

PLANNING APPLICATION NUMBER: P20/1306

Type of approval sought	Full Planning Permission
Ward	Upper Gornal and Woodsetton Ward
Agent	Miss V. Lane
Case Officer	Richard Stevenson
Location:	LAND AT BOURNE STREET AND CEDAR AVENUE, COSELEY, DUDLEY
Proposal	ERECTION OF 72 DWELLINGS WITH ASSOCIATED OPEN SPACE, INFRASTRUCTURE AND ASSOCIATED WORKS
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The site comprises a former quarry and tip extending over approximately 2.8 hectares which was in-filled from the early 1950s until the mid-1980s, with the finished levels generally reflecting those of adjoining rear gardens. The site is surrounded on all sides by post-war, semi-detached dwellings in Elmdale Road, Hockley Road, Cedar Avenue and Bourne Street. The site main access is off Bourne Street between the existing dwellings. The access is enclosed by metal galvanised palisade fencing with gates set back from the highway. The site also has a secondary access off Cedar Avenue (located between No. 1 Cedar Avenue and 28 Hockley Road).
2. The site levels fall from north to south by approximately 8 metres and also fall in level from west to east by approximately 6 metres. The access into the site is initially tarmac, leading to grass/bare ground fringed with scrub and some self sett trees which have established since infilling was completed.
3. The site is located within a predominantly residential area characterised by post-war semi-detached dwellings. Located immediately opposite the access to the site to the

west is Turls Hill, an area of natural green grazing land and Hurst Hill Wood. Turls Hill is designated as Green Belt, an Area of High Historic Landscape Value (AHHLV) and a Site of Local Importance for Nature Conservation (SLINC).

PROPOSAL

4. This is a full application for the erection of 72 dwellings, together with modified access from Bourne Street, a cycle way and emergency access from Cedar Avenue, together with an on-site nature conservation mitigation area, areas of open space and flood attention features.
5. Ten of the dwellings would have two bedrooms, 58 would have three bedrooms with the remaining 14 units having four bedrooms. Parking will be mostly located to the front or to the side of the proposed dwellings. All the accommodation within the site will be of two storey scale.
6. Levels will be adapted within the site to accommodate remediation, drainage and flood risk alleviation, which would require the provision of retaining structures, some within the site, but also adjacent to neighbouring gardens, most notably in the southern and south-eastern part of the site.
7. During the course of the application the number of residential units in the development has been reduced from 79. In addition, the western part of the site is now to be left undeveloped so that it can provide on-site nature conservation mitigation.
8. There have also been modifications to the site layout to accommodate issues raised by Highways and Urban Design Officers, as well as to ensure that a satisfactory relationship can be provided within adjoining neighbours. The latter has been demonstrated in the form of cross section drawings through the site.
9. The application has been accompanied by a number of supporting documents including;

- A Design and Access Statement
- Planning Statement
- Geotechnical information, which has been updated
- Flood Risk Assessment and Drainage Strategy, which has been updated
- Coal Mining Risk Assessment
- Transport Statement
- A Travel Plan
- Tree Survey
- Ecological Assessments
- Construction Management Plan

10. It should be noted that there is an extant outline permission for residential development on the site which was allowed on appeal for up to 100 dwellings. This permission does not expire until Spring 2022.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P04/1332	Erection of 36 dwellings with associated infrastructure	Refused	13/10/05
P10/1245	Residential Development (outline) (access to be considered)	Refused	23/06/11
P17/0184	Outline application for residential development for up to 100 dwellings (access to be considered)	Allowed on Appeal	13/3/19

11. Planning application P17/0184 was refused by the Development Control Committee against officer recommendation with reasons for refusal relating to highway safety and land contamination. A subsequent appeal was allowed with full and significant costs being awarded to the applicant against the Council.

12. As indicated above, the outline planning permission for the site is still live and confirms the principle of residential development within as acceptable. The Secretary of State assessed the issues of site land contamination and highway safety when considering the appeal, which had been the concerns of the Development Control Committee.
13. The above application differed from the current application, being outline, rather than full as now proposed, it proposed significantly more dwellings including apartments and did not provide a detailed site layout, levels, details of design, landscaping and remediation proposals.

PUBLIC CONSULTATION

14. During the first round of statutory consultation, 81 letters of objection were received following letters to 120 adjoining neighbours, the posting of a site notice and the publication of an advert within a local newspaper. A further full round of consultation was carried out following the receipt of revised plans and remediation proposals, with a further 87 letters of objection being received. Additionally, two letters of objection have been received from the Local Member of Parliament and three letters from local ward members. The main issues raised relate to the following matters;

Land Contamination, Stability and Public Health

- Previous use as a tip which included the deposition of toxic and hazardous materials including heavy metals and asbestos
- There has been a smell of gas from the site
- Redevelopment of site would release the toxic and hazardous materials, including heavy metals and asbestos
- Potential for underground fires from the tipped material
- Reference made to a site in Coseley where there is land contamination
- Concerns about children playing within gardens
- Potential long-term health issues from the site
- Will make health conditions worse?

- Levels of Toxicity above safe levels
- Have no confidence in survey work that has been carried out
- Previous use of site for mining, including shafts within site
- Claimed deficiencies/mistakes with submitted geotechnical information
- Methane levels within the site are increasing
- Reference made to methane explosions in 1913 and 1980s.
- Capping does not prevent people from digging within gardens
- Other sites which have been developed in the Borough are not representative as they are former industrial sites and not tips and reference is made to the second MP letter which was shared with residents suggesting concerns be raised.

Highways issues

- Roads within the estate are too narrow
- Current problem with speeding traffic along Bourne Street
- Bourne Street is congested
- Current problem with speeding traffic along Bourne Street
- Traffic calming does not address problems elsewhere on the network, i.e. Tipton Road
- Issues with visibility from the proposed accesses
- High number of road traffic accidents to Bourne Street

Drainage Issues

- Flood risk to dwellings in Cedar Avenue
- Existing issues with sewage capacity within the area
- Increase in surface water runoff due to hard surfaces

Infrastructure

- Current issues with GP capacity within the area
- Issues with school places within the area, there is currently a waiting list for local school

Nature Conservation and Invasive Species

- Loss of habitat/impact to nature conservation

- Loss of SLINC
- Impact to protected species (i.e. Bats, Hedgehogs, Badgers)
- Japanese Knotweed within site
- Loss of Trees and Trees already removed from site
- Photograph of an amphibian submitted
- Some want trees removed from site

Design and Amenity

- Loss of privacy from overlooking
- Design and layout is out of character with the surrounding area
- Disruption from construction, i.e. dust, noise
- Security issues to rear boundaries

Other Matters

- Previous applications have been refused
- Site should be used a park/public open space
- Disruption from construction, i.e. dust noise
- Planning Inspectorate should not have given planning permission
- Dwellings will not be mortgageable, due to previous use
- Perceived housing shortage
- Impact to human rights
- No one will be able to afford the houses
- Reference to Miami building collapse and Grenfell
- Noise/damage from pile driving/ground compaction
- Note initial objections from the Urban Designer and from the Highway Authority

15. Additionally, seven further letters were received but have been discounted as the representations were not duly made.

