an area of on site public open space.

38. The reason for the higher density is that 23 of the dwellings are three storey apartments which are principally provided due to the site constraints and the need to provide a frontage to the canal and most of the housing is terraced rather than detached or semi detached.

Neighbour Amenity

39. The proposed residential development will not have any adverse effect on neighbouring residential amenity as the nearest dwelling on the site will be over 30m away from the nearest dwellings on the former timber yard site. Indeed a residential development of the site would remove possible anti-social industrial uses that could conflict with the recently redeveloped former 'timber yard' residential estate.
40. To the south east of the site is a small group of industrial buildings. These buildings are presently used for B2 purposes (General Industrial) and therefore the need to protect the viability of the existing businesses whilst balancing the amenities of future occupiers are needs to be carefully considered.
41. The applicant submitted a noise assessment with the original application and the Head of Environmental Health & Trading Standards initially raised concerns due to the close proximity of the adjoining B2 uses and the potential conflict that could arise. To overcome these concerns the applicant modified the proposed layout in accordance with the wishes of the Head of Environmental Health & Trading Standards. A condition ensuring on site mitigation against noise from the adjoining industrial units and from road noise is proposed.

Ground Contamination

42. Due to the previous industrial use of the site, it is highly probable that ground contamination, ground gases and vapours would be present. These issues would be covered by conditions.

Ecological Issues

43. The canal provides an important wild life corridor and a designated Site of Importance for Local Nature Conservation (SLINC) and therefore the impact of proposed development on this designation is of importance.
44. Consideration was given to pulling the proposed apartment buildings further away from the canal to allow for a greater area for planting and wildlife movement. However, this was not possible due to a significant change in levels which restricts the siting of the proposed apartments. The change in levels is readily apparent from the applicant's submitted cross section.
45. However, it is possible to enhance the sites ecological benefits by conditioning the provision of bat boxes, maintaining a dark corridor along the corridor and requiring the future landscape scheme incorporates trees and shrubbery which encourages bat foraging.
46. The planning obligation would also provide a contribution towards off site ecological enhancement.

Trees

47. There are no significant trees within the application site. Adjoining the south western boundary of the site on part of the former timber yard site is a group of trees which are subject to Tree Preservation Order.
48. The proposed development is unlikely to have any significant impact on these trees, as there is an existing retaining wall along the south western boundary which is up to 3m high in places means the trees principal roots are unable to enter the application site. Conditions controlling any works to the retaining wall along the south western boundary are proposed.

Access and Parking

49. Vehicular access to the site is from Northfield Road. The position of the proposed vehicular access is determined by the position of the 'humped back' canal bridge to the north and the position of a couple of former mine shafts.
50. A total of 95 off road spaces are provided in garages, driveways and parking courts, whilst the family housing has two spaces each. This equates to an overall parking ratio of 175%. The Group Engineer (Development) considers this amount to be acceptable and is in accordance with the maximum figure required by Parking Standards and Travel Plans SPD.
51. Additionally the Group Engineer (Development) requires the applicant to fund a traffic regulation order along the Northfield Road frontage to the site to prevent parking along the road which would interfere with free flow of traffic and visibility from the new road junction.

Planning Obligations

52. The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure. Since the original approval in February 2008 the Council has revised its Planning Obligations Supplementary Planning Document. This application takes into account the revised thresholds for planning obligations in the heads of terms listed below. Due to the full outline nature of the scheme it is not possible to calculate the monetary value of the obligation, however, the heads of terms in the S106 should include the following:

- Affordable Housing
- Economic & Community
- Education
- Libraries

- Nature Conservation/Ecological Enhancement
- Open Space, Sport & Recreation
- Public Art
- Public Realm
- Transport Infrastructure Improvements
- Traffic Regulation Order
- Management & Monitoring Charge - £1000

53. The applicant has agreed to the provision of the planning contributions.

Please note that the calculations for the planning obligations at the reserved matters stage would be made in accordance with the adopted Planning Obligations SPD at that time.

