

PLANNING APPLICATION NUMBER:P08/1544

Type of approval sought	Full Planning Permission
Ward	St. Thomas's
Applicant	Mrs J. Matty
Location:	3, BIRMINGHAM STREET, DUDLEY, DUDLEY, WEST MIDLANDS, DY2 7AJ
Proposal	CONVERSION OF EXISTING OFFICES INTO 8 NO. APARTMENTS AND ERECTION OF 4 NO. TOWNHOUSES
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

- 1 The site has an irregular shape, and lies at the junction of Birmingham Street and Bourne Street. It contains a two storey flat roofed brown brick building formerly used as offices and a photographic studio which is currently vacant, with a disused warehouse building to the rear, with the sides open at the top and a metal roof. The vehicular access to the site is from Bourne Street, through a narrow opening between the office building and the adjacent residential terrace. The site slopes up from Bourne Street towards the bus station, with the access road, car park and warehouse building being atop a retaining wall at the boundary of the site.

- 2 The site lies adjacent to residential development and Dudley bus station, with commercial premises opposite on Birmingham Street, and the presbytery to St. Joseph's church in St. Joseph's Street to the east.

- 3 The site has an area of 0.08 hectares.

PROPOSAL

- 4 The full planning application proposes the conversion of the office/studio building into 8 apartments, four on each floor, the demolition of the warehouse building and its replacement with three town houses. The apartments would comprise three 2

bed units, one 3 bed unit and four 1 bed units. Each of the houses would have 3 bedrooms. Access would be from Bourne Street for the flats and from St Joseph Street for the proposed houses. The density of the proposed development would be 130 dwellings to the hectare

- 5 The application was submitted with an archaeological survey, air quality assessment and a design and access statement.
- 6 The plans have been amended since submission by deleting one of the plots (plot 1) and reducing the height of another (plot 2) to reduce the impact on nearby neighbours.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
P01/2176	Change Of Use From Office/Photographic Studio And Vacant Building To Residential Use.	Granted	23/06/03
P07/0709	Conversion of existing photographic studio into 8 No apartments and erection of 4 No townhouses (outline)(siting design	Refused	23/05/2007

- 7 Planning application P01/2176 for conversion of the office building on the corner of Birmingham Street and Bourne Street is similar to the present conversion proposal.

PUBLIC CONSULTATION

- 8 1 letter of objection and 1 petition/multi signatory letter received, the main issues raised being:

- Increase in traffic
- Noise from traffic
- Parking problems within the locality
- Loss of Privacy made worse by change in levels
- Loss of light made worse by change in levels

- Vehicles using site will make asthma worse/cause pollution
- Disturbance caused by properties
- Rubbish from site will attract vermin
- Will make existing dwellings vulnerable to crime

OTHER CONSULTATION

- 9 Group Engineer (Development): Request further information in respect of levels, retaining walls and the public right of way. Comments awaited in relation to the amended plans.
- 10 Head of Environmental Health and Trading Standards: No objection subject to Conditions

RELEVANT PLANNING POLICY

- 11 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
 EE3 Existing Employment Uses
 CR13 Residential Development in Centres
 DTC2(xv) Block 25 - Bourne Street/Castle Hill
 H1 New Housing Development
 H4 Housing Mix
 H6 Housing Density
 LR1 Open Space
 LR3 Children's Play Areas
 NC1 Biodiversity
 NC6 Wildlife Species
 NC9 Mature Trees
 NC10 The Urban Forest
 HE1 Local Character and Distinctiveness
 HE3 Castle Hill Special Landscape Heritage Area
 HE4 Conservation Areas
 HE6 Listed Buildings
 HE9 Scheduled Ancient Monuments and Other Sites of National Importance
 HE11 Archaeology and Preservation

