Meeting of the Development Control Committee

Wednesday, 17th November, 2021 at 6.00pm
In Dudley Town Hall, St James's Road, Dudley

Agenda - Public Session
(Meeting open to the public and press)

1. Chair's Announcement.
Let me first inform you that this is a Committee Meeting of the Council, members of the public are here to observe the proceedings and should not make contributions to the decision-making process.

Applications are taken in numerical order with any site visit reports first, followed by applications with public speaking, then the remainder of the agenda. Officers have explained the public speaking procedures with all those present who are addressing the committee. Will speakers please make sure that they do not over-run their 3 minutes.

There will be no questioning by Members of objectors, applicants or agents, who will not be able to speak again.

All those attending this Committee should be aware that additional papers known as the "Pre-Committee Notes" are available to view on the Council's Committee Management Information System (CMIS). These contain amendments, additional representations received, etc, and should be read in conjunction with the main agenda to which they relate. They are fully taken into account before decisions are made.

2. Apologies for absence.

3. To report the appointment of any substitute members serving for this meeting of the Committee.

4. To receive any declarations of interest under the Members' Code of Conduct.

5. To confirm and sign the minutes of the meeting held on 13th October 2021 as a correct record.

6. Plans and Applications to Develop

(a) Planning Application No. P21/1423 – 148 Wolverhampton Street, Dudley – Variation of Conditions 2 and 9 of Planning Permission P19/1312 in Relation to First Floor Windows to Eastern Elevation (Pages 1 - 17)

(b) Planning Application No. P21/0123 – Land Off Old Wharf Road, Stourbridge – Approval of Reserved Matters (Appearance, Landscaping, Layout and Scale to be Considered) for the Erection of 256 No Dwellings (Following Outline Approval P18/0921) (Pages18 - 47)

(c) Planning Application No. P21/1402 – 3 Guardians Walk, Wordsley, Stourbridge – Change of use of Residential Property to a Mixed use of Residential and Childminding (Retrospective) Pages 48 – 56)

(d) Planning Application No. P21/1505 – Former Hippodrome and Adjacent Land and Buildings, Castle Hill, Dudley – Demolition of Existing Buildings and Redevelopment for a Higher Education Facility Together with Associated Access, Car Parking and Landscaping (Pages 57 – 116)

(e) Planning Application No. P21/1568 – Old New Inn, 17 High Street, Brierley Hill, Demolition and Conservation of Existing Building and Erection of New Building to Create 5 Bed HMO and 6 No 1 Bedroom Flats with Associated Works (Pages 117 – 134)

(f) Planning Application No. P21/1819 – Land at the Junction of Steppingstone Street and Greystone Passage, Dudley – Erection of 1 No Dwelling with Associated Works (Resubmission of P21/1063) (Pages 135 – 156)

7. Planning Enforcement – Enforcement Plan Review 2021 (Pages 157 - 190)

8. Planning Services Fees 2022 (Pages 191 - 228)

9. To consider any questions from Members to the Chair where two clear days' notice has been given to the Monitoring Officer (Council Procedure Rule 11.8).

Chief Executive
Dated: 9th November 2021

Distribution:
Councillor A Goddard (Chair)
Councillor D Harley (Vice-Chair)
Councillors D Corfield, M Hanif, S Mughal, C Neale, W Sullivan, E Taylor and M Westwood.

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- Please remember to bring and use your own face masks. The Council has a supply of surgical masks for use in meetings.
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Submitting Apologies for Absence

- Elected Members can submit apologies by contacting Democratic Services (see our contact details below). Members wishing to appoint a substitute should notify Democratic Services as soon as possible in advance of the meeting. Any substitute Members must be eligible to serve on the meeting in question (for example, he/she must have received the training required by the Council).

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If you need advice or assistance

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Minutes of the Development Control Committee
Wednesday 13th October, 2021 at 6.05 pm
In the Council Chamber, Council House, Dudley

Present:

Councillor A Goddard (Chair)
Councillor D Harley (Vice-Chair)
Councillors K Ahmed, D Corfield, M Hanif, C Neale, D Stanley, W Sullivan and E Taylor.

Officers: -

H Benbow (Principal Planning Officer), C Mellor (Planning Manager), P Mountford (Head of Planning and Regeneration), E Napier (Principal Planning Officer), P Reed (Principal Planning Officer), V Stevens (Student Planner), G Breakwell (Solicitor) and K Taylor (Democratic Services Officer).

Also in Attendance: -

12 members of the public

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29. **Apologies for Absence**

Apologies for absence from the meeting were submitted on behalf of Councillors S Mughal and M Westwood.

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30. **Appointment of Substitute Members**

It was reported that Councillors K Ahmed and D Stanley had been appointed as substitute Members for Councillors S Mughal and M Westwood respectively, for this meeting of the Committee only.

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31. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Members' Code of Conduct in respect of any matter to be considered at this meeting.

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32. **Minutes**

Resolved

That the minutes of the meeting held on 13th September, 2021, be approved as a correct record and signed.

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33. **Change in Order of Business**

Pursuant to Council Procedure Rule 13(c) it was: -

Resolved

That the order of business be varied and the agenda items be considered in the order set out in the minutes below.

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34. **Plans and Applications to Develop**

A report of the Director of Regeneration and Enterprise was submitted on the following plans and applications to develop. Where appropriate, details of the plans and applications were displayed by electronic means at the meeting. In addition to the reports submitted, notes known as Pre-Committee notes had also been circulated prior to the meeting updating certain information given in the reports submitted. The content of the notes were taken into account in respect of the applications to which they referred.

The following persons were in attendance at the meeting, and spoke on the planning applications as indicated: -

Application No.	Objectors/Supporters who wished to speak	Agent/Applicant who wished to speak
P20/1834	Mr A Jones	Mr M Saxon
P21/1423	Councillor C Bayton Mr D Wilson – on behalf of objector	Mr R Staien

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(a) **Planning Application No. P20/1834 – 28 Pargeter Street, Stourbridge – Demolition of existing dwelling, and erection of 2 no. dwellings (resubmission of withdrawn application P20/1126)**

Resolved

That the application be approved, subject to conditions numbered 1 to 17 (inclusive), as set out in the report submitted, together with an additional condition, numbered 18, as set out below:-

18. Demolition or construction works shall not take place outside the hours of 07:00 to 18:00 hours Mondays to Fridays and 08:00 hours to 17:00 hours on Saturdays nor at any time on Sundays or Public Holidays.

Reason: To protect the amenities of nearby residents in accordance with Borough Development Strategy 2017 Policy D5 Noise Pollution, Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part).

(b) **Planning Application No. P21/1423 – 148 Wolverhampton Street, Dudley – Variation of Conditions 2 and 9 of planning permission P19/1312 in relation to first floor windows to eastern elevation**

In considering the report, Members took into account the concerns raised by a local Ward Councillor and the Agent on behalf of an objector as outlined in the report and as reported at the meeting, in particular, following the insertion of three windows in bathrooms in the rear elevation of the building, which deviated from the original approved planning application. This had resulted in the deterioration of amenity and privacy to the adjoining properties. Although Officers provided photographs and confirmed that given the windows served non-habitable rooms and were obscurely glazed, there were no planning reasons to refuse the requested amendments, Members requested that officers clarify the positioning of the first floor windows erected to the eastern elevation in order for them to assess the issues raised prior to a decision being made.

Resolved

That the application be deferred pending clarification on the positioning of the first floor windows erected to the eastern elevation.

(c) **Planning Application No. P21/1399 – 22 Linden Avenue, Halesowen – Side and rear extension to provide 1 no. additional care service user (following demolition of existing utility). New single storey outbuilding in rear garden to provide staff meeting facility. Rendering to all extension and new building external walls.**

Resolved

That the application be approved, subject to conditions numbered 1 to 11 (inclusive), as set out in the report submitted.

The meeting ended at 6.58 pm

CHAIR

PLANNING APPLICATION NUMBER: P21/1423

Type of approval sought	Full Planning Permission
Ward	St James's
Agent	Mr R. Staien
Case Officer	Richard Stevenson
Location:	**148, WOLVERHAMPTON STREET, DUDLEY, DY1 3AH**
Proposal	**VARIATION OF CONDITIONS 2 AND 9 OF PLANNING PERMISSION P19/1312 IN RELATION TO FIRST FLOOR WINDOWS TO EASTERN ELEVATION.**
Recommendation Summary:	**APPROVE SUBJECT TO CONDITIONS**

This application was deferred from the previous Development Control Committee to seek clarification in relation to the first floor windows to the rear elevation.

