# PLANNING APPLICATION NUMBER:P07/2236

Type of approval sought		Outline Planning Permission
Ward		NETHERTON WOODSIDE & ST ANDREWS
Applicant		G.C. Netherton Ltd
Location:	75, NORTHFIELD ROAD, NETHERTON, DUDLEY, WEST MIDLANDS, DY2 9JQ	
Proposal	DEMOLITION OF EXISTING BUILDING AND ERECTION OF 54 DWELLINGS (OUTLINE) (ACCESS, LAYOUT AND SCALE TO BE CONSIDERED)	
Recommendation Summary:	APPROVE SU	IBJECT TO CONDITIONS

# SITE AND SURROUNDINGS

- 1 The application site consists of a former industrial premises (Tinsley Works), on the south western side of Northfield Road, to the south of the Dudley Canal. The site area is approx 0.81 hectares.
- 2 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.
- 3 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. There is some residential development from the 1960s to the north east.
- 4 To the south west of the site the former timber yard site is presently being redeveloped for housing and consists of two and three storey houses and flats.
- 5 The site is primarily level, although the northern part of the site is lower then the rest of the site, before it rises up by to the canal, which is some 3m higher up.

## PROPOSAL

- 6 The application is an outline planning application, with access, layout (siting) and scale (height) being considered at this stage.
- 7 The proposal consists of 54 dwellings, with the indicative schedule indicating, 3 one-bed apartments, 24 two-bed apartments and 27 three-bed houses.
- 8 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 approx 2-3m lower then the apartments due to a change in levels. An area of amenity space is proposed around the apartments.
- 9 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.
- 10 The overall density of the development is approx. 67 dwellings (gross) to the hectare.
- 11 The application was accompanied by a design and access statement, a noise assessment, a transport statement, a ground investigation report, an ecological assessment and a viability report. An additional costings report has also been received.
- 12 Amended plans have been received reducing the number of units by two, together with modifications to the siting of the proposed dwelling on the southern part of the site as well as changes to parking and access arrangements.

# HISTORY

14 The planning history for site relates to former use as industrial premisies. However, of relevance to this application is the adjoining timber yard site.

# PUBLIC CONSULTATION

15 No representations have been received at the date of agenda preparation.

# OTHER CONSULTATION

- 16 <u>Group Engineer (Development)</u>: No objection subject to conditions. Car parking numbers are acceptable and are in accordance with the maximum required by the SPD.
- 17 <u>Head of Public Protection</u>: 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 soil gases are also required.
- 18 <u>British Waterways</u>: No objection in principal. Request conditions covering land, drainage and engineering works. Request planning obligations relating to enhancement of the tow path etc.

# RELEVANT PLANNING POLICY

#### 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 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 NC9 Mature Trees HE1 Local Character and Distinctiveness HE7 Canals EP7 Noise Pollution S02 Linear Open Space

# 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

# 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

# 19 The main issues are:-

- Policy
- Design and Layout
- Density
- Neighbour Amenity

- Noise
- Ground Condition Issues
- Ecological Issues
- Trees
- Access and Parking
- Planning Obligations
- Other Issues

## <u>Policy</u>

- 20 The application site is designated in the UDP as a Local Employment Area (Policy EE2) whereby there is presumption in favour B1, B2 and B8 usage, and as such other uses would normally be resisted by the Council.
- 21 The applicants submitted a viability report with the application. The report concludes the reuse of the site for employment purposes would unviable. The report has been scrutinised by the Councils own Estates Surveyor, and he is agreeable with the reports findings. Therefore the reuse of the land for purposes other than B1, B2 or B8 employment purposes is considered to be acceptable, but as such would be a departure from the adopted Development Plan.
- 22 Part of the site falls within a Liner Open Space Designation (Policy SO2). However, it is considered that developing within part of designation would be acceptable in that it already has built development on it, apartments on adjoining timber yard site are located close to the canal. Furthermore the linear open space would not be severed by the proposed development and there is an open area to the north of the canal. Regard has also been given to the site constraints which are explained in more detail below.

## Design and Layout

- 23 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.
- 24 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.
- 25 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.

- 26 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.
- 27 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.
- 28 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.
- 29 Within the site the family housing would generally have rear garden lengths of 10m. Whilst this is slightly shorter then required by PGN3 – New Housing Development, there is a need to balance against the advice in PPS1 and PPS3.
- 30 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.
- 31 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.
- 32 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.

#### Density

- 33 The density of the proposed development is approx 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.
- 34 The adjoining residential development (the former timber yard) which includes a significant element of apartments and three storey house types is approx 55 dwellings to the hectare. However, the net figure is probably higher as there is an area of on site public open space.
- 35 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

36 The proposed development will not have any adverse effect on neighbour amenity as the nearest dwelling on the site will be over 30m away from the nearest dwellings on the former timber yard site.

#### <u>Noise</u>

- 37 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.
- 38 Whilst the applicant submitted a noise assessment with the application the Head of Public Protection initially raised concerns due to the close proximity of the adjoining B2 uses and the potential conflict that may arise. To overcome these concerns the applicant has modified the proposed layout in accordance with the wishes of the Head of Public Protection. A condition ensuring on site mitigation against noise from the adjoining unit and from road noise is proposed.