OTHER CONSULTATION

16. Head of Planning and Regeneration (Highway Engineer): No objection, subject to conditions controlling visibility splays to Bourne Street, together with the provision of

traffic calming to Bourne Street. Satisfied that the non-motorised access from Cedar Avenue provides appropriate emergency access. Car parking levels and locations within the development is considered to be satisfactory.

17. Head of Planning and Regeneration (Land Contamination Team): No objection, following the receipt of the updated 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd. Whilst the previous Outline application was approved at appeal, this application is a new Full application, hence a substantially greater amount of information was required to support residential development at the site. The techniques employed in the investigation and proposed remediation of this site are recognised industry standards for many sites within the Dudley borough and across the UK. In addition, relative to the future users of the site, appropriate mitigation measures have been put forward. Also, there are appropriate measures to mitigate any perceived risks to surrounding residents during the redevelopment of the site, which was a key requirement of the Remediation Strategy. Appropriate conditions are required.
18. Head of Planning and Regeneration (Urban Design): A number of recommendations have been taken up by the applicants following initial comments. Whilst some areas of concern remain, it is accepted that this has to be balanced against the constraints within the site and to provide nature conservation mitigation.
19. Environmental Safety and Health: No objection, subject to conditions relating to dust control and air quality.
20. Lead Local Flood Authority: No objection, subject to conditions. Consider the proposed sustainable drainage is satisfactory. The applicant has also demonstrated that development would not compound any exiting drainage issues in relation to properties to Cedar Avenue.
21. Severn Trent Water: No objection, subject to drainage conditions.

22. Environment Agency: No objection, subject to conditions relating to ground water protection.
23. Coal Authority: No objection, subject to conditions in relation to coal mining and ground stability.
24. West Midlands Police: No objection.

RELEVANT PLANNING POLICY

- National Planning Guidance
Planning Policy Framework (2019)
Technical Guidance to the National Planning Policy Framework (2012)
Planning Practice Guidance (2019)
Community Infrastructure Levy Regulations (as amended) (2014)
- Black Country Core Strategy (2011)
CSP1 The Growth Network
CSP3 Environmental Infrastructure
CSP4 Place Making
DEL1 Infrastructure Provision
HOU1 Delivering Sustainable Housing Growth
HOU2 Housing Density, Type and Accessibility
HOU3 Delivering Affordable Housing
TRAN2 Managing Transport Impacts of New Development
TRAN4 Creating Coherent Networks for Cycle and for Walking
ENV 1 Nature Conservation
ENV 2 Historic Character and Local Distinctiveness
ENV 3 Design Quality
ENV 5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island
ENV 7 Renewable Energy
ENV 8 Air Quality

- Dudley Borough Development Strategy (2017)
 - S1 Presumption in favour of Sustainable Development
 - S2 Planning for a Healthy Borough
 - S3 Renewable Energy
 - S4 Flood Risk
 - S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS)
 - S6 Urban Design
 - S7 Landscape Design
 - S17 Access & Impact of Development on the Transport Network
 - S21 Nature Conservation Enhancement, Mitigation and Compensation
 - S22 Mature Trees, Woodland and Ancient Woodland
 - L1 Housing Development, extensions and alterations to existing Dwellings
 - L3 Provision of Affordable Housing in New Developments
 - L4 Type, Tenure and Location of Affordable Housing in New Developments
 - D2 Incompatible Land Uses
 - D3 Contaminated Land
 - D4 Unstable Land
- Supplementary Planning Guidance/Documents
 - CIL Charging Schedule (2015) (updated 2017)
 - Design for Community Safety Supplementary Planning Guidance (2002)
 - Nature Conservation Supplementary Planning Document (2016)
 - New Housing Development Supplementary Planning Document (2013)
 - Parking Standards Supplementary Planning Document (2017)
 - Planning Obligations Supplementary Planning Document (2016)

ASSESSMENT

25. The main issues are
- Principle/Policy
 - Design and Layout
 - Neighbour Amenity
 - Occupier Amenity

- Access and Parking
- Land Contamination and Remediation – General
- Land Contamination – Ground Water
- Coal Mining
- Ground Remediation Techniques
- Trees
- Nature Conservation
- Flood Risk
- Air Quality
- Open Access Land
- Renewable Energy
- Air Quality
- Impact to Local Infrastructure
- Planning Obligations
- Financial Material Considerations
- Other Issues

Principle/Policy

26. The planning system is underpinned by the NPPF, which maintains a presumption in favour of sustainable development. This includes ensuring that planning decisions are plan led and that Local Planning Authorities proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs.
27. The site is designated for housing (HO.17) within the adopted Dudley Borough Development Strategy (2017). Policy HOU1 of the BCCS seeks to ensure the delivery of 63,000 houses. 2,556 houses of the overall total will be delivered outside of the designated Growth Network. The application site lies outside of the Growth Network.

28. The site forms part of the Strategic Housing Land Availability Assessment (SHLAA) (2015/16). The site is therefore considered as being available, suitable and achievable for residential development. The fact that the site forms part of the SHLAA and is designated for housing development within the Dudley Borough Development Strategy means that it forms part of the Council's five year land supply.
29. It should also be noted that the site designation is to be carried forward in the emerging Black Country Plan which will replace the current Black Country Core Strategy, as well as the current allocations within the Dudley Borough Development Strategy.
30. The site is also subject of an outline planning permission for up to 100 dwellings, which was granted by the Secretary of State following refusal by the Development Control Committee. The applicants could also rely on this permission until March 2002 to submit the first of the reserved matters applications. This further reinforces why the principle of residential development at the site is acceptable.

Design and Layout

31. The proposed layout of the site is built around a loop road which is in general accordance with the indicative plans submitted with the outline application. The loop road concept has the advantage of enabling a perimeter block or modified perimeter block to be provided which is model form of urban design, but also serves a secure by design purpose and allows for less wide roads to be provided than would be the case otherwise.
32. In this case the applicants, subject to the constraints offered by the site, caused by mine shafts, opencast mining areas with an effective no build ridge through the site and badger setts, have best tried to conform to this concept. This includes providing a garden to garden arrangement with existing dwellings to the north, east and south (albeit with nature conservation mitigation between) as this provides more privacy and is more appropriate from a security point of view. Again, with the constraints

within the site, the applicants have also managed to generally reflect this arrangement within the loop road.