SITE AND SURROUNDINGS

1 The application site includes an area of land to the rear of No 146 and 148/149 Wolverhampton Street on the edge of Dudley town centre. Access is presently through a gap site where No. 147 once stood.

2 No. 146 has a hot food takeaway use to the ground floor with established residential accommodation on the upper two floors.

3 Nos. 148 and 149 are a retail shop and hot food takeaway respectively to the ground floor with residential accommodation above.

4 There is a secondary access through the site to land at the rear owned by Dudley College where it has its motor repair teaching facility. The college buildings here are comparatively modern and have the appearance of small industrial sheds. There is also an area of car parking associated with this use.

5 To the north west of the site are the rear gardens of associated dwellings which face onto The Belper. These dwellings are generally late 19th century and have no off-road parking.

6 The south eastern boundary is to Nos. 150/151/152 Wolverhampton Street, with the boundary consisting of two storey wing to rear of No. 150/151/152, and 3m high wall. No. 150 is shop with residential accommodation and Nos. 151/152 has been converted to residential use.

7 The area to the rear of Nos 146, 148/149 has been developed with three terraced two storey dwellings along the south-eastern (rear) boundary of the site which are finished in brick and render.

PROPOSAL

8 This planning application under Section 73 of the Town and Country Planning Act 1990 (as amended) seeks to vary conditions 2 and 9 of planning permission P19/1312. Condition 2 required the development to carried out in accordance with the approved plans. Condition 9 sought control the insertion of first floor windows in the south-eastern elevation. The reason behind condition 9 was to prevent overlooking of the dwelling (No. 150/151/152) and associated garden to the south, where concerns had been previously expressed by the neighbour.

9 However, three windows that serve bathrooms have been inserted in the rear elevation, which means the application deviates from the approved plans and currently conflicts with condition 9. These windows are comparatively small and have been finished in obscured glazing with top opening lights.

10 This application therefore seeks to regularise these breaches of planning control through a retrospective Section 73 application.

HISTORY

APPLICATION No.	PROPOSAL	DECISION	DATE
DY/65/144	Change of Use to Lock-Up Shop (148 Wolverhampton Street).	Granted	15/03/1965
DB/69/6138	Formation of Vehicular Access (147 Wolverhampton Street)	Granted	12/12/1969
DB/73/11823	Extension to Existing Bakery and Provide Car Park.	Granted	07/06/1973
DB/73/12647	Conversion of Garage into Staff Room and Erection of Sta (147 Wolverhampton Street)	Granted	16/10/1973
DB/73/12734	Erection of Storage Building (Rear of 147 Wolverhampton Street)	Granted	17/10/1973
85/52143	Installation of Shop Front (149 Wolverhampton Street).	Granted	06/05/1986
92/51216	Change of Use from Retail Shop to Hot Food Takeaway (149 Wolverhampton Street)	Granted	08/10/1992
98/50711	Section 73 Application to Vary Condition 4 of Permission (149 Wolverhampton Street)	Dismissed	13/11/1998
P17/0574	Demolition of existing single storey storage units and erection of building to create 14 living units with associated kitchen and dining facilities and create 1 no. flat over the entrance way.	Refused	08-Mar-2018
P18/1218	Demolition of existing storage units and the erection of 4No.	Granted	21-Nov-2018

	dwellings and associated parking		
P19/1312	Demolition of existing storage units and the erection of 4 no. dwellings and associated parking. Alterations to shop frontages. (Resubmission of granted application P18/1218)	Granted	10-Jan-2020

11 As noted above, P19/1312 granted full planning permission for development with the erection of three dwellings to the rear of No 146 and 148/149 Wolverhampton Street and included a standard condition requiring the development to be carried out in the accordance with the approved plans and a further condition which prevented the insertion of first floor windows in the southeastern (rear) boundary of the approved dwellings. The permission included a dwelling over the entrance between Nos. 146 and 148.

12 Planning permission P19/1312 was a modified version of planning permission P18/1218 which had been granted in 2018, the difference being that detached dwellings became linked detached filling the gaps between.

PUBLIC CONSULTATION

13 One letter of objection has been received from the adjacent resident following consultation with 10 adjoining neighbours and the posting of a site notice. Main issues raised:

- Condition was imposed to prevent windows from being installed in elation facing No. 152 and was imposed to protect privacy to dwelling and garden
- Planning condition ignored by developer
- Windows overlook property – have to keep curtains/blinds closed
- Concerns about crime, have had attempted break ins and a burglary
- Windows allow surveillance of house so know when is unoccupied
- Windows should be removed

A further letter has been received from the Community Safety Team which supports this objection on information provided by the neighbour in terms of personal circumstances and recent events.

14 One letter of objection received from one of the ward members, Main issues raised:

- Requests application is presented to Development Control Committee.
- Application has been significantly amended
- Rooms were to be served by rooflights which would have caused no impact
- Windows in inserted in the elevation which faces to the neighbour
- Windows look directly into garden, lounge and kitchen of neighbour.

OTHER CONSULTATION

15 None.

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RELEVANT PLANNING POLICY

- National Planning Guidance
  National Planning Policy Framework (Revised 2021)
  Planning Practice Guidance
  Community Infrastructure Levy Regulations (as amended) (2014)
  National Design Guide (Revised 2021)
  National Model Design Code (2021)

- Black Country Core Strategy (2011)
  CSP1 The Growth Network
  HOU1 Delivering Sustainable Housing Growth
  HOU2 Housing Density, Type and Accessibility
  TRAN2 Managing Transport Impacts of New Development
  ENV 2 Historic Character and Local Distinctiveness
  ENV 3 Design Quality
  ENV 7 Renewable Energy
  ENV 8 Air Quality

- Dudley Borough Development Strategy (2017)

  S1 Presumption in favour of Sustainable Development

  S6 Urban Design

  S17 Access & Impact of Development on the Transport Network

  L1 Housing Development, extensions and alterations to existing Dwellings

  D2 Incompatible Land Uses

  D3 Contaminated Land

  D5 Noise Pollution

- Dudley Area Action Plan (2017)

  Policy 1 Sustainable Development

  Policy 2 Design Quality

  Policy 3 Urban Structure and Built Form

  Policy 4 Sense of Place and Connectivity

  Policy 5 Landmarks, Views, Vistas and Gateways

  Policy 17 Land uses outside Dudley's Primary Shopping Area

  Policy 18 Housing within the Dudley Area Action Plan Boundary

  Policy 21 Conservation and Enhancement of Local Character and Distinctiveness in Dudley

  Policy 28 Walking and Cycling

  Policy 29 Car Parking

- Supplementary Planning Guidance/Documents

  CIL Charging Schedule (2015) (updated 2017)

  Design for Community Safety Supplementary Planning Guidance (2002)

  Parking Standards Supplementary Planning Document (2017)

  PGN 12. The 45 degree code

ASSESSMENT

16 As noted above planning permission (Ref P18/1218) was originally granted amongst other things for the detached two dwellings to the rear of No 146 and Nos.

148/149 by the Development Control Committee in November 2019. This was subsequently amended by further planning permission (Ref P19/1312) which proposed three larger linked detached dwellings, which was determined in January 2020 under delegated powers.

17 The approved plans which were controlled through condition 2, illustrated that no windows would be provided to the rear (south-eastern) elevation which faced towards the rear garden of Nos. 150/151/152. In addition, a further condition (No 9) sought to prevent the insertion of any windows to this elevation without the express grant of planning permission. The reason for the latter condition was to protect the amenity of the neighbour to the south.

18 It came to light that in February 2021 that three windows had been constructed in the rear (south-eastern) elevation which faces towards the rear garden of Nos. 150/151/152. As such the applicants were advised to submit a Section 73 (of the Town and Country Planning Act 1990) application to vary condition 2 (plan numbers) and condition 9 (removal of right to insert windows to rear elevation).

19 The three windows which have been provided to the rear (south-eastern) elevation, each serve a first-floor bathroom, which is considered to be a non-habitable room. Each of the windows is considered to be modest in size and is obscured glazed.