CONCLUSION

54. This application proposes to extend the time of previously approved application P07/2236 for the erection of 54 no. dwellings (outline).
55. The proposed development would bring forward a new residential scheme on a previously developed site thereby supporting the creation of a sustainable form of development and helping to meet the strategic housing requirement for the delivery of housing within the plan period thereby complying with both national and local planning policy. The suitable reuse of the land is in order to promote regeneration and to minimise the amount of Greenfield land being taken for development and the adopted UDP supports this view.
56. The principle of residential use and the access, layout and scale of the proposed development are considered to be acceptable. All other matters are reserved for subsequent consideration. With careful design considerations the appearance of this site can be substantially improved, enhancing visual amenity and the street scene, and is in compliance with adopted UDP Policy.

RECOMMENDATION

57. It is recommended that the application be approved subject to:

- a) The development shall not be commenced until a scheme for the submission and approval of a Planning Obligation to guarantee the transport infrastructure improvements, libraries, open space, sport and recreation, public realm, nature conservation, education, the provision of affordable housing, public art, economic and community, public realm and the management 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 APPROVAL

The proposed development would bring forward a new residential scheme on a previously developed site thereby supporting the creation of a sustainable form of development and helping to meet the strategic housing requirement for the delivery of housing within the plan period thereby complying with both national and local planning policy. The suitable reuse of this land is in order to promote regeneration and to minimise the amount of Greenfield land being taken for development and the adopted UDP supports this view.

The principle of residential use and layout of the proposed development are considered to be acceptable. All other matters are reserved for subsequent consideration. With careful design considerations the appearance of this site can be

substantially improved, enhancing visual amenity and the street scene and is in compliance with adopted UDP Policy.

The decision to grant planning permission has been taken with regard to the policies and the proposals in the adopted Dudley Unitary Development Plan (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 details on the decision please see the application report.

NOTE TO APPLICANT

The grant of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting application for planning permission and are not liable for loss caused to an adjoining landowner for permitting development. Sections 77 and 78 of the Building Act 1984, provides Local Authorities with powers to take action with respect to dangerous buildings/structures. Therefore, should the development raise concerns in the future with respect to its structural stability there are powers under separate legislation to planning that would enable the situation to be rectified.

INFORMATIVES

Buildings are frequently used as roosting and nesting sites by bats. Bats and their roost sites are protected under the 1981 Wildlife and Countryside Act. In the event of bats being present, Natural England must be contacted on 01453 764450 immediately for advice on the best way to proceed.

It should be ensured that work (including site clearance work) does not disturb nesting birds. Birds can nest in many places including buildings, hedgerows, trees and open grassland. Nesting birds are protected under the 1981 Wildlife and Countryside Act. The main nesting season lasts approximately from March to

September, so any work to the site should take place outside these dates if at all possible. N.B. birds can nest at any time and the site should ideally be checked for their presence immediately before work starts.

It should be noted that walls can be suitable habitats for animals and plants (such as small mammals, ferns and lichens) and should be protected and conserved wherever possible. Where work on walls is essential, care should be taken to minimise damage and disturbance.

When submitting the application for reserved matters approval the internal layout of plots 1 to 11 shall be designed in manner that all noise sensitive rooms are located on the northern (road) side of the dwellings.

The erection of scaffolding on the tow path and any permanent footway connection will require the approval of British Waterways.

There shall be no direct disposal of surface water to the canal without the prior approval of British Waterways.

British Waterways offer no right of support to the adjacent property. The landowner should take appropriate steps to ensure that their works do not adversely affect the canal wall at this location. It is imperative that the stability of the wall is not compromised by this development, in particular due to excavations.

Conditions and/or reasons:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission. The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
2. Approval of the details of appearance and landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the local planning authority before any development is begun.
3. No development shall take place unless an obligation under section 106 of the Town and Country Planning Act 1990 between the local planning authority and all persons interested in the land within the application site has been executed, such obligation to secure the following:
 - Affordable Housing
 - Economic & Community
 - Education
 - Libraries
 - Nature Conservation/Ecological Enhancement
 - Open Space, Sport & Recreation
 - Public Art
 - Public Realm
 - Transport Infrastructure Improvements
 - Traffic Regulation Order
 - £1000 for the monitoring, management & implementation of the above obligations
4. No part of the development hereby permitted shall be commenced until detailed plans and sections showing existing site levels and finished floor levels of the proposed dwellings have been submitted to and approved in writing by the Local Planning Authority and the development thereafter shall only be carried out as approved.
5. None of the buildings on the site shall exceed 11m in height as measured from the finished floor level of the building.
6. No part of the development hereby permitted shall be commenced until a schedule of all materials to be used on the walls and roofs of the buildings has been submitted to and approved in writing by the Local Planning Authority and thereafter the development shall only be constructed in accordance with these details.
7. No part of the development hereby permitted shall be commenced until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications including cultivation and other operations associated with plant and grass establishment, a schedule of plants including species, plant sizes and proposed numbers/densities and a programme of implementation. Plans must also include accurate plotting of all existing landscape features such as trees,