Supplementary Planning Guidance/Documents

Dudley Town Centre Area Development Framework

Supplementary Planning Document on Open Space, Sport and Recreation Provision

Nature Conservation Supplementary Planning Document

Historic Environment Supplementary Planning Document

Parking Standards and Travel Plans Supplementary Planning Document

New Housing Development Supplementary Planning Document

Planning Obligations Supplementary Planning Document

PGN3. New housing development

PGN 12. The 45 degree code

ASSESSMENT

- 12 The main issues are
- Principle
 - Design
 - Neighbour Amenity
 - Occupier Amenity
 - Access and Parking
 - Nature Conservation
 - Planning Obligations

Principle/Policy

- 13 The application site is located within Block 25 of the Unitary Development Plan inset map with the preferred uses being B1 office and light industrial and C3 residential. Therefore residential development of the site is acceptable in principle subject to the consideration of all other relevant planning matters.
- 14 Planning application P01/2176 as discussed above was for conversion of the office building on the corner of Birmingham Street and Bourne Street and was similar to the present conversion proposal. Whilst the permission has expired there has been no material change in circumstances since the application was determined.

Design

- 15 The proposal consists of two elements, the conversion of the existing brown brick building and the erection of three 3 storey town houses. The former involves minor external changes such as removal of the entrance to Birmingham Street and reconfiguring an external staircase which are considered to be neutral in terms of their impact.
- 16 In respect of the proposed town houses their design is considered to be acceptable. The proposed dwellings are generally of traditional appearance with arched above some of the windows as well as small storm porches adding detail. The one dwelling is stepped to allow the group to turn the corner, with a two storey bay

window adding interest. The proposed dwellings would be finished mostly in brick although one of the units would be part finished in render. The materials proposed are considered to be acceptable.

- 17 Whilst the proposed dwellings are three-storey, they will have the appearance of two storey dwellings to Birmingham Street due to the acute change in levels.
- 18 The high density of the proposal is accounted for by the conversion of the office building which would not materially affect the character of the area.
- 19 The proposed dwelling nearest to the neighbours has been modified to reduce its mass, and therefore its impact upon these residents. This has been done by providing the living space on the rear part of the second floor which reduces the gable which faces the neighbours.

Conservation Issues

- 20 The application site is located adjacent to the Dudley Town Centre Conservation Area and as such the setting of the development needs to be considered. Presently the portal frame industrial building which has become somewhat neglected does not enhance the appearance of the conservation area. The proposed development is considered to be a significant improvement as the design, scale and materials proposed are more appropriate within a conservation area.
- 21 In respect of Castle Hill which is designated a Landscape Heritage Area, a Conservation Area and contains a Scheduled Ancient Monument, the proposed development would not materially affect views of the castle in the vicinity of the bus station as the site is set below the adjoining street level, and is of superior design.

Archaeology

- 22 An archaeological desktop assessment was submitted with the application. The study suggests that the site remained undeveloped until the early 19th century and was covered by working class housing. This was cleared in the 1930s, with parts of the site redeveloped in the 1970s. As a consequence of 20th century activity nothing of historical interest remains above ground, and anything that is below ground level is unlikely to be any earlier than the 19th century. The Principal Conservation Officer has raised no objection to the proposals.

Neighbour Amenity

- 23 The nearest residential property to the site is located along the southern side of Bourne Street. These houses and their gardens are located 2-3m lower than the application site and most of them have no screen fence or wall other than the retaining wall between their gardens and the application site. To the east of the site is a further dwelling which is accessed from St Joseph Street and has a substantial hedge along the boundary to the application site with a large garden before the house is reached. Therefore no concerns are raised from an amenity point of view.