20 It has been ascertained having undertaken a site visit and measured the windows, that units A2 and A4 (the two end units) have a cill height of the opening light at 1.8m above the finished floor level within the respective rooms, meaning that the potential for any outlook from eye level is extremely limited. The level of the opening light is, therefore, slightly above that required by the Government for the insertion of windows in side elevations of buildings to be classified as permitted development, thus preventing potential for overlooking and loss of privacy.

21 It was found however that unit A3, (the middle unit) had a cill level of only 1.5m above the floor level of the bathroom. This being below the level that would constitute permitted development if inserted in a side elevation. As such the

applicant has been advised that this is unacceptable and that the window needs to be replaced with an obscure glazed fixed light. The provision and retention of this requirement can be controlled by planning condition.

22 Given that all three windows in question serve non-habitable rooms and are obscurely glazed with two of the units having top opening lights in excess of 1.7m above the floor level, with a requirement for the third to have fixed obscured glazing, it is difficult to argue that the neighbour to the rear would suffer any significant impact to amenity or privacy, in that any overlooking towards the private rear garden and dwelling would be severely restricted. As such there is no material planning reason why the amendments to the previously approved permission should not be granted.

23 Overall the development which is near completion, is considered to be of an acceptable design and has assisted in regenerating an unattractive and underused site, in a sustainable location close to Dudley town centre.

24 The concerns are noted in relation to crime prevention and crime being a material consideration, however, the provision of a rear garden to rear garden arrangement as proposed, provides added security and is an accepted principle of good urban design practice. The fact that it may be possible to discern if lights were on in the adjacent property is not considered to represent a sustainable reason to withhold retrospective planning permission.

CONCLUSION

25 The changes which have been made to the rear (south-eastern) elevation, subject to a planning condition requiring no further windows to be inserted in the relevant elevation and that the windows are provided with high level lights/fixed lights and obscured glazing, to be retained for the life of the development, are considered to be acceptable from amenity point of view in relation to the neighbour at Nos. 150/151/152. 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 carried out in accordance with the following approved plans:
   SAP.WS.18.07.GA.01B Ground Floor
   SAP.WS.19.06.GA.06.B First Floor
   SAP.WS. 17.04. LP.01-Location Plan
   SAP.WS.18.06.EL.04C Rear Elevations
   SAP.WS.21.04.EL.05C Front Elevations

   REASON: For the avoidance of doubt and in the interests of proper planning.
2. The dwellings hereby approved shall not be occupied until details of the electric vehicle charging points, to be provided for the dwellings in accordance with the Council's standard (Parking Standards SPD), has been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation the electric vehicle charging points shall be provided in accordance with the approved details and shall be maintained for the life of the development.
   REASON: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.
3. The houses shall be occupied 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. The houses shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. 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 Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
4. Notwithstanding the details shown on the submitted plans, no works shall commence to the flat over the entry or to the Wolverhampton Street elevation until details of the detailed designs of the shopfronts, shopfront security, sliding sash windows and entrance doors in the Wolverhampton Street elevation have been submitted to and approved in writing by the Local Planning Authority.

Large scale architectural drawings at 1:5 or 1:10 shall be provided along with details of their proposed colour and finish. Development shall proceed in accordance with the agreed details and be retained for the lifetime of the development.
REASON: To ensure that the Wolverhampton Street elevations are designed to reinforce and enhance local character and distinctiveness in accordance with Policy ENV 2 of the Black Country Core Strategy and Policy S8 of the Dudley Borough Development Strategy and to ensure the shopfronts, signage and shopfront security is in accordance with the Council's adopted Shopfront and Advertisement Supplementary Planning Document and Policy L12 of the Dudley Borough Development Strategy.
INFORMATIVE: Attention is drawn to the design of sash windows used at No.42 Wolverhampton Street. We expect these to be replicated here for new windows to the Wolverhampton Street elevation.

5. No above ground development shall commence in relation to the proposed flat over the entry way between Nos. 146 and 148 Wolverhampton Street, from noise from road traffic has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings, unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development
REASON: To protect amenity of future occupiers and to comply with DBDS Policy D2 Incompatible Land Uses
6. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NOx emission concentration rate of <40mg/kWh.
REASON: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.
7. The houses shall not be occupied until details of the types, colours and textures of the materials to be used in the hard surfacing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority.
REASON: In order to make a positive contribution to place-making and provide a high quality landscaping in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and DEL1 - Infrastructure Provision 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)
This detail is required as landscaping is integral to providing a high quality and sustainable development.
8. The dwellings hereby approved shall not be first occupied until a scheme for the upgrade of the flue to the rear of No. 149 has been submitted to and approved in writing by the Local Planning Authority. The approved scheme which should

have regard to reducing noise, odour and vibration to adjoining residents shall constructed in complete accordance with the approved details and bought in to use prior to the first occupation of any of the dwellings. The flue shall thereafter be maintained in accordance with manufactures guidance/specification for the life of the development. The existing flue to the rear of No.149 shall be removed prior to the occupation of any of the dwellings.
REASON: To protect amenity and comply with DBBS Policies D2 Incompatible Land Uses and D5 Noise Pollution.

9. 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, B, C and D 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).
10. Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (Order) 2015 (England) (or any order revoking or re-enacting that order with or without modification) no additional openings shall be formed in the south western, south eastern or north eastern elevation of the houses to tor the flat over the entrance 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).
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (as amended) (or any order revoking or re-enacting that order with or without modification) the dwellings hereby approved shall be used for no other purpose than as defended by Class C3 of the Town and Country Planning (use Class) Order 1987 (as amended) or any order revoking or re-enacting that order with or without modification)
REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.
12. Notwithstanding the details shown on the approved plans and the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the windows in the south eastern (rear) elevation of the units A2 and A4 (Outside units) facing towards the garden of Nos150/151/152 Wolverhampton Street building shall be:
i) obscure glazed,
ii) and non-opening, unless the parts of the window which can be opened are top hinged and more than 1.7 metres above the floor of the room in which the window is installed.
The windows shall be permanently maintained thereafter as obscure glazed and non-opening.
REASON: In the interests of the privacy and amenity of surrounding residents and in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings.

13. Notwithstanding the details shown on the approved plans and the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the windows in the south eastern (rear) elevation of the units A3 (middle unit) facing towards the garden of Nos150/151/152 Wolverhampton Street building shall be:
    i) obscure glazed,
    ii) and non-opening
    The windows shall be permanently maintained thereafter as obscure glazed and non-opening.
    REASON: In the interests of the privacy and amenity of surrounding residents and in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings.

Application site edged in Red.

Site area 559 sq.m

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0 10 20 30 40

LOCATION PLAN SCALE 1:500

Application site edged in Red.

Site area 559 sq.m

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0 20 40 60

O S EXTRACT PLAN SCALE 1:250

Architecture

STAIEN ARCHITECTURE AND PLANNING CONSULTANTS

House Design
Listed Building Consent
Retail and Commercial developement
3D Visual Concepts

Tel: 07939224651
raystaien@btinternet.com
staienap@btinternet.com

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148 Wolverhampton Street, Dudley. DY1 3AH.

Client:			
Private Client			
Project: Residential redevelopment		Title: Location and OS extract Plan	
Date: April 2017	Scale: as shown	Drg No: SAP.WS.17.04.LP.01	Rev:

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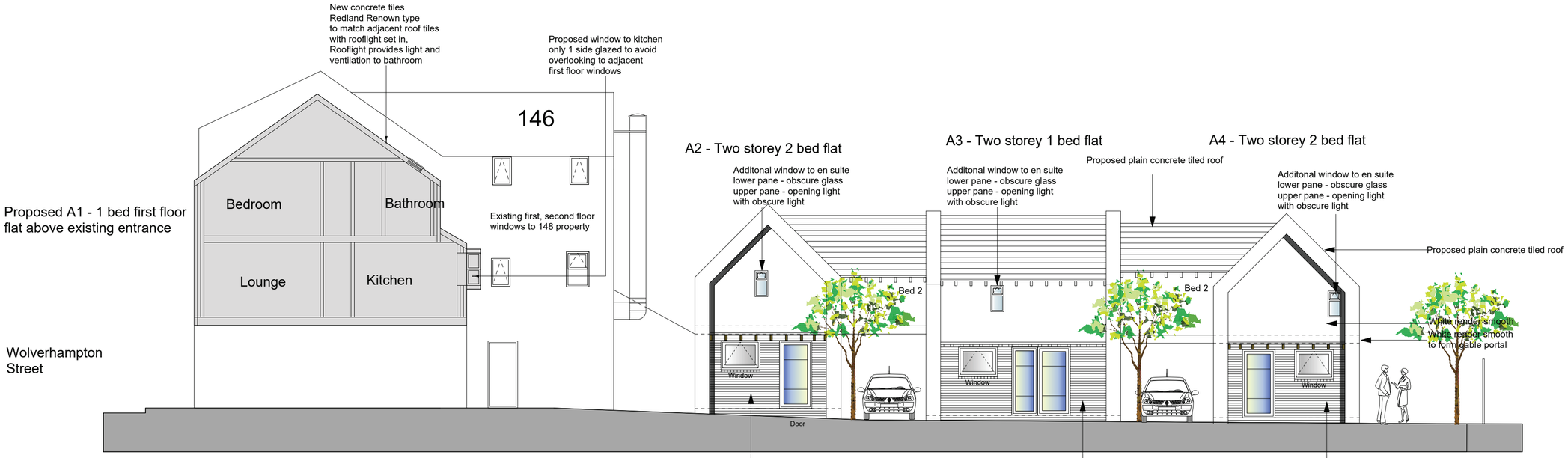
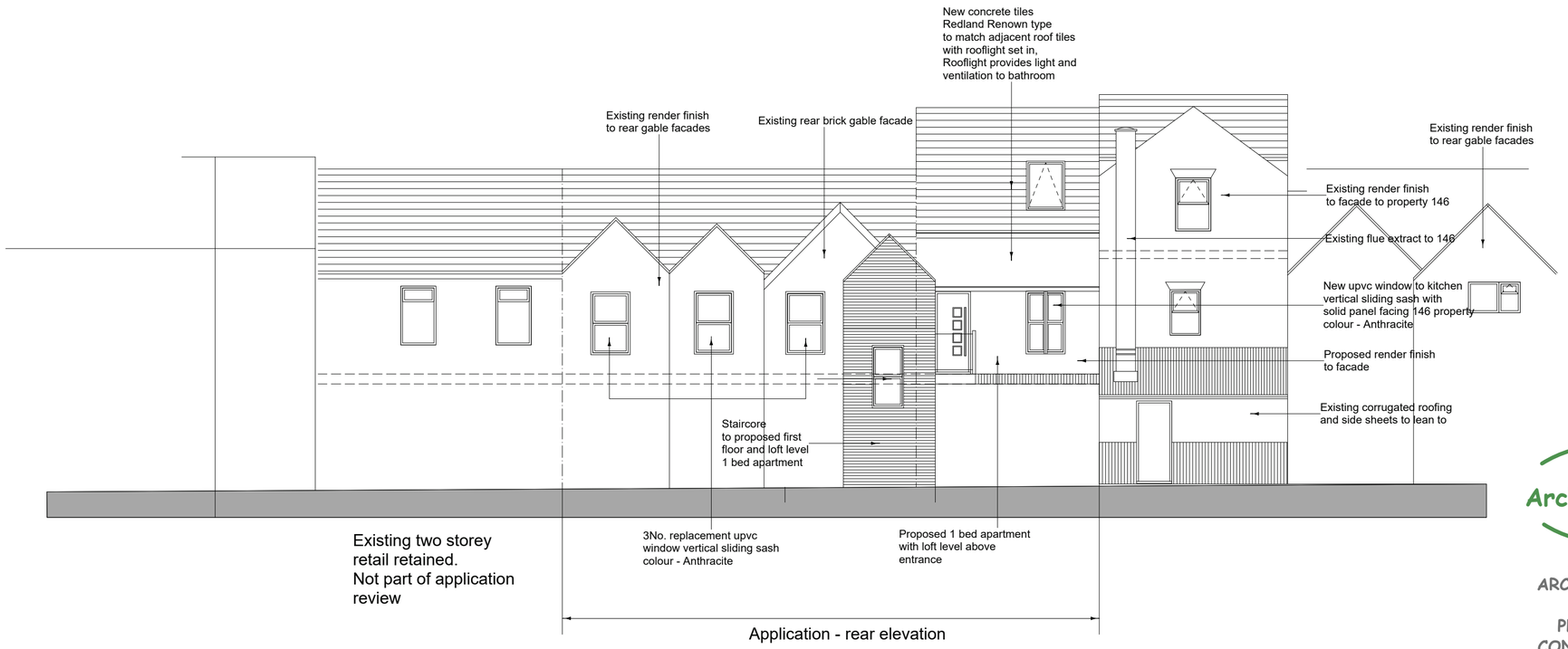


Proposed East facing section/elevation 1 : 100



Proposed Wolverhampton Street rear elevation 1 : 100

Rev C	March 2021	RS En suite windows added to rear elevation
Rev B	Jan 2020	RS Roof lights added to bedroom area
Rev A	Oct 2019	RS Pitched roof added to Kitchen

148 Wolverhampton Street, Dudley. DY1 3AH

Client: Private Client

Project: Planning

Title: Elevations - Rear

Date: July 2018 | Scale: 1 : 100 | Drg No: SAP.WS.18.06.EL.04 | Rev: C

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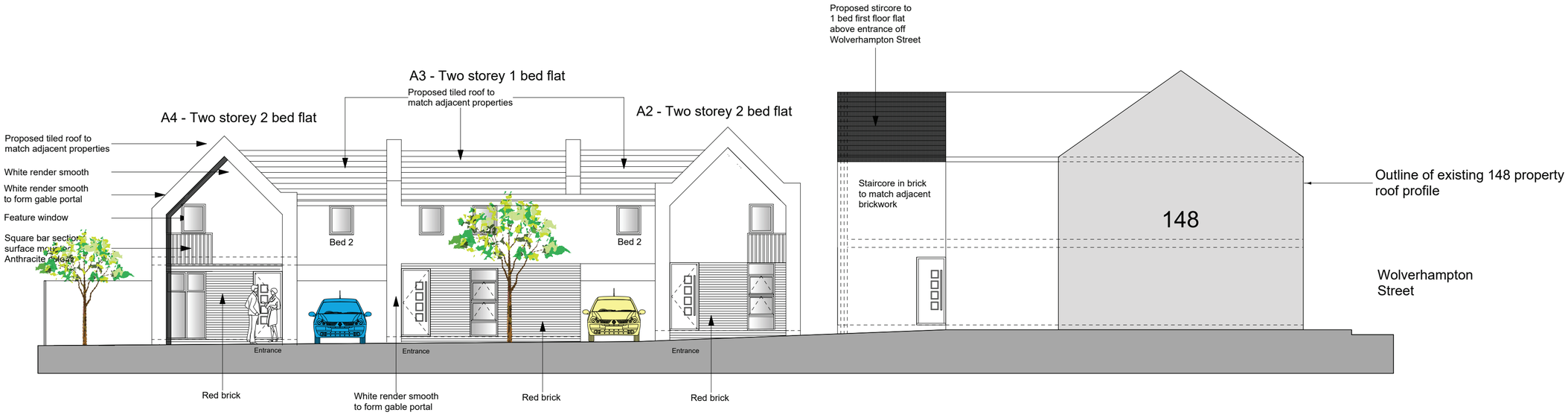
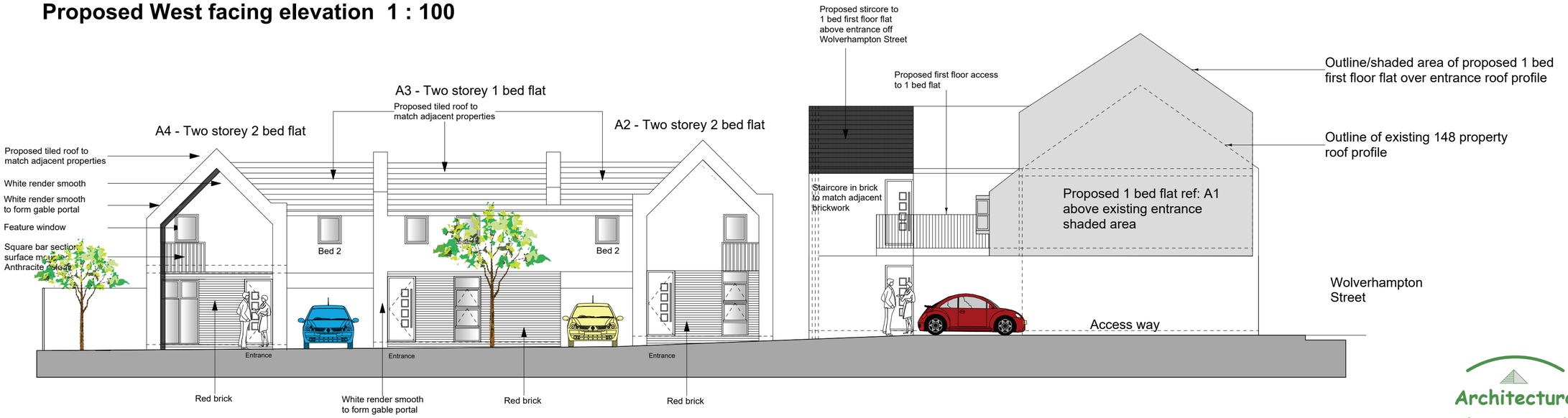