33. Dwellings to corner plots have generally been designed to be dual aspect, which improves natural surveillance and therefore follows good secure by design practice.
34. There are some parts of the site internal frontage which have wider areas of car parking, however, the parking spaces are generally interspersed by soft landscaping every four spaces which goes some way to reducing dominance.
35. The house types are considered to be acceptable and are similar to the ones which the developer has used at a site currently being built in Brierley Hill, that offer variety and detailing, including the use of porches and soldier courses above window openings. The variety of roof types, whether conventional gables or hipped roofs adds more interest to the roofscape.
36. It is noted that neighbours have concerns that area is defined by semi-detached dwellings and as such the proposed development, with its wider variety of house types could be out of keeping. This could be considered to be true in terms of immediate surroundings, however, the development will not be specifically viewed in this way with the site setting its own internal context. In the wider area which includes infill developments such as Helmsdale Way and Andersleigh Road, and further north on Bourne Street, there is a more varied streetscape. It is apparent that the wider area includes terrace dwellings as well as flatted housing which forming part of a 1960s housing renewal scheme. Additionally, Policy HOU2 – Housing Density, Type and Accessibility of the BCCS requires developments of more than 15 dwellings to include a variety of house types to meet local need.
37. The western part of the site is to remain undeveloped as this will act a nature conservation mitigation and off-set area to maintain protected species. This also allows for the best tree specimens to be retained within the site. Public access is not expected to this area, as with other sites such as the former Longlands development Stourbridge. Other soft landscaped areas are to be provided around the proposed

drainage ponds and swales which typically form part of newer larger housing schemes due to the need to provide on-site sustainable drainage. These areas will also have considerable nature conservation benefits.

Neighbour Amenity

38. A number of residents have expressed concerns about overlooking and loss of privacy from the proposed development, particularly in relation to proposed ground level increases, chiefly in the south eastern part of the site, closest to existing dwellings to Cedar Avenue.
39. The Council has long established separation distance requirements which are attached at Appendix 1 of the adopted New Housing Development Supplementary Planning Document. For example, there is a requirement of a 22m separation between opposing habitable room windows where there is no significant change in levels, rising to 28m where there is significant change in ground levels.
40. With regard to Elmdale Road, to the north of the site where properties are slightly higher, or fairly close to that of the site, the separation distances run between 29m and 60m which are in excess of minimum separation distances. Similarly, to the east of the site (Cedar Avenue) separation distances are typically around 40 to 50m, which again, are well in excess of the minimum separation distance requirements.
41. As noted above, ground levels are being raised along the southern/south eastern boundary (also to Cedar Avenue) with the provision of a retaining structure at the boundary. There would be in the region of a 29m to 31m separation distance in this location, which would, relative to the change in levels, be in line with the adopted standards. Moreover, the provision of appropriate boundary treatments would reduce potential overlooking from gardens to adjoining residential properties.
42. The applicants have satisfactorily demonstrated compliance with these separation distances through the submission of a selection of cross sections which are

appended to this report and will be included within the officer presentation to the Development Control Committee.

43. There are no separation issues regarding the dwellings facing onto Bourne Street and the vast majority of Hockley Road, as this area is to remain undeveloped in that it would be used for nature conservation mitigation.
44. From an amenity and privacy perspective, it is not considered that surrounding residents would not be adversely affected, given that the proposed development would comply with the Councils adopted standards.

Occupier Amenity

45. The application site is located within an essentially residential area and positioned away from any principal highways with elevated background noise. As such, future residents would not be subject to any undue noise, nor is there any requirement to provide any acoustic treatment to any of the dwellings.
46. Additionally, due to the separation distances between dwellings within the site, and the garden lengths and sizes which generally accord with adopted standards at Annex A of the New Housing Development Supplementary Planning Document, no adverse impacts upon occupier amenity are indicated.

Access and Parking

47. Development Plan Policies TRAN2 and S17 in the Black Country Core Strategy and the Dudley Borough Development Strategy respectively ensure that development proposals should give consideration to highway safety, car parking and non-motorised highway users. Additionally, appropriate weight needs to be given to Paragraph 111 of the NPPF, which states that “Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”

48. Unlike the previous outline approval, there will be only one vehicular access from Bourne Street. The Highway Officer is satisfied that the proposed access would have sufficient visibility, with the conditions proposed by the Secretary of State to be reimposed.
49. The Highway Officer has again required the provision of traffic calming to Bourne Street, as it recognised there have been persistent issues with vehicles traveling above the speed limit, which the proposed traffic calming would seek to address. This is a matter that has been noted through the neighbour notification process and the same traffic calming is proposed to the design required by the Secretary of State when he considered and allowed the appeal.
50. The provision of the non-motorised access from Cedar Avenue is considered to be acceptable, in that it would promote more sustainable travel and improve permeability by providing more direct cycling (DBDS Policy S18) and walking routes to local facilities. Moreover, this access will also serve as an emergency access route into the site should it ever be required.
51. The road layout within the site forms a loop and follows that shown on the indicative outline planning application plans. The car parking is considered to be appropriate and is in general accordance with the parking Standards Supplementary Planning Document. Therefore, there are no substantive concerns from a highway safety perspective.

Land Contamination and Remediation – General

52. The thrust of planning policy at both a national, regional and local level requires that previously developed land, particularly where vacant, derelict or underused, is prioritised for development over greenfield sites. Given the historic industrial processes which have been undertaken in the Black Country, the redevelopment of derelict and redundant land is likely to result in the remediation of land affected by

contamination and is therefore, an important issue to address when delivering new development.

53. Where a site is affected by contamination, responsibility for securing a safe development rests with the developer and/or landowner. It is therefore vital that land contamination is dealt with properly and in an appropriate manner to ensure that development is 'suitable for use' and does not present any unacceptable risks to people, property or the wider environment. The remediation of land contamination which may affect ground or surface waters must be dealt with in a manner consistent with an established risk management framework.
54. Policy D3 – Contaminated land of the Dudley Borough Development Strategy states that, *“Where it is known or suspected that land contamination is present or the proposed use is sensitive or vulnerable to land contamination, it is necessary for the applicant to provide sufficient, relevant information to enable a proper assessment of the proposal to be made in the determination of an application”*.
55. The application site, like many in the Black Country, has historically been used for coal mining and open cast mining and not uncommonly has then been back-filled, having been used as a tip from the 1950s to the 1980s. Other examples of such sites in the Borough include Middlepark Road and Dark House Lane.
56. From readily available records, from information submitted with both this and earlier applications and by recent site investigations with on-site sampling, it is apparent that toxic materials including heavy metals, hydrocarbons and asbestos have been deposited on the site from the 1950s through to the 1980s. This has also been confirmed by long standing residents in responses to the neighbour notification process.
57. A significant amount of supporting information was submitted with the previous applications, including the outline application which was approved at appeal. However, given that this is full application and due to known ground issues relating to the site, in conjunction with the concerns expressed by residents and elected

representatives, additional and robust information has been required from the requested from the applicants in terms of ground conditions, mitigation and remediation.