- 24 The existing warehouse building is located along the rears of 4 properties facing onto Bourne Street, and is set in 1-3m from the top of the retaining wall which is between 2 and 3m high. This building already has a significant effect on day light and outlook for these neighbours.
- 25 The nearest part of the proposed development would be set in 6m from this boundary. Moreover the nearest part of the development would have a much narrower foot print than the existing building and would take up the width of two gardens. However, the building would be taller than the existing one with a maximum height of 9.5m compared to the existing one of 6.8m.
- 26 Modifications have been made to the layout and design to reduce the impact on neighbour amenity, including the removal of the former plot 1 and the reduction in the height/mass of plot 2, by providing a cat slide roof with a dormer on the rear.
- 26 In respect of privacy to the dwellings on Bourne Street the proposed development is not considered to cause harm as the main windows are facing away from them. In addition the full balconies have also been deleted from plots 2 and 3 as this would have caused an unacceptable loss of privacy to neighbours in Bourne Street. The issues about overlooking from the parking area can be dealt with through the provision of a fence, although this area is already overlooked.
- 27 Therefore after careful consideration of these issues the proposed development is not considered to cause any detrimental harm, particularly taking into account the town centre location.
- 28 In respect of the issues raised by the neighbours relating to noise it is considered that the proposed development would cause no more harm than would have been generated from the authorised employment use on the site. Moreover, the Head of Environmental Health and Trading Standards has raised no objection.
- 29 The concerns of neighbours are noted in respect of air quality caused by vehicles entering the site. However, as discussed in more detail below the number of trips that could be generated by the authorised uses would be higher; therefore, any air quality concerns cannot be sustained. Similarly the Head of Environmental Health and Trading Standards has raised no concerns in this respect.

Occupier Amenity

- 30 The three proposed town houses would have their own private garden areas. However, these are significantly below the 11m standard required by PGN 3 – Housing. However, the site is located within a town centre and the same level of amenity cannot be expected in such a location.
- 31 The deletion of plot 1 has now allowed the provision of a private amenity area for the proposed flats for which none was previously proposed. This is considered to be an improvement.

- 32 The site is located close to the bus station and air quality and noise were included as reasons for refusal with planning application P07/0709. However, since the application was determined evidence has been submitted by the applicant which overcomes the previous objections, and the Head of Environmental Health is prepared to condition possible air quality and noise mitigation measures.

Access and parking

- 33 Vehicular access to the site would be from two points. Part of the development would be served by an access from Bourne Street, and the other from St Joseph Street. The former would serve the building to be converted whilst the other would serve the new dwellings.
- 34 Negotiations have taken place with the Group Engineer in relation to the car parking layout and he is satisfied that there is sufficient parking and manoeuvring space within the site, although further comments were awaited following the deletion of plot 1.
- 35 In terms of traffic generation the proposed development would generate fewer trips than the presently authorised development. Moreover, the authorised use of the site would potentially attract HGV movements which need to access the site via unsuitable residential streets.
- 36 The site includes a public right of way which runs between Birmingham Street and St Joseph Street. The proposed development has been sited in a manner which would not have any adverse impact on the right of way. The site also adjoins the route of the proposed metro extension. It is understood that the proposed development would not be adversely affected by the metro, nor would the development prejudice the construction of the metro.

Retaining Walls

- 37 The boundaries to the dwellings in Bourne Street and in part of Birmingham Street consist of retaining walls, reflecting the marked change in levels.
- 38 PPG 14 – Unstable Land makes it abundantly clear that the responsibility of determining if land is suitable for development and safe rests with the developer/land owner. It is not the responsibility of the Local Authority (LPA) to investigate ground conditions unless they propose to develop it.
- 39 However, the stability of the ground in so far as it affects land use is a material consideration to be taken into account. Where development is proposed on land

which the LPA knows is unstable potentially unstable it should consider the ability of the land to be developed and the potential effects.

- 40 Case law confirms that in assessing proposed structures and retaining walls the only material planning considerations relate to visual impact and impacts on residential amenity
- 41 Sections 77 and 78 of The Building Act 1984 provide Local Authorities with powers to take action with respect to dangerous buildings or structures.
- 42 On this basis it is usually inappropriate for planning permission to be refused on the grounds that the structure may or may not be constructed to an appropriate standard. The LPA must have reason to believe there is the potential for instability.

Planning Obligations

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

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

- | | |
|---|-----------|
| • POS Construction | £5550.38 |
| • POS Establishment | £8015.70 |
| • Play Construction | £4259.50 |
| • Libraries | £1974.83 |
| • Public Realm | £5448.30 |
| • Monitoring Fee | £1000.00 |
| • Total Offsite Contribution equates to | £26248.71 |

- 44 There is no requirement for transport contributions as the authorized use on the site would have generated more vehicular movements.
- 45 The written agreement of the applicant to agree these contributions is still awaited.