Proposed West facing elevation 1 : 100



Proposed West facing elevation/section through proposed 1 bed flat above entrance 1 : 100

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ELEVATIONS SCALE 1:100

148 Wolverhampton Street, Dudley. DY1 3AH

Rev C	April 2021	RS	Elevation updated to reflect as built
Rev B	Nov 2019	RS	Window positions amended
Rev A	Oct 2019	RS	1 bed flat length amended

Client: Private Client			
Project: Planning		Title: Elevations + Bed 2	
Date: April 2021	Scale: 1 : 100	Drg No: SAP.WS.21.04.EL.05	Rev: C

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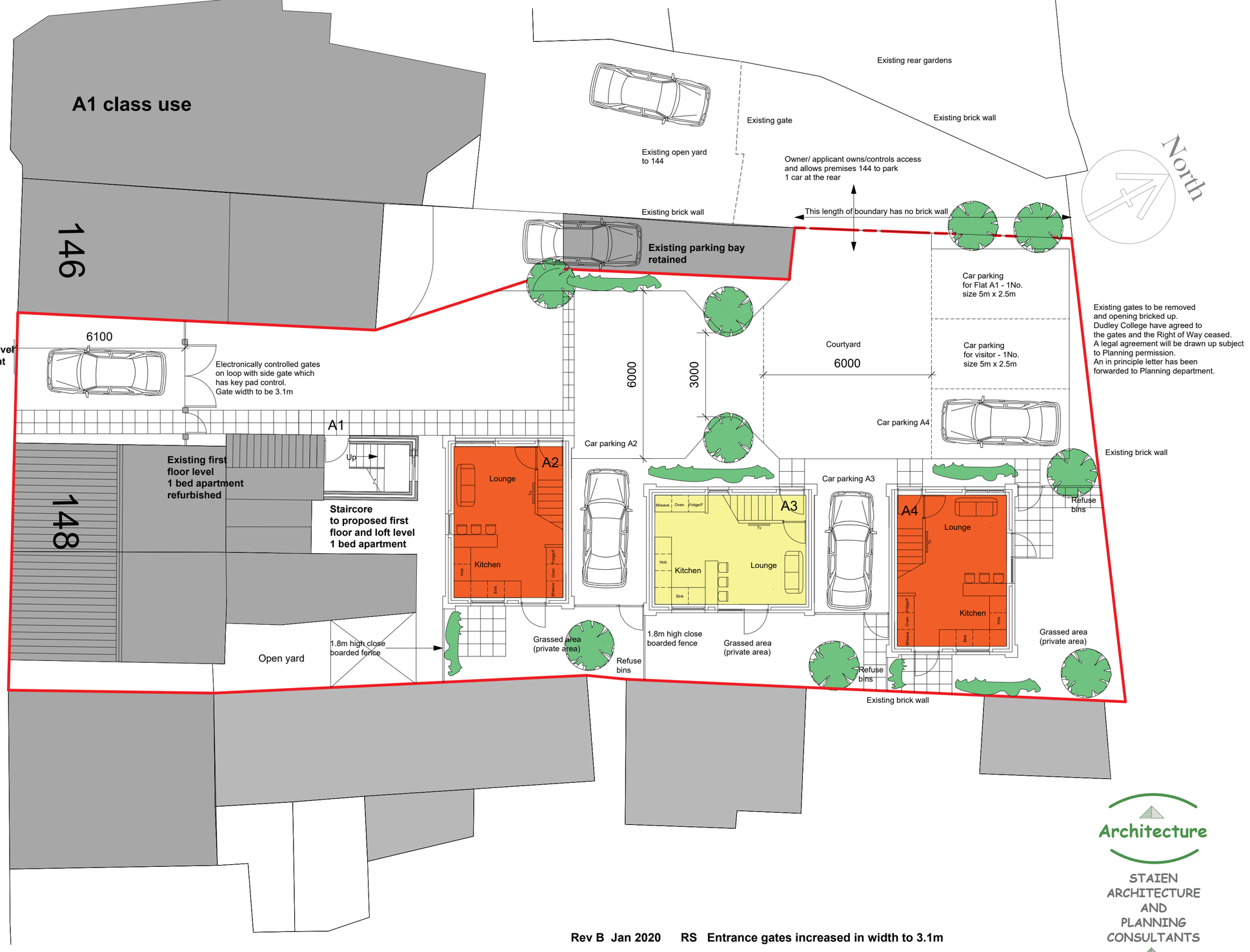
Wolverhampton Street

Existing Retail delivery vehicles park on road.
Due to size of retail units only small delivery vehicles arrive - low frequency visits

Sustainable location:
Public transport enables occupants to connect to town centre and other localities. (Bus stop located outside retail unit number 150)
Bike hub incorporated within scheme to encourage an alternative mode of travel.
Local retail is within walking distance of proposal.



Rev B Jan 2020 RS Entrance gates increased in width to 3.1m

Rev A Nov 2019 RS Window positions amended

GROUND FLOOR LAYOUT SCALE 1:100

148 Wolverhampton Street, Dudley. DY1 3AH

Client: Private Client			
Project: Planning		Title: Proposed Ground floor Plan	
Date: June 2019	Scale: 1 : 100	Drg No: SAP.WS.18.07.GA.01	Rev: B

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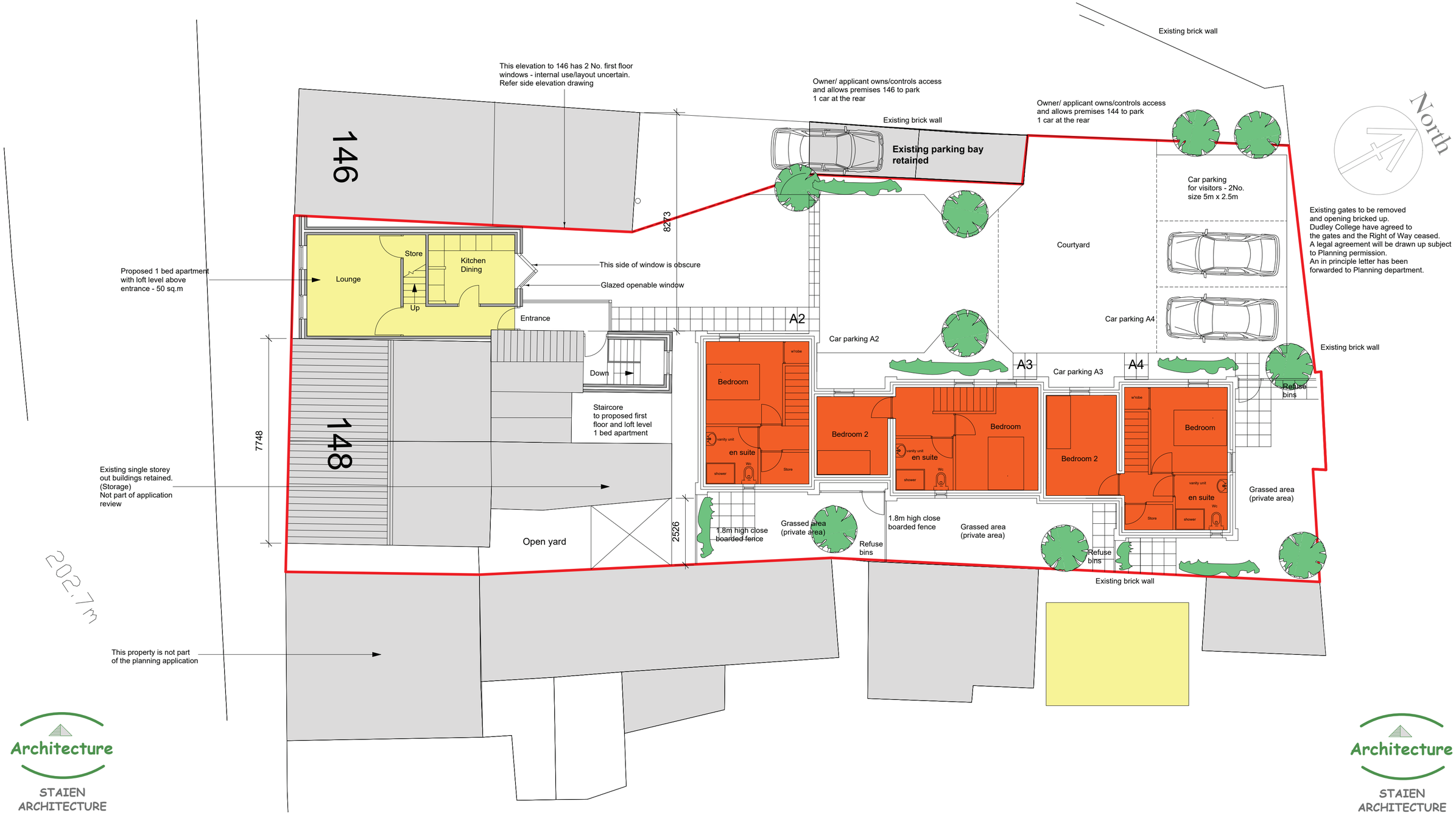