58. In considering the information submitted by the applicants, the Council's Contaminated Land Team have needed to consider whether the remediation proposals are adequate to ensure a safe and suitable redevelopment of the site. Firstly, the Team agree that given the nature of the site and the fact that it is surrounded on all sides by existing residential properties, the site should be disturbed as little as possible. In addition, a clean cover layer of imported soils above an anti-dig warning membrane is to be provided to all gardens and landscaped areas, and appropriate protection measures are to be provided to the new dwellings with respect to ground gases. These remediation proposals are similar to those adopted across many other sites within the Dudley Borough and across the UK as a whole as a means of minimising any potential risks from contamination. Appropriate conditions attached to any approval of the application will require the applicant to demonstrate the remediation requirements have been achieved in practice.
59. The applicant has also taken on board concerns raised by both local residents and the Council's Contaminated Land Team about any potential risks to surrounding residents during the redevelopment of the site. Environmental management controls have been proposed to minimise and mitigate any construction impacts on the local environment (such as dust, noise and vibration). These, in addition to the remediation proposals outlined above, offer increased confidence that the site can be made safe and suitable for residential use whilst also minimising any impacts on surrounding residents.
60. It should again be noted when considering this application, that there is an extant outline planning permission for residential development and that the Secretary of State when considering the appeal, gave careful consideration to contamination and concluded *"I therefore find that the contamination on the site could be effectively*

dealt with without harming health, safety or amenity of local residents and future occupants of the proposed development. Subject to the attachment of suitable conditions, the proposed development would therefore comply with policy D3 of the Dudley Borough Development Strategy". The Secretary of State noted in his decision letter that it had been possible to remediate similar sites in Dudley and the wider Black Country. This further reinforces why the principle of residential development at the site is acceptable.

Land Contamination – Ground Water

61. As well as the matters discussed above, consideration needs to be given the protection of ground water, including water courses and aquifers as part of the development of the site. In this case the Environment Agency are the relevant statutory consultee.
62. They are of the view that the site is within a fairly low risk environmental setting in the context of Controlled Waters given the underlying strata. However, the culverted watercourse lies in close proximity to the site too and could thus also be considered a potential receptor at risk from any on-site contamination.
63. They note from the submitted information that parts of the site have been filled by up to 25m. Groundwater is typically encountered at between 8.5 to 11 m below ground level. The soils tested showed some elevated total concentrations for organic and metal contaminants.
64. The Environment Agency are of the view that removal of the infill is not an economical option here and ground water is generally below that of the culverted water course and there are no concerns about the underlying aquifer.
65. They consider that the infilling and stabilisation of all mineshafts and workings will greatly reduce the potential for groundwater movement locally and that the planned above-ground development will lead to reduced infiltration and thus potential pollution migration.

66. Furthermore, they consider that any foundations, whether vibro-compaction or piled, are unlikely lead to specific additional pollution pathways being created in this setting, as these connections have already existed for many decades. As a precaution, the monitoring of perimeter groundwater quality and that of culvert has been requested, however, the Environment Agency raise no objection to the proposed development subject to a number of planning conditions.

Coal Mining

67. The application site like much of the Coseley area, has been subject of a legacy of coal mining, with number of shafts being known to be present within the site. As such, Policy D4 _ Unstable land of the Dudley Bough Development Strategy is of relevance, which requires an applicant to provide sufficient and proportionate information to determine the extent of stability and what works are required to mitigate any potential impact.
68. In this case a Coal Mining Risk Assessment has been submitted with the application which has been assessed by the Coal Authority that are a statutory consultee.
69. The Coal Authority notes that the submitted assessment correctly identifies that the application site has been subject to past coal mining activity. In addition to the mining of deep coal seams, the Coal Authority records indicate that the site has been subject to historic recorded underground coal mining at shallow depth and other unrecorded underground coal mining. In addition, twenty-eight recorded mine entries) are located within, or within 20m of the planning boundary and the site has also been subject to past surface mining activities.
70. The Coal Authority are content that there are appropriate recommendations within the Coal Mining Risk Assessment report, for the carrying out of ground investigations in relation to mine workings and the mine entries within the submission. They content that the report goes on to confirm that these investigations will inform any required remedial measures.

71. The Coal Authority also note that intrusive site investigations should be and undertaken by persons and should be appropriate to assess the ground conditions on site in order to establish the coal-mining legacy present and the risks it may pose to the development and inform any mitigation measures that may be necessary. Therefore, the Coal Authority raise no objection subject to conditions.
72. The Coal Authority note, as part of the amended plans that Plot 68 (formerly Plot 75) has now be repositioned, which as a result means that it will straddle the high wall of the former surface extraction that runs through the site. The submitted remediation strategy does, however, confirm that bespoke foundations (i.e. piling) will be required for those plots straddling the high wall, which will be a matter for the Building Regulations.

Ground Remediation Techniques

73. Following the concerns expressed by local residents in relation the proposed Ground Improvement and stabilisation, the applicant's geo-environmental consultants were requested to provide further information on this matter. The current remediation strategy has highlighted the potential for settlement of the made ground materials below the development and identified a number of options for improving the settlement characteristics of the near surface soils. These have included excavation and re-compaction; dynamic compaction techniques; vibro replacement and surcharging. The possible use of excavation and re-compaction was dismissed in order to minimise the risk of releasing contaminants, odours. The use of vibro replacement was also dismissed as this method could introduce preferential pathways for groundwater and ground gases.
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74. The potential use of dynamic compaction methods and surcharging was therefore highlighted. There are a number of dynamic compaction methods available, each of which work on slightly different principles and therefore some may work better than others in certain ground conditions. Given the known variability of the ground it is not currently known which technique will be the most appropriate for the site in

terms of ground improvement and potential nuisance to local residents. To identify whether a dynamic compaction technique will be suitable a trial would be undertaken to include the placement of vibration monitors on the boundary to measure the ground vibrations being generated by the working plant. The monitors provide direct readings to confirm whether such vibrations are likely to cause nuisance or damage. Should the techniques be shown to cause inappropriate levels of ground vibration alternative techniques will be trialled.

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75. In the situation that dynamic compaction is not appropriate then surcharging can be adopted, in this technique the area to be treated is covered by a 'stockpile' of soil materials at a set height of some 3m. When settlement is substantially complete the surcharge is moved on to the next area and the process repeated. Site won soils would not be used for the surcharge to minimise the risk of releasing contaminants. It would therefore be proposed to use imported clean cover ahead of when it is required, to use as temporary surcharge. With this this technique ground vibrations are minimised.

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76. In relation to concerns regarding possible ground vibrations from the installation of driven concrete piles, again it is not known which piling method is to be adopted as this will also be guided by the results of the mineworkings treatment. If a driven piling method is appropriate for the ground conditions vibration monitoring will again be undertaken to confirm whether the installation of the piles is causing inappropriate ground vibrations. Should this be the case then the piling method can be changed to rotary techniques such as continuous flight auger or bored piles.