CONCLUSION

- 46 The proposed development is considered to be of acceptable design, would not have an adverse impact on neighbour amenity, provides sufficient amenity for neighbours and sufficient parking. Consideration has been given to policies DD1 DD4 DD6 DD7 EE3 CR13 DTC2(xv) Block 25 H1 H4 H6 LR1 LR3 NC1 NC6 NC9 NC10 HE1 HE3 HE4 HE6 HE9 and HE11 of the Dudley Unitary Development Plan.

RECOMMENDATION

It is recommended that the application be approved subject to:

- a) The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the POS Construction, POS Establishment Play Construction, Libraries, and Public Realm has been submitted to and agreed in writing by the Local Planning Authority.
- b) The Scheme shall include the method, timing and arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

Reason for approval

The proposed development is considered to be of acceptable design, would not have an adverse impact on neighbour amenity, provides sufficient amenity for neighbours and sufficient parking. Consideration has been given to policies DD1 DD4 DD6 DD7 EE3 CR13 DTC2(xv) Block 25 H1 H4 H6 LR1 LR3 NC1 NC6 NC9 NC10 HE1 HE3 HE4 HE6 HE9 and HE11 of the Dudley Unitary Development Plan.

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 1116/W10, 1116/W11 3560-LOC-003x, 3560-PL-401x, 402x, 403x, 404x, 501x, 502x AND 601x unless otherwise agreed in writing by the Local Planning Authority.

The public right of way shall not be blocked by the development during or after the works in any way, unless otherwise agreed in writing by the Group Engineer.