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FIRST FLOOR LAYOUT SCALE 1:100

148 Wolverhampton Street, Dudley. DY1 3AH

Rev B	May 2021	RS	Room layouts amended - As Built
Rev A	Nov 2019	RS	Window positions amended

Client: Private Client			
Project: Planning		Title: Proposed First floor Plan + Bed 2	
Date: June 2019	Scale: 1 : 100	Drg No: SAP.WS.19.06.GA.06	Rev: B

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PLANNING APPLICATION NUMBER: P21/0123

Type of approval sought	Reserved Matters
Ward	Amblecote Ward Wollaston and Stourbridge Town Ward
Agent	
Case Officer	James Mead
Location:	**LAND OFF OLD WHARF ROAD, STOURBRIDGE**
Proposal	**APPROVAL OF RESERVED MATTERS (APPEARANCE, LANDSCAPING, LAYOUT AND SCALE TO BE CONSIDERED) FOR THE ERECTION OF 256 NO. DWELLINGS (FOLLOWING OUTLINE APPROVAL P18/0921)**
Recommendation Summary:	**APPROVE SUBJECT TO CONDITIONS**

SITE AND SURROUNDINGS

1. The application site is land at Old Wharf Road, Stourbridge and is approximately 7.7 ha. in area. It comprises an irregularly shaped brownfield site that was previously in an industrial use. All of the former buildings that were previously on site have been demolished, the foundations removed and the land prepared for development.

2. Access to Old Wharf Road is from Amblecote High Street to the east. Old Wharf Road runs through the application site and provides access to the Allens Transport haulage yard site that sits outside of the application red line site, to the west of the site.

3. The site inclines gently to the north from Old Wharf Road. As a result, the canalside frontage to the south of the site gives way to increased separation along the western side of the site, with a steep bank planted with mature native trees. The site at its northerly limit rises 6 to 7 metres above the level of the canal.

4. The southern boundary of the site is formed by the Stourbridge canal. The Stourbridge canal also forms the majority of the western boundary of the site. The northern boundary of

the site does not follow any notable boundary features. It lies within an area that rises steeply to the boundary and is characterised by self-set vegetation. The majority of the eastern boundary of the site is formed by a sandstone cliff face that separates the application site from the Stourbridge War Memorial Athletics ground and commercial units accessed off Amblecote High Street. In its south-eastern corner the eastern boundary of the site is formed by the rear of the Johnson Dry Cleaners' premises located off High Street.

5. This part of the application site is located adjacent to a mixed-use area. Land to the east of the site comprises commercial units and residential properties (Westland Gardens) alongside the Stourbridge War Memorial Athletics ground. Further south, located between the War Memorial Athletics ground and Old Wharf Road, are a series of buildings that are largely vacant and known as 'Titan Works'. To the south of the site, beyond the Stourbridge canal, are areas of public open space, areas of hardstanding, commercial premises and the Lion Medical Practice.

6. To the south of the canal lies an area of historic importance with remaining buildings and artefacts representing the industrial archaeology of the Stour Valley and the town. The area of land between the river and the canal is occupied by older canalside and industrial buildings, a number of which are protected by statutory listing, including the Bonded Warehouse. The Stourbridge Canal corridor is a designated Conservation Area and covers areas of the site to the south of Old Wharf Road.

7. To the west of the site beyond the canal is Riverside House, a Grade II listed, building that sits within an area of land approved for use as a woodland community health and social care training facility, with significant areas of amenity space. To the north-west of the site on the opposite side of the Stourbridge Canal is the new Doulton Brook residential development. Land to the north of the site is predominantly in residential use, with a series of residential properties located off Hollybush Lane, Stamford Street and High Street.

PROPOSAL

8. This is a reserved matters application for appearance, landscaping, layout and scale to be considered for the erection of 256 no. dwellings (following outline approval P18/0921) at land at Old Wharf Road, Stourbridge.

9. Outline approval P18/0921 was granted consent in November 2020 with all matters reserved apart from access, to allow the development of up to 332 dwellings and associated infrastructure on a split site, at land on Old Wharf Road and Bradley Road (Tudor Dairies), Stourbridge. This reserved matters application relates solely to the Old Wharf Road site.

10. The scheme proposes a total of 256 dwellings with the split of accommodation as follows;

- 10 one-bedroom flats
- 41 two-bedroom flats
- 10 two-bedroom dwellings
- 98 three-bedroom dwellings
- 97 four-bedroom dwellings

11. The residential dwellings would be of two-storey height and the blocks of apartments would be three-storey. There would be a wide range of materials used across the site and to reflect the different character areas defined in the previous outline approval. Along the southern section of the site within the Conservation Area, the use of red/brown bricks, with grey conservation roof tiles will be utilised, with horizontal Charcoal grey cladding used on the apartment blocks. Elsewhere, there are a mixture of rough and smooth red/brown bricks with tiled roofs, grey UPVC windows, with the use of white render on properties within a central section of the site.

12. Access to the site is from Old Wharf Road, which connects to High Street (A491). The northern section of the site is served by a road system to ensure the development of perimeter blocks. Along the southern section a series of apartment blocks are provided which provide dual aspects to look over both the Old Wharf Road and Stourbridge Canal, also providing natural surveillance along a footpath link and across a SUDS landscape feature.

13. Properties would be set away from the cliff face that forms the eastern edge of the site, allowing for the creation of linear area of open space adjacent the edge of the cliff face. Incidental areas of public open space would be provided on the site, predominantly around the site's edges.

14. All dwellings would have off road parking provision with the parking for the apartments provided in parking courts. Parking courts are positioned so that they are overlooked by the surrounding properties and not prominent in the street scene.

15. During the course of the application significant amendments have been submitted in relation to the design, house types and layout, with respect to materials and issues of highway and separation distance concerns, whilst also ensuring that the sustainable link to Stamford Street required by the outline permission can be achieved.

16. The application is supported by the following documents: Design and Access Statement (DAS); Tree Survey (Inc Constraints and Tree Protection Plan); Heritage Statement; Noise Assessment; Flood Risk Assessment and Addendum; Ecological reports

17. Site area is 7.7 hectares, density 33 dwelling/hectare.

Area of Public Open Space

18. An area of public open space will be provided offsite on land located off Canal Street between the River Stour and the Stourbridge Canal to meet the public open space requirements associated with the development. The proposed public open space site would lie immediately between the existing area of open space provided by the Doulton Brook Taylor Wimpey development and Riverside House. It will link the two areas together helping to form a larger well-connected area of public open space in this location.