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Mineworkings and Mineshaft Investigations and Treatment

77. There are two issues to be addressed with regards to mining, being, the investigation and treatment of mineshafts within the site boundary and the investigation and treatment of shallow mineworkings beneath the house plots and roads.

Mineshafts

78. There are numerous records of mineshafts within the site and where these are considered to be within influencing distance of the site, they will be searched for by

probe drilling. When located they will be treated by drilling and grouting to ensure there are no remnant voids in the former mineshaft column. Where appropriate, a mineshaft cap will be constructed over the located mineshaft. Depending on treatment afforded to each mineshaft, a development stand-off will be established around the shaft where house plots will not be constructed. The mineshaft investigation and treatment works will take place following the site clearance in order to confirm the site layout.

Mineworkings

79. The site investigations undertaken to date have highlighted the potential for shallow workings beneath the site which could present a stability issue to the proposed development if not addressed. It is therefore proposed to investigate the proposed plot areas and roads on a grid pattern to identify any remnant voids (workings) and stabilise them by injecting grout. Once this exercise is complete, the risk of future subsidence due to mineworkings will be minimised. Following the site clearance works, boreholes will be drilled on a regular grid pattern below the proposed roads and house plots. Where workings are identified and high levels of grout injected, the additional boreholes are drilled on a reduced grid to ensure the former workings are fully treated.

Trees

80. Dudley Borough Development Strategy Policy 22 – Mature trees, Woodland and Ancient Woodland states that, where trees are affected by proposed development, the applicant will be required to provide full details of any impact. Proposals involving loss of mature or semi-mature trees will normally be required to include replacement planting.
81. Since the tipping operations at the site ceased a number of years ago, self-set trees became established along with other general vegetation. A number of those trees were removed a few years ago for the undertaking of site surveys, with a Forestry Commission Licence requiring restocking thereafter.

82. A tree survey submitted with the application confirms that the best remaining specimen trees within the site are located to the west of the site, where there are Badger setts. These trees were not previously removed due to the presence and potential disturbance to setts. As it is proposed that the protected species will be retained on site in the same area, these trees will be retained.
83. There are opportunities elsewhere within the site, to provide additional native tree planting which would contribute towards nature conservation mitigation and enhancement. Standard tree protection conditions are therefore proposed in association with landscaping requirements.

Nature Conservation

84. As well as the site being an allocated Housing site within the Dudley Borough Development Strategy (Ref HO.17), the site is also designated as a Site of Local Importance for Nature Conservation (SLINC). This designation does not, however, preclude the development of the site subject to appropriate mitigation or enhancement being put in place, in accordance with Black Country Strategy Policy ENV1 and the NPPF.
85. Due the proposed loss of areas of SLINC the applicant has submitted a series of nature conservation assessments to support the planning application. In addition, an assessment has been provided in relation to Badgers due the known location of setts within the site. These reports have been assessed by the Birmingham and Black Country Wildlife Trust.
86. The existing habitat is described as scrub and grassland habitat with a lower grade of nature conservation value . As the grassland and scrub habitat are covered under the non-statutory site allocation and these habitats should be given an ecological importance of Local, as per CIEEM Guidelines for Ecological Impact Assessment in the UK and Ireland. These means the site overall is no more than of local value.

87. Within the assessment of effects and mitigation measures chapter of the ecological report, it is stated that the development would result in minimal impacts to nature conservation in terms of habitats. Additionally, it is clear from the layout that areas have been provided for mitigation and enhancement particularly to the west of the site (principally required for badgers) as well as a corridor which runs around the northern and eastern parts of the site. However, the wildlife trust consider that details of mitigation and enhancement require further information which should be provided by condition.
88. Overall, the Wildlife Trust are in agreement with conclusions in relation to protected species, including in relation to badgers and the mitigation area to the west of the site. However, they note that badgers within the existing site are likely to have a number of key external foraging areas, one being the Turls Hill SLINC and the other being the site itself. As such, the development will result in the loss of a portion of foraging resource in close proximity to their sett, both temporarily and permanently. The development will retain green space for foraging within the site and the badgers current commuting paths to foraging areas away from the site.
89. It is still likely that once the residential houses are in operation the Badgers will not only use the green space corridors designated for them, they will also be entering gardens and potential building outlier setts within them which could ultimately result in conflict with residents. Ideally future residents should be made aware of their presence prior to moving into the area to reduce this potential conflict. Whilst this matter cannot be conditioned, appropriate notes will be added to any decision notice.
90. The wildlife trust have also suggested that signage to Bourne Street would be appropriate to make drivers aware of badgers commuting across the road to Turls Hill SLINC. This matter can be conditioned.
91. It should be noted that the development will also require a separate consent from Natural England in relation to the Badger sett mitigation works. In recommending approval of the application, regard has been given to there being Badgers on site,

balanced against the public interest test of providing new residential development to meet identified need on an identified housing site.

Drainage

92. Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island of the Black Country Core Strategy, requires that Black Country authorities will seek to minimise the probability and consequences of flood risk by adopting a strong risk-based approach in line with government guidance. Proposals for development must demonstrate that the level of flood risk associated with the site is acceptable in terms of the Black Country Strategic Flood Risk Assessment and government guidance.
93. In particular, larger developments such this should include Sustainable Drainage Systems (SUDs), unless it would be impractical to do so, with an expectation where possible, to reduce surface water flows back to equivalent greenfield rates. In this case the Lead Local Flood Authority (LLFA) as statutory consultee would require that the proposed development can be achieved with no risk of flooding and without increasing flood risk to third parties and if anything, a net betterment.
94. It is known that there are surface water drainage issues within the site, as well as know issues with a number of dwellings which are located on Bourne Street and Cedar Avenue. There is also known to be a culvert that runs under part of the site, and these have been key considerations.
95. As part of the application, sustainable drainage techniques have been incorporated into the development, including the provision of above ground mitigation in the form of ponds and swales, together with the use of storage creates under drives and communal parking areas. Additionally, consideration has been given to neighbours in Cedar Avenue through the provision of a land drain to the southern boundary to capture surface water not intercepted by the sustainable drainage.

96. The development has been modelled on sustainably managed surface water arising from the development up to the 1 in 100 year +30% climate change storm event, with a 10% allowance for future Urban Creep and such the LLFA raise no objection to the proposed development subject to an appropriately worded planning condition.
97. With regard to sewage disposal, Severn Trent Water which are the sewage undertaker have raised no objections in relation to the development, subject to the imposition of their standard planning condition.