hedges and ponds and any scheme should also include proposals for managing these features.

The works approved as part of this condition shall be completed within the first planting season following the first occupation of any part of the development.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for it which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.

8. No part of the development hereby permitted shall be commenced until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. The details must include existing and proposed finished levels or contours; the position, design and materials of all site enclosures, car parking layout and other vehicular and pedestrian areas; hard surfacing materials, minor artefacts and structures (e.g. street furniture, cycle stores, bin stores etc) The works approved as part of this condition shall be completed in accordance with a timetable which has been agreed by the Local Planning Authority.
9. No part of the development hereby permitted shall be commenced until details of the positions, design, materials and type of boundary treatment or means of enclosure have been submitted to and approved in writing by the District Planning Authority. No part of the development shall be occupied until these works have been carried out in accordance with the approved details.
10. None of the development hereby permitted shall first commence until precise details of the proposed retaining walls adjoining plots 17 to 40 have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.
11. None of the development hereby permitted shall first commence until precise details of the works the existing retaining walls adjoining plots 11 to 16 and F4 have been submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.
12. There shall be no external lighting to the northwest (canal) elevations of plots 17 to 40.
13. None of the development hereby permitted shall be first commenced until details of bat mitigation measures including the provision of bat boxes, bat bricks or similar have been submitted to and approved in writing by the Local Planning Authority. The bat mitigation measures shall thereafter be provided in accordance with the approved details which shall after be retained for the life of the development.
14. None of the development hereby approved shall be first occupied until the existing buildings on the site have been demolished and the demolition material removed from site.
15. Development shall not begin until a scheme for protecting residents in the proposed dwellings from noise from traffic and the adjoining industrial buildings to the south east has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority.
16. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed with 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. The scheme shall include provisions for validation monitoring and sampling.

Unless otherwise agreed in writing with the LPA, the scheme shall be implemented before the development is first occupied, and be retained throughout the lifetime of the development.

17. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed with the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of ground gases and vapours that have the potential to pose a risk to human health and the wider environment.

Where the investigations identify the presence of ground gases and vapours, development shall not begin until a scheme to protect the development from the effects of such gases and vapours has been submitted to and approved by the local planning authority. The scheme shall include provisions for validation monitoring & sampling.