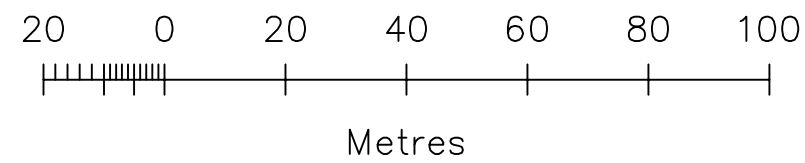
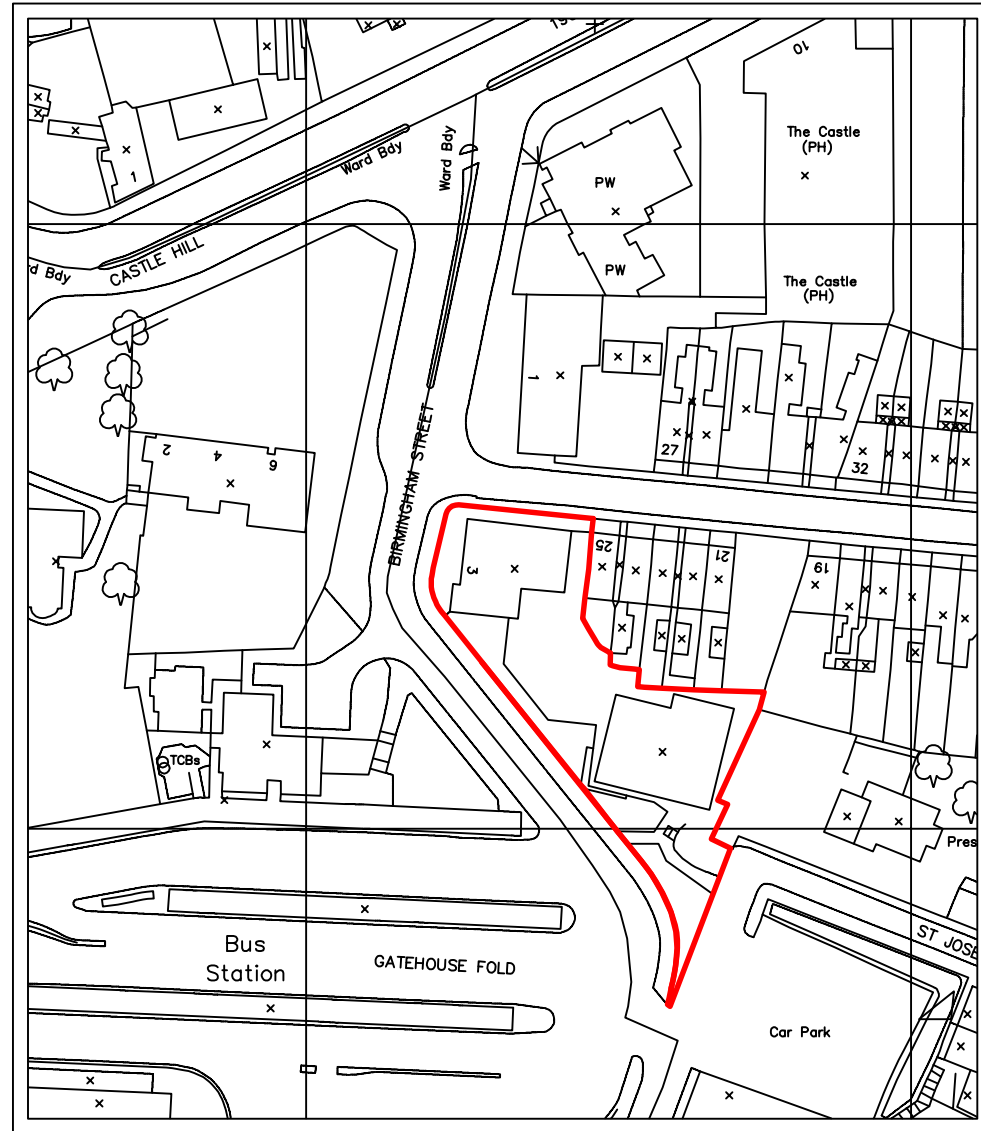
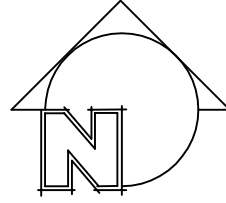
Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Development shall not commence until an arrangement for the provision of off site public open space and play area improvements, public realm and libraries 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.
3. 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.
4. 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 new dwellings 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.
5. 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 District Planning Authority. These details must include, where appropriate, planting plans, written specifications, 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. 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 that 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.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order with or without modification) no development covered by Schedule 2, Part 1, Class A, Class B, Class C or Class E shall be carried out without planning permission granted by the District Planning Authority.
7. The windows to the north (side) elevation of the dwelling on plot 2 of the development hereby permitted shall be non-opening and glazed with obscure glass which shall thereafter be retained for the life of the development.

8. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed with the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of soil gases and vapours that have the potential to pose a risk to human health and the wider environment. Where the investigations identify the presence of soil gases and vapours, 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.
9. Development shall not begin until a scheme for protecting the proposed building from noise from traffic using Birmingham Street has been submitted to and approved in writing by the local planning authority, and all works which form part of the scheme shall be completed before the buildings are occupied, unless otherwise agreed in writing by the Local Planning Authority.
10. No part of the development hereby permitted shall be occupied until parking and turning space has been laid out in accordance with details shown on the approved plans. The parking and turning space shall thereafter be made available at all times and shall be retained for the life of the development.
11. No part of the development hereby permitted shall be occupied until cycle parking has been provided in accordance with details shown on the approved plans. The cycle parking shall thereafter be made available at all times and shall be retained for the life of the development.



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Original drawing size A3

Notes

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3. This drawing must be read with & checked against any structural or other specialist drawings provided.
4. The contractor is to comply in all respects with the current Building Regulations whether or not specifically stated on these drawings.
5. Do not scale from this drawing.

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Mrs Matty
Town Houses
DUDLEY

SITE LOCATION PLAN

Checked:	Drawn: JJB
DATE: July 2008	SCALE: 1:1250

3560-LOC-001