Renewable Energy

98. Black Country Core Strategy Policy ENV7 - Renewable Energy requires that residential developments of 10 units or more gross (whether new build or conversion) must incorporate generation of energy from renewable sources sufficient to off-set at least 10% of the estimated residual energy demand of the development on completion. In this case the applicants have asked that the equivalent energy reduction be provided through a fabric first approach. Whilst this is not the preferred preference, this has been agreed previously elsewhere in the Borough as a means of improving the sustainability of the development and reducing the requirements for energy consumption.

Air Quality

99. Environmental Safety and Health overall have no objection in principle to the proposed development in terms of air quality, subject to the imposition of conditions in relation nitrogen dioxide (NO_x) output from gas boilers at the site, together with the provision of in plot electric vehicle charging points, in accordance with our adopted Parking Standards Supplementary Planning Document.
100. Environmental Safety and Health also asked for a dust control condition to be imposed, but given the applicants have submitted a Construction Management Plan, this will be conditioned to ensure that dust during construction is minimised.

Open Access Land

101. The site was designated as Open Access Land under Section 4 of the Countryside and Rights of Way (CROW) Act 1981. It is one of only two such areas in the Borough, the other being the open land around Netherton Church. Initially, Natural England objected to the 2010 application proposals, however, when informed that public access to the site was prohibited and that remediation of the site to facilitate access would necessarily involve removal of all the existing vegetation (upon which the Access Land designation relied) Natural England withdrew its objection to the application. When reconsulted they have advised that the designation under Section 4 of the CROW should not have any weight in the planning process or interfere with the ability to develop the land. This was a view shared by the Secretary of State in determining the earlier appeal.

Impact to Local Infrastructure

102. A number of comments have been received in relation to the impact of the development upon local infrastructure, including a perceived lack of local school places which would be exacerbated by the additional residents, as well as impact to the local health and GP services.
103. The impact upon infrastructure is a material consideration in relation a planning application in accordance with NPPF, the Community Infrastructure Levy (CIL) Regulations and Black Country Core Strategy (BCCS) Policy DEL1 'Infrastructure Provision' and the adopted Planning Obligations Supplementary Planning Document.
104. With regard to education contributions these are payable where there is known to be a deficiency of places within local schools and would normally be levered through a Section 106 agreement. In this case, whilst there is acknowledged short fall of local school spaces, the applicants have, through the submission of a viability assessment (referred to below) and independently assessed by a Council appointed

surveyor, demonstrated that the proposed development would not be sufficiently viable to proceed if the required education contribution were to be sought. This matter was also acknowledged by the Secretary of State in the previous outline approval, which was for significantly greater number of units and that the scheme could only sustain a £5000 contribution.

105. With regard to health and GP services, the Clinical Commissioning Group (CCG) are the relevant health authority statutory consultee when a Development Plan is prepared. This to ensure, that the authority is able to plan services according to local need. The CCG were therefore consulted as part of the Borough Development Strategy to aid planning for health provision when the site allocation for Housing was mandated. Moreover, health is factored into the Community Infrastructure Levy (CIL), however, whilst this development would potentially be liable for CIL, it is located within an area of the Borough where the contribution rate is £0, due to the lower land values.

Planning Obligations

106. Black Country Core Strategy (BCCS) Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.
107. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, to mitigate its impact on the environment, to ensure that the development is sustainable and contributes to the proper planning of the wider area.
108. In determining the required planning obligations on this specific application the following three tests as set out in the Community Infrastructure Levy (CIL) Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development;
- c) fairly and reasonably related in scale and kind to the development.

109. In this case the applicants have submitted a viability assessment which has been independently assessed. In this case it has been determined that the proposed development would not attract any planning obligations because the scheme would offer insufficient return to make any contributions affordable.

Financial Material Considerations

110. Section (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A 'local finance consideration' may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy (CIL).
111. The section does not change the law in any way. It is not a new basis for planning policy, and it remains unlawful for planning permissions to be 'bought'.
112. This proposal would provide 72 houses generating a New Homes Bonus grant of 72 times the national average council tax for the relevant bands.
113. As a residential development, the proposal is liable for CIL, but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required
114. Whilst these matters represent significant sums of money, the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

Other Matters

115. A number of neighbour objections have been raised as part of the statutory publicity as to whether the site should be designated as open space. On the basis the Development Plan designation is as a housing site, the Local Planning Authority has to consider the planning application accordingly. Moreover, the Local Planning Authority is only able consider the planning application that is before it. In any event, the site is in private ownership and is not suitable for use as open space with public access unless remediation of the site had taken place.
116. Comments have been received stating the site would not contribute towards housing need, in that the dwellings would not be mortgageable. However, given that specialist finance can be available, cash buyers could purchase or that the developer could rent as part of build to let or as rented affordable housing, this concern cannot be given any significant weight.
117. Concerns have raised about disruption during the construction process. Whilst this can only be given limited weight the applicants have offered up a Construction Management Plan which seeks to take account of adjoining occupiers, in relation to noise and dust.

CONCLUSION

118. The proposed residential development is considered to be acceptable in principle given the site is an allocated housing site within the adopted Dudley Borough Development Strategy and is the subject of an extant outline planning permission for up to 100 residential units. Access to and from the site, subject to the provision of off-site traffic calming is considered to be acceptable. The provision of parking accords with the adopted standards, and the development is generally considered to be acceptable from a design and amenity point of view, given the on-site constraints. Additionally, the applicants have provided sufficiently robust information in relation to ground gases land contamination, coal mining and ground water pollution for no objection to be sustained on these grounds. Moreover, sufficient nature conservation mitigation measures can be put in place to offset the impact of the development including providing sufficient protection for existing badgers.

Consideration has been given to policies within the Black Country Core Strategy (2013); and the Dudley Borough Development Strategy (2017).

RECOMMENDATION

It is recommended that the application be APPROVED subject to the following conditions:

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
SKM135-PL-01 Rev W Planning layout
SKM135-BTP-01 Rev F Boundary Treatment Plan
KM135-MP-01 Rev E Materials Plan
Cedar-Planning Drawings (Sheet 1-Hipped) A3
Cedar-Planning Drawings (Sheet 2-Brick) A3
Cedar-Planning Drawings (Sheet 3-Brick-Render) A3
Cedar-Planning Drawings A3 - AS Hand
Cedar-Planning Drawings A3 - OPP Hand
Dee Planning Drawings A3 - AS Hand
Dee Planning Drawings A3 - OPP Hand
Dee SA Planning Drawings A3 - AS Hand
Dee SA Planning Drawings A3 - OPP Hand
Grantham Planning Drawings A3 - AS Hand
Grantham Planning Drawings A3 - OPP Hand
Irwell Planning Drawings A3 - AS Hand
Irwell Planning Drawings A3 - AS Hand
Trent Planning Drawings A3 - AS Hand
Weaver Planning Drawings A3 - AS Hand
Weaver Planning Drawings A3 - OPP Hand
9104 - Close Board Fence - Concrete Base Panels-NSD 9104
MSD9001 - Wall Type 1
NSD 9000 Mid-02 - Knee Rail Fence
Geo-Environmental Assessment Report and RMS 19188-REP-003 (Parts A-F)
SKM135-SEC-01 Site Sections
AAC5652_RPS_XX_XX_DR_C_100-01 Engineering layout P08
AAC5652_RPS_xx_xx_DR_C_200 Private Drainage P04
SK06 Bourne Street Traffic Calming Scheme dated 29/06/20 (at appendix F of the Transport Statemnet)
2050-TGW-TR001 Rev A

6407.03 LD 1 of 3 Jul'21

6407.04 LD 2 of 3 Jul'21

6407.05 LD 3 of 3 Jul'21

6407.06 Tree Pit LD Jul'21

Construction Environmental Management Plan, Land off Bourne Street & Cedar Avenue dated February 2021

Unless otherwise required by other conditions attached to this planning permission.