#### Ground Contamination

39 Due to use previous industrial use of the site, it is highly probable that ground contamination and soil gases would be present. The Head of Public Protection is happy for these issues to be covered by condition.

#### Ecological issues

- 40 The application was submitted with an ecological survey, whilst the Ecologist has raised some concerns about some of the methodology the finding s are generally considered to be sound.
- 41 The canal provides an important wild life corridor and a designated a Site of Importance for Local Nature Conservation (SLINC) and therefore the impact of proposed development on this designation is of importance.
- 42 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 applicants submitted cross section.
- 43 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 encourage bat foraging.

44 The applicant has also agreed to provide a contribution towards off site ecological enhancement.

## <u>Trees</u>

- 45 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.
- 46 However, 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

- 47 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.
- 48 Following the initial observations from the Group Engineer modifications have been made to the access road and the parking layout. He now longer raises any concerns subject to conditions.
- 49 t total of 95 off roads spaces are provided in garages, driveways and parking courts with the family housing have two spaces each. This equates to an overall parking ratio of 175%. The Group Engineer considers this amount to be acceptable and is in accordance with the maximum figure required by Parking Standards and Travel Plans SPD.
- 50 Additionally the Group Engineer 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 obligation/Contributions

51 The applicant has agreed to enter into a legal agreement to provide monies for off site public open space, off site ecological enhancement and pay for a traffic regulation order. 52 There is also a requirement to provide on site affordable housing in accordance with policy H5 and the associated Supplementary Planning Document. At the time of agenda preparation the exact number units and tenure had yet to be agreed. An update will be provided at committee.

#### Other Issues

53 British Waterways have requested the applicant enter into a legal agreement to resurface/enhance the tow path and upgrade the steps down to the canal from Northfield Road. In respect of the former, the tow path has been recently resurfaced and as such is not a reasonable request. In respect of the requested improvements to steps in the short to medium term the Group Engineer advises that the bridge deck and parapets may need replacing, therefore an upgrade of the steeps could prejudice or interfere with any works.

## CONCLUSION

54 The applicants have satisfied the Council that the site cannot be economically reused for employment purposes. The layout and siting of the dwellings is considered to be acceptable in respect of design, access, parking and noise. The decision has been taken having regard to policies DD1 DD4 DD6 DD7 DD8 DD10 UR8 UR9 EE2 AM11 H1 H4 H5 H6 LR1 NC5 NC9 HE1 HE7 EP7 SO2

## RECOMMENDATION

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, a planning obligation to guarantee the provision of off site ecological enhancement, a planning obligation to guarantee the provision an off site traffic regulation order and the provision of on site affordable housing units has been submitted to and agreed in writing by the Local Planning

## b) Authority.

#### Reason for approval

The applicants have satisfied the Council that the site cannot be economically reused for employment purposes. The layout and siting of the dwellings is considered to be acceptable in respect of design, access, parking and noise. The decision has been taken having regard to policies DD1 DD4 DD6 DD7 DD8 DD10 UR8 UR9 EE2 AM11 H1 H4 H5 H6 LR1 NC5 NC9 HE1 HE7 EP7 and SO2

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.

The development hereby permitted shall be built in accordance with the approved plans numbered A107 008 Rev C received 28 January 2008 unless otherwise agreed in writing by the Local Planning Authority.

#### 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.
- Development shall not begin until an arrangement for the provision of on site affordable dwellings as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme. The scheme shall include:

   a) The numbers, type and location of the site(s) of the affordable housing provision to be made;
  - b) The timing of the construction of the affordable housing;

c) The arrangements to ensure that such provision is affordable for both initial and, subsequent occupiers of the affordable housing; and

d) The occupancy criteria to be used for determining the identity of prospective and successive occupiers of the affordable housing, and the means by which such occupancy shall be enforced.

- 4. Development shall not commence until an arrangement for the provision of off site public open space and play area improvements has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
- 5. Development shall not commence until an arrangement for the provision of off site ecological enhancement and traffic regulation order for Northfield Road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
- 6. 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.

- 7. None of the buildings on the site shall exceed 11m in height as measured from the finished floor level of the building.
- 8. 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.
- 9. 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.

- 10. 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.
- 11. 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.
- 12. 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 an approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.
- 13. 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 an approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details.
- 14. There shall be no external lighting to the northwest (canal) elevations of plots 17 to 40.
- 15. 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.

- 16. 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.
- 17. The development hereby approved shall first commence until a scheme for protecting the proposed dwellings from noise from traffic noise and the adjoining industrial buildings to the south east has been submitted to an approved in writing by the local planning Authority, and all works which form part of the approved scheme shall be completed before any of the dwellings hereby approved are first occupied.
- 18. 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.
- 19. 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.
- 20. 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.
- 21. 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.
- 22. 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.
- 23. 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.

- 24. 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.
- 25. There shall be no structures or landscaping above 600 mm within 2m of the Highway boundary.
- 26. 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.
- 27. Notwithstanding the details shown on the approved plan the vehicular access road within the site shall be no less than 5.5m wide, and the pedestrian footways shall be no less than 2m wide.
- 28. Notwithstanding the details shown on the approved plans the internal dimensions of the garages shall be no less than 6m in depth and 3m in width.
- 29. All parking spaces which adjoin a wall, building or structure shall be no less than 3m wide, or 3.2m wide where pedestrian access is also required.