HISTORY

19. There is a comprehensive planning history relating to a number of the previous commercial uses on both of the sites. None of which are of any relevance to this application. Applications of relevance are

APPLICATION No.	**PROPOSAL**	**DECISION**	**DATE**
P18/0921	Residential Development (Outline) (access to be considered)	Approved with conditions	12/11/2020
P21/0084	Demolition of 1no industrial	Approved	19/02/2021

	building, 1no weighbridge gatehouse, 1no carpentry building/storage area	with conditions	
P21/0130/PN11B	Prior notification for demolition of 1no gatehouse, derelict building and 2no tanks	Prior approval is not required	15/05/2021

PUBLIC CONSULTATION

20. In respect of the originally submitted plans, direct notification was carried out to the occupiers of 85 residential and commercial properties adjoining the site. A site notice was displayed, and an advertisement was placed in the local press. The date for comments to be received was 26th February 2021.

21. Councillor Nicolas Barlow welcomed proposals to develop the above brownfield site, however, objected to the application and he highlighted a number of concerns which are summarised below.

- He considered the designs of the properties to be poor. Lacking in character and not in keeping with an historic site and canal side location.
- He considers this is an overdevelopment of the site, many canal side developments are outstanding, this is not one of them.
- The number of “affordable”/social housing on a site of such a large scale is inadequate.
- Garages are never wide enough for modern family vehicles, there will be inconsiderate parking on pavements, blocking access; ruining grass verges; and over-spilling on to nearby roads.
- Comments made by Stourbridge Navigation Trust; Historic England And West Midland Police are endorsed.
- Consideration must be given to the wildlife and birds in the area along the canal.
- There will be a significant increase in traffic accessing/exiting Old Wharf Road on to High Street (A491).

Cllr Barlow states: *"I cannot support this application. It does not lend itself to The Stourbridge Canal Conservation Area, Stourbridge Area Action Plan (AAP) or the National Planning Policy Framework (NPPF)".*

22. In addition to the above, twenty-one individual letters of objection were received from surrounding residential occupiers, business and community groups; including the operators of Allens Transport; The Inland Waterways Association and Stourbridge Navigation Trust. A summary of the objections are given below.

Allens Transport

- We are very concerned on how this development will affect our long-established Transport company. If relocation is not possible due to cost and impacting on our staff, we are concerned this development will impact on the running of our transport company and this must be taken into consideration.
- We are concerned that whilst and development is in progress blocking and restrictions on the road would impact on our day to day running of our business.
- We would like assurances that this development will allow us to operate with no obstructions or restrictions.

Inland Waterways Association

- The proposal overdevelops the site.
- The garages and car parking spaces shown in the proposal are inadequate for the following reasons;
- Several areas of the development are not sensitive to the canal.
- This in turn will lead to it being used as a dumping ground and an area for anti-social behaviour.

Stourbridge Navigation Trust

- We can see little that would either complement or enhance the Conservation area.
- The mass, height and elevation profile of the flats are inappropriate to the setting and will dominate the canal and dwarf both the Bonded Warehouse and the Titan Works building.

- Fencing giving security to the site and the canal and moored boats is needed and meeting the required heritage standards.
- During the construction phase of the development, the Developers must ensure that means are taken to control the run-off of silt from the site.
- There would be removal of significant numbers of trees and shrubs from the canal banks that are known to support wildlife.

Issues raised by Local Residents

Design issues;

- The development does not preserve the special character of the Conservation Area.
- No attempt made to design properties that blend with the older buildings
- The apartments lack any character and are too high. They need to have balconies overlooking the canal.
- The dwellings do not make the best use of the land, bespoke design should be used to enjoy the canal side location.
- Some plots are too small. This is an overdevelopment and example of cramming as many plots on a site as possible.
- Materials used are not appropriate

Issues on use;

- Plans do not allow for mixed usage; suitable leisure facilities along the waterfront should be provided.
- The area should be used as a Heritage Facility.
- Tourism uses should be incorporated
- The development provides an opportunity for mixed use building to enhance the site and canal.
- Apartments are not needed
- Too much of a demand on road, amenities and local infrastructure

Amenity Issues;

- Overlooking of existing properties will occur
- There will be noise disturbance to nearby residents.
- Flats are closer to the Dry dock where we operate our business, we cannot be held liable for any noise nuisance.

Highways Concerns;

- There is not enough parking provided within the site.
- The development will exacerbate highway problems in the area

Impact to Wildlife and Trees;

- We need to preserve the existing canal bank fauna and flora.
- Complete loss of wildlife
- Removal of too many trees

23. In response to layout and design concerns raised by the case officer, various consultees and local residents; the applicants made significant revisions to the overall layout of the development and changes to the design of the houses and apartments were made. On submission of these amended plans a further 21-day consultation was carried out and letters were again sent to those 85 neighbouring occupiers and business and those who had made comments previously with the final date for comment being 16th July 2021.

24. In response, 10 letters of objection were received from nearby residential occupiers and business. Allens Transport reiterated their previous comments and Stourbridge Navigation Trust welcomed many of the improvements noting the amended design, height and mass of the apartments that overlook the Bonded Warehouse are much more suitable for this canal corridor environment. In addition, they consider that the designs of the adjacent houses are also much improved. Concern was still raised regarding surface water run off during the construction phase and the nature of the boundary between the site and the trusts land. Other comments made from residents include

- Plans are more sympathetic to the character of the conservation area.
- The balconies to the apartments are welcomed.
- The development should still be mixed use to open up the opportunities of the canal
- Concerns over the amount of traffic on the road are still raised.
- The link path would have serious impact on wildlife and require lots of land movement
- Links path would increase anti-social behaviour
- Concern about pressures on local infrastructure.
- The proposal is still bland and lacks character

- One single access cannot cope with the number of houses.
- Loss of wildlife
- Concern about cricket balls hitting the houses.
- Not appropriate to have large commercial vehicles conflicting with residential streets
- Allens Transport should be moved.

25. Finally, due to smaller changes with the respect to the layout and details of materials, further amended plans were received and a 10-day consultation was carried out with the final date for comments being 15th October 2021. Five additional letters of objection were received, reinterring comments with respect to the loss of wildlife to the north of the site, impact on highway safety and the impact of security and the need for appropriate fencing to the land controlled by Stourbridge Navigation Trust.

OTHER CONSULTATION

26. Head of Planning and Development (Highway Engineer):
The Highways Engineer advises that following detailed discussions with the applicants, that the highways layout is acceptable, subject to conditions, however, it is acknowledged that conflicts with the operation of Allens Transport will arise within the residential development adjacent to the yard that represent risk which will have to be managed.

27. Head of Planning and Development (Land Contamination Team):
No objection raised. A number of conditions were attached to the outline consent to address the risks posed by any land contamination and ground gases and vapours, including the submission of a risk assessment, remediation scheme and verification reports.

28. Head of Environmental Safety and Health:
The proposed layout in this reserved matters application proposed homes in close proximity to the retained Allens Transport Yard.

Condition 8 of outline approval P18/0921 requires a scheme for noise mitigation for dwellings on the site associated with the transport yard, and the suitability of the layout will depend on the scheme of noise mitigation that is acceptable to Development Management

29. Education Authority:

A contribution to local primary school places is requested. Notwithstanding these comments, this matter was addressed under the original outline application with the submission of an independently reviewed viability assessment, which concluded that an Education Contribution could not be supported.

30. Environment Agency:

The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if a condition is added to ensure compliance with the submitted Addendum to the Flood Risk Assessment.

31. Historic England:

Response to original plans.

Historic England are pleased to see that a considerable amount of the housing in the Conservation Area is now of two or two and a half storeys, its layout addresses the canal and that the amount and layout of the taller apartment blocks has been amended.

Concerns remains regarding the design of the buildings and the choice of some materials neither of which achieve the quality proposed by the palettes submitted with the outline application. While the use of an industrial aesthetic for these larger buildings is welcomed, they are not convinced by the way it is carried through. The dominant symmetry and design and placing of windows and elevational features do not develop the industrial aesthetic but appear domestic or institutional. The use of timber cladding, gables and changes in roof line appears contrived and poorly articulated.

It is considered that the design language lacks conviction and as a result fail to create the visual interest, texture and architectural quality demanded in this sensitive location and necessary to high quality new placemaking.

Response to revised design and layout.