REASON: For the avoidance of doubt and in the interests of proper planning.

3. In accordance with Annex D of 2050-TGW-TR001 Rev A, site clearance and remediation works shall not proceed until Construction Exclusion Zones have been erected to protect the RPAs of the T6-T11, T13-T16, G2-G5 and the portion of W1 which is located to the east of the approved estate road (shown on planning Layout SKM135-PL-01 Rev V). Barriers and ground protection shall conform to clause 6.2 of BS 5837:2012 'Trees in Relation to Design, Demolition and Construction- Recommendations'. Tree protection measures shall not be removed, replaced or amended in any way during construction operations without prior written approval of the Local Planning Authority.

REASON: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with DBDS Policy S22.

4. All excavations to be undertaken within the Root Protection Area (as defined by Clause 4.6 of British Standard BS:5837 – 2012 'Trees in Relation to Design, Demolition and Construction– Recommendations') of any existing trees on site shall be undertaken in accordance with NJUG Guidelines for the Planning, Installation and Maintenance of Utility Apparatus in Proximity to Trees (NJUG Volume 4).

REASON: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with DBDS Policy S22.

5. The existing trees shown to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be agreed in writing by the local planning authority.

REASON: To ensure that those trees and hedges to be retained on the development site are not subject to damage because of either works carried out on site or during the carrying out of such works in accordance with DBDS Policy S22.

6. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall proceed in complete accordance with the details on approved plans:

Detailed landscaping plans 6407.03 LD 1 of 3 Jul'21 6407.04 LD 2 of 3 Jul'21

6407.05 LD 3 of 3 Jul'21

The agreed scheme shall be implemented in accordance with the approved details within the first planting season following the first occupation of the

development, unless otherwise agreed in writing by the Local Planning Authority. 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.

REASON In order to make a positive contribution to place-making and provide a high quality open space is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

7. The development shall not be first occupied until a schedule of landscape maintenance to the areas of open space and any communal areas (excluding private gardens), including details of its implementation for a minimum period of five years from first planting has been submitted to and approved in writing by the Local Planning Authority. The open space and any communal areas shall thereafter be cared for in accordance landscape maintenance scheme.

REASON In order to make a positive contribution to place-making and provide a high quality open space is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

8. The development shall not be first occupied until details of the future management of the open space and any communal areas (excluding private gardens) which are not to be transferred to the Council have been submitted to and approved in writing by the Local Planning Authority. The open space and any communal areas shall thereafter be maintained and managed in accordance with the approved details for the life of the development.

REASON In order to make a positive contribution to place-making and provide a high quality open space is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 - Open Space

9. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking and re-enacting that Order), at no time during the life of the development shall the areas approved for landscaping and open space be used for any other purpose unless otherwise agreed in writing by the Local Planning Authority.

REASON: To preserve the character and visual amenities of the area, in accordance with BCCS Policy ENV2.

10. Boundary walls, fences and railings shown on plan SKM132-BTP-01 Rev D shall be installed in accordance with the approved plans prior to the relevant dwelling being first occupied. Any boundary walls, fences and railings to highway

boundaries shall thereafter be retained for the life of development and shall not be removed or any other alteration carried to them, including the insertion of gates unless otherwise agreed in writing by the Local Planning Authority.

REASON: To preserve the character and visual amenities of the area, in accordance with BCCS Policy ENV2.

11. No development shall commence (excluding ground clearance) until;
 - a) a scheme of intrusive investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
 - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is safe and stable for the development proposed.The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

REASON: In the interests of land stability and public safety and to comply with DBDS Policy D4. (CA)
12. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

REASON: In the interests of land stability and public safety and to comply with DBDS Policy D4. (CA)
13. Unless otherwise agreed in writing by the Local Planning Authority, the development hereby permitted shall proceed in complete accordance with the details approved on plans:
SKM135-SEC-01 Site Sections
AAC5652_RPS_XX_XX_DR_C_100-01 Engineering layout P08
AAC5652_RPS_xx_xx_DR_C_200 Private Drainage P04
unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure the satisfactory appearance of the development and to comply with BCCS Policy ENV2.
14. Site clearance, remediation and construction of the development shall proceed in complete accordance with the approved 'Construction Environmental Management Plan, Land off Bourne Street & Cedar Avenue' dated February 2021 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To protect the amenity of residents in the vicinity of the site during construction of the development and to comply with DBDS Policies D5 and D6.
15. Within the development hereby permitted, no buildings, compounds, structures or enclosures which are required temporarily shall be placed or erected on the site or on adjacent land other than in accordance with the approved details in Appendix 3, Construction Environmental Management Plan dated February 2021 and unless otherwise agreed in writing by the Local Planning Authority (Notwithstanding the provisions of Part 4 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking or re-enacting that Order with or without modification). The compound and other buildings and works shall be removed within 3 months of the last

dwelling being occupied.

REASON: To protect the amenity of residents in the vicinity of the site during construction of the development and to comply with DBDS Policies D5 and D6.

16. Development shall not commence (excluding site clearance and remediation works) until an Economic and Community Development Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall address as a minimum, measures to increase the number of jobs available to local people at the site and the development of initiatives that support activities which will up skill local unemployed people of working age so as to support them into sustained employment. The development shall be implemented in accordance with the approved Statement and operated in accordance with the Statement for the lifetime of the development

REASON: In order to facilitate the creation of local jobs for local people in the interests of economic and community development in accordance with DBDS Policy S1.

17. No dwellings shall be first occupied until details of onsite energy micro generation with an equivalent 10% of the sites energy needs has been submitted to and approved in writing by the Local Planning Authority, unless the applicants can demonstrate that the equivalent reduction in energy use can be achieved through an equivalent fabric first enhancement approach. The onsite micro generation or the equivalent fabric first enhancement shall therefore be installed/constructed in accordance with the approved details. The approved scheme shall thereafter be retained and maintained for the life of the development unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of air quality and climate change and to comply with BCCS Policies ENV7 and ENV8

18. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NO_x emission concentration rate of <40mg/kWh.