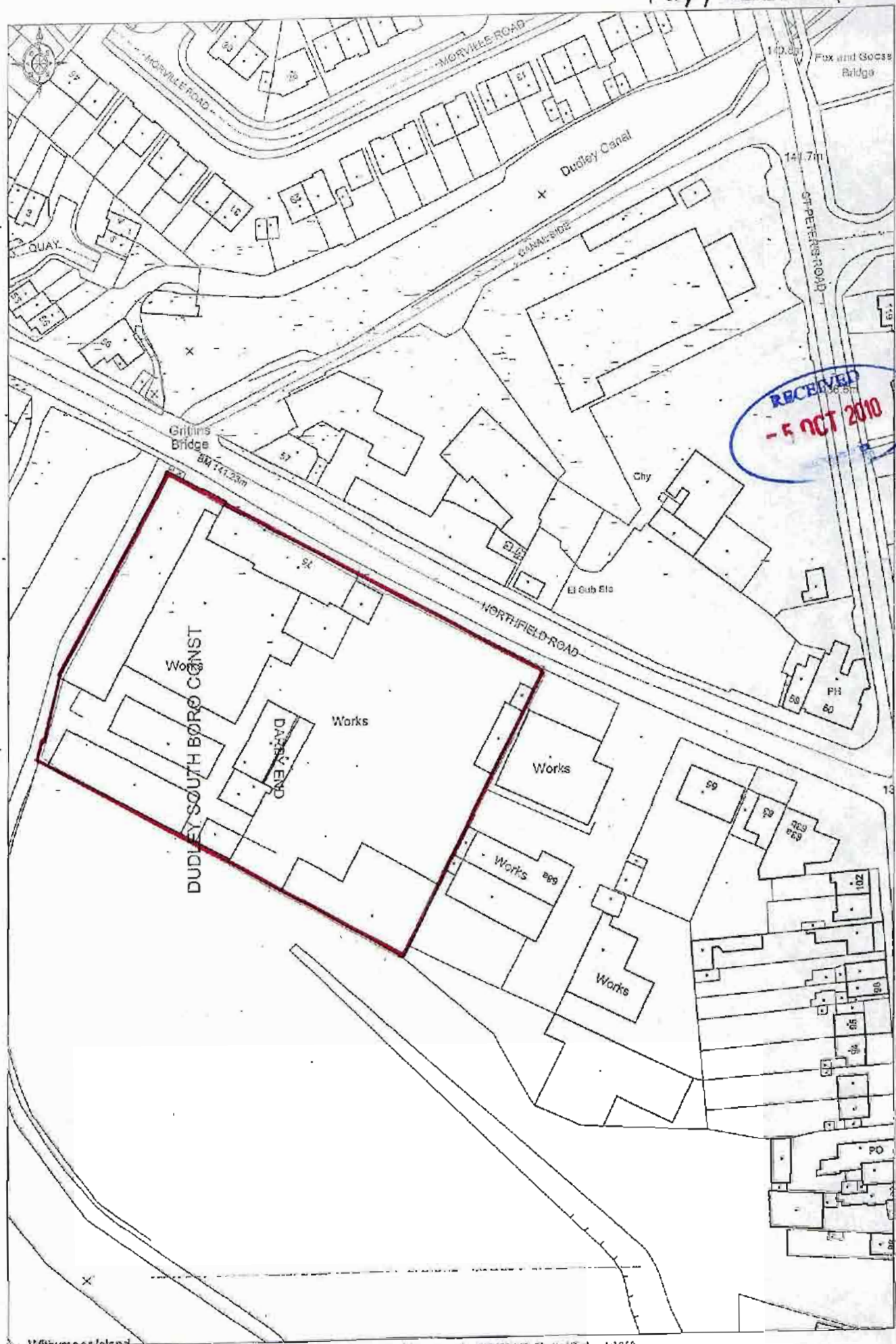
Unless otherwise agreed in writing with the Local Planning Authority, the scheme shall be implemented before the development is first occupied; and be retained throughout the lifetime of the development.

18. No part of development hereby permitted shall be commenced until a scheme for all drainage works has been submitted to and approved in writing by the District Planning Authority and no part of the development shall be occupied until the approved works have been carried out.
19. None of the development hereby approved shall be first commenced until precise design detail for the bin stores and cycle stores/racks have been submitted and approved in writing by the Local Planning Authority. The bins stores shall and cycle stores/racks shall thereafter be constructed in accordance with the approved details and shall be retained for the life of the development.
20. Prior to commencement of development details of plans of lines, widths, sections, levels and gradients and form of construction of access road, lighting and drainage systems will be submitted to and approved in writing by the LPA. Prior to first occupation these will be provided in accordance with the approved plan and retained for no other purpose for the life of the development.
21. Prior to first occupation the means of access and parking areas shall be implemented in accordance with the approved plans, graded, levelled, surfaced drained and marked out and will be retained for no other purpose for the life of the development.
22. Prior to first occupation a visibility splay of 2.4m x 59 m which shall be clear of obstructions above 600mm shall be provided and retained for the life of the development.

23. There shall be no structures or landscaping above 600 mm within 2m of the Highway boundary.
24. A forward visibility zone of 17m in accordance with Manual for Streets, 7.8.3 shall be provided on the access road at the point of the 90 degree bend.
25. The development hereby permitted shall be carried out in accordance with the following approved plan:
A 107 008 Rev D (received on 18-02-2008).

Location *plc*

PO4/2236/E1



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- 5 OCT 2010