REASON: In the interests of air quality and climate change and to comply with BCCS Policies ENV7 and ENV8

19. No part of the development hereby permitted shall be occupied until visibility splays to the new accesses have been provided at the junction with Bourne Street with an 'x' set back distance of 2.4 metres and a 'y' distance of 43 metres. No structure or vegetation exceeding 600mm in height above the adjoining highway shall be placed or allowed to grow within the visibility splay for the life of the development unless otherwise agreed in writing by the Local Planning Authority

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

20. Prior to first occupation all redundant dropped kerbs should be replaced with matching full height kerbs and the adjacent Highway made good.

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

21. The development shall not be first brought into use until details of the access(es) into the site, together with parking and turning area(s) [including details of lines, widths, levels, gradients, cross sections, drainage and lighting] have been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, this includes the vehicular access from Bourne Street and

the emergency access from Cedar Avenue. The development shall be laid out in accordance with the approved details and these area(s) shall thereafter be retained and not be used for any other purpose for the life of the development.
REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

22. No above ground development shall commence until the signage associated with the traffic calming has been installed in accordance with plan SK06 Bourne Street Traffic Calming Scheme dated 29/06/20 (at appendix F of the Transport Statement). The development shall thereafter shall not be fully occupied until the traffic calming has been completed in accordance with plan SK06 Bourne Street Traffic Calming Scheme dated 29/06/20 (at appendix F of the Transport Statement).

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

23. The development shall not be first occupied/used until the electric vehicle charging points have been provided in accordance with the details and locations shown on 'SKM135-PL-01 Rev W Planning Layout' unless otherwise agreed in writing by the Local Planning Authority. The charging points shall thereafter be retained and maintained for no other purpose for the life of the development.

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

24. The development shall not be first occupied/used until the bin collection points to private drives have been provided in accordance with the locations shown on 'SKM135-PL-01 Rev W Planning Layout' unless otherwise agreed in writing by the Local Planning Authority. The bin stores shall thereafter be retained and maintained for no other purpose for the life of the development.

REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.

25. The development hereby permitted should not commence, excluding site clearance and remediation works, until drainage plans for the disposal of foul and surface water flows have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.

REASON: To ensure the site is adequately drained and to comply with BCCS Policy ENV5.(STWA)

26. Notwithstanding the details contained within the ecological assessment, no development shall commence (excluding site clearance) until full details of nature conservation mitigation and enhancement including the management of the nature conservation mitigation areas to the west, north and west of the site have been submitted to and approved in writing by the Local Planning Authority. The approved nature conservation mitigation and enhancement shall thereafter be provided in accordance with a timetable to be agreed in writing by the Local Planning Authority.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

27. Prior to the first occupation or use of the development details of the type and location of bat roost provision on the site shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation or use of the development the agreed provision shall be installed on site and thereafter

maintained and retained for the lifetime of the development.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

28. Prior to the first occupation or use of the development details of the type and location of bird nesting provision on the site shall be submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation or use of the development the agreed provision shall be installed on site and thereafter maintained and retained for the lifetime of the development.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

29. The development shall not be first occupied until details of badger warning signage to Bourne Street has been submitted to and approved in writing by the Local Planning Authority. The signage shall be installed in accordance with a timetable to be agreed by the local planning authority. The signage shall thereafter be retained for the life of the development.

REASON: In the interests of nature conservation enhancement and mitigation at to comply with BCCS Policy ENV1

30. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking or re-enacting that order with or without modification) no development referred to in Schedule 2, Part 1, Classes A, AA, B, C and D or Part 20 Classes AC and AD of that order shall be carried out without the express grant of planning permission.

REASON: In the interests of the privacy and amenity of surrounding residents in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)

31. Surface water drainage works shall be implemented in complete accordance with the approved details contained within AAC5652 - Land off Bourne Street, Dudley Issue 4 (RPS 22/03/21). The scheme shall be thereafter managed and maintained in accordance with the approved details for the life of the development. None of the development shall be occupied until surface water drainage works have been implemented in accordance with the approved details.

REASON: in the interests of sustainable drainage and comply with BCCS Policy ENV5.

32. The development hereby approved shall proceed in complete accordance with Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd, dated 27 May 2021 unless otherwise agreed in writing by the Local Planning Authority.

REASON: To ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

33. Following implementation and completion of the approved remediation scheme as required by condition 33 above and prior to the first occupation of the development or an individual dwelling a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: To ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

34. Prior to the commencement of construction works (excluding site clearance), the additional investigation and treatment of contaminated hotspot areas as detailed within the 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd, dated 27 May 2021 must be undertaken, and a verification report shall be submitted to and approved in writing by the Local Planning Authority.

REASON: These details are required to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

35. Following the investigation and remediation of those areas required by condition 35 above, remediation of the site must be undertaken in complete accordance with the Remediation Strategy as detailed within the 'Geo-Environmental Assessment Report and Remediation Strategy' by Travis Baker Geo-Environmental Ltd, dated 27 May 2021 unless otherwise agreed in writing by the Local Planning Authority. Furthermore, no part of the development shall be brought into use or individual dwelling first occupied until the relevant verification report(s) have been submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.

REASON: These details are required prior to ensure that the risks associated with any contamination and ground gases/vapours are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

36. The Environmental Management controls as detailed in Section 12.0 of the 'GeoEnvironmental Assessment Report and Remediation Strategy' by Travis Baker GeoEnvironmental Ltd, dated 27 May 2021 must be employed for the duration of the redevelopment of the site unless otherwise agreed in writing by the Local Planning Authority.

REASON: In the interests of protecting the amenity of neighbouring property and to comply with BCCs Policy ENV8.

37. In the event that contamination is found at any time when carrying out the approved development, which was not previously identified, development shall STOP on that part of the site affected by the undiscovered such contamination and it must be immediately reported in writing to the Local Planning Authority. An additional investigation and risk assessment must be undertaken and where remediation is necessary, a remediation scheme must be prepared, which shall be submitted to and approved in writing of the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing

by the Local Planning Authority.

REASON: To ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.

38. No materials other than those indicated on the KM135-MP-01 Rev E Materials Plan shall be used without the approval in writing of the Local Planning Authority.

REASON: In the interests of the visual amenities of the area and to comply with BCCS Policies CSP4 - Place-Making and ENV2 - Historic Character and Local Distinctiveness and

Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)

39. Prior to the commencement of development (excluding site clearance) the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

a) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site

c) The site investigation results and the detailed risk assessment (b) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken

d) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To prevent the pollution of Controlled Waters, notably the underlying Secondary A groundwater aquifer and the Swan Brook and to comply with BCCS Policy ENV5.(EA)

40. Prior to the occupation of any part of the permitted development], a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met.

REASON: To ensure that any remedial works where required are completed to a satisfactory standard and to comply with BCCS Policy ENV5. (EA)