In response to layout and design changes Historic England are pleased to see that the architecture of the apartment blocks now has a clear industrially inspired identity with cladding, brickwork and fenestration used confidently to develop this character. In addition, they are equally pleased to see that the Braxton house type (and indeed the rest of the range) has developed a more grounded contemporary architecture that will contribute

positively to the development's sense of place. We would, however, again urge the use of grey fascias and natural slates in the conservation area. While there are some concerns over materiality, no objection is raised.

32. Canal and Rivers Trust:

No objection is raised subject to safeguarding conditions. The amended scheme now proposed appears to be a more sympathetic design in relation to the character of the adjacent canal corridor. In general, the buildings are set further back and thus have less of an overbearing impact. We also note that the western edge of the site facing the canal shows a more positive development set back with a softened edge, a positive mix of house types with street frontage, and cars that are between buildings or visually screened, with clear opportunities for connectivity, engagement and wellbeing aside the waterspace. Consider further opportunities for overlooking of the canal, and views through to it, should be maximised

Information provided within the Construction Ecological Management Plan appears to demonstrate adequately the sensitive protection of the canal environment during construction.

33. LLFA

The Drainage Strategy is acceptable, subject to conditions to ensure it is constructed in accordance with approved plans prior to occupation.

34. Severn Trent

No objection raised.

35. West Midlands Police

A number of 'Secured by Design' recommendations are made with respect to specific matters such as door locks and letter plates. It is recommended that the developer consequently apply for Secure by Design accreditation for the development in an effort to make them as secure as possible.

RELEVANT PLANNING POLICY

36. National Planning Guidance

- National Planning Policy Framework (2021)

- Technical Guidance to the National Planning Policy Framework (2012)
- Planning Practice Guidance (2014)
- Community Infrastructure Levy Regulations (as amended) (2014)
- Historic Environment Good Practice Advice in Planning 2 - Managing-Significance in Decision Taking (2015)
- Historic Environment Good Practice Advice in Planning 3 – Setting of Heritage Assets (2015)

37. Black Country Core Strategy (2011)

- CSP1 The Growth Network
- CSP3 Environmental Infrastructure
- CSP4 Place Making
- CSP5 Transport Strategy
- DEL1 Infrastructure Provision
- DEL2 Managing the Balance Between Employment Land and Housing
- 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
- TRAN5 Influencing the Demand for Travel and Travel Choices
- ENV 1 Nature Conservation
- ENV 2 Historic Character and Local Distinctiveness
- ENV 3 Design Quality
- ENV 4 Canals
- ENV 5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island
- ENV 6 Open Space, Sport and Recreation
- ENV 7 Renewable Energy
- ENV 8 Air Quality

38. Dudley Borough Development Strategy (2017)

- S1 Presumption in favour of Sustainable Development
- S3 Renewable Energy
- S4 Flood Risk
- S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS)

- S6 Urban Design
- S7 Landscape Design
- S8 Conservation and Enhancement of Local Character and Distinctiveness
- S9 Conservation Areas
- S10 Listed Buildings
- S11 Buildings of Local Historic or Architectural Importance
- S19 Dudley Borough's Green Network
- S20 The Borough's Geology
- S21 Nature Conservation Enhancement, Mitigation and Compensation
- S22 Mature Trees, Woodland and Ancient Woodland
- S25 Canals
- S29 Public Open Space
- S30 Public Open Space within New Large Housing Developments
- 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
- D1 Access for All
- D2 Incompatible Land Uses
- D3 Contaminated Land
- D5 Noise Pollution
- D6 Light Pollution

39. Stourbridge Area Action Plan (2013)

- Policy 1 Urban Design
- Policy 6 Access for All
- Policy 10 Housing Mix and Tenure
- Policy 15 Nature Conservation
- Policy 16 Stourbridge Branch Canal
- Policy 17 Public Open Space
- Policy 18 Urban Heat Island
- Policy 19 Sustainable Urban Drainage Systems (SUDS) and Flood Risk
- Policy 20 Stourbridge Wharf
- Policy 21 Conservation and Enhancement of Local Character and Distinctiveness in Stourbridge
- Opportunity Site S11: Lowndes Road

- Opportunity Site S12: Old Wharf Road

40. Supplementary Planning Guidance/Documents

- Access for All Supplementary Planning Document
- CIL Charging Schedule (2015) (updated 2018)
- Historic Environment Supplementary Planning Document (Draft 2017)
- Nature Conservation Supplementary Planning Document (2016)
- New Housing Development Supplementary Planning Document (2013)
- Parking Standards Supplementary Planning Document (2016)
- Planning Obligations Supplementary Planning Document (2016)

ASSESSMENT

41. The main issues are

- Principle/Policy
- Historic Environment and Design
- Layout and Future Occupier Amenity
- Noise Impacts
- Highway Impacts
- Nature Conservation
- Flood Risk and Drainage
- Air Quality & Renewable Energy
- Landscape & Open Space Provision
- Planning Obligations
- Financial Material Considerations

Principle/Policy

42. The principle for the residential development of the site derives from the outline planning approval P18/0921 which approved the residential redevelopment of this former industrial site. Such approval is reinforced by the site being allocated as a Housing site in the Borough Development Strategy. The proposed development site falls within Regeneration Corridor 11B – Brierley Hill, Stourbridge identified for *'potential housing growth adjacent to Stourbridge town centre, around 920 dwellings*.' The Spatial Strategy for Regeneration Corridor 11B advises that the main focus for development will be housing growth on older, outdated and remote industrial land and premises, along with the canal network and close

to the town centres of Stourbridge and Brierley Hill. This will be coupled with improvements to the ecology links along the canal network and the River Stour.

43. The evidence base which supports the Local Plan designations – the identification of Old Wharf Road as site ref 22 within the Strategic Housing Land Availability Assessment (SHLAA) – with the site identified as contributing to the Borough's 5-year housing land supply

44. The Dudley Borough Development Strategy also includes overarching policies in relation to other environmental considerations which are discussed in more detail in subsequent sections of this report.

45. It is considered the principle of redeveloping these sites for residential purposes is a positive step in line with both national and local policy. The site is located within close proximity to established residential areas, close to public transport links and with easy access to local services. There is consequently alignment with the local plan policies in chief, especially in meeting the housing targets set out in Black Country Core Strategy (BCCS) Policy HOU1 (Delivering Sustainable Housing Growth) and given that the proposal represents sustainable development.

Historic Environment and Design

46. The proposed development lies adjacent to and partially within the Stourbridge Branch Canal Conservation Areas: Canal Street and Amblecote and within the setting of the Grade II* listed Old Foundry (now the Lion Health Centre). The significance of the conservation areas rests in the historical interest of the canalised River Stour and the Stourbridge Arm Canal as seventeenth- and eighteenth-century infrastructure responsible for catalysing the industrial development of Stourbridge as a centre of iron and glass working. The surviving canal structures (bridges, crane bases, spillways, wharfs, warehouses and dry docks), both designated and undesignated provide physical links with the few surviving industrial buildings they served with their archaeological remains. Thus, in addition to their high historical value, the conservation areas have evidential value in terms of their industrial archaeology. Extensive twentieth century demolition has fundamentally changed the character of the canal-based conservation areas and it both contributes to and detracts from their aesthetic value. Large vacant sites, a predominance of intrusive and ugly security fencing and the visual impact of building neglect and decay are insistent and negative

factors such that the Canal Street Conservation Area is considered to be at risk by Historic England.

47. The application represents a major change in the character of land within the setting of heritage assets that lies partially within the Stourbridge Branch Canal Conservation Areas of Canal Street and Amblecote. In this sensitive context proposals of this magnitude have the potential for substantial impact on significance and should be considered against policy contained within the NPPF.

48. When an LPA exercises planning functions in a Conservation Area, section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states, *'In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'.*

49. Section 66 (1) of the above act sets out the general duty of an LPA in respect of exercising planning functions in respect of listed buildings, *"In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any feature of special architectural interest or historic interest which it possesses'*

50. A Design Brief was prepared as part of the outline submission to put forward parameters to ensure the site is developed in a way that respects the character and quality of the surrounding area.

51. Initial concerns regarding the design of the buildings and the choice of some materials were raised by both the Council Historic Environment Officer and Historic England. While the use of an industrial aesthetic was clear, there was dominant symmetry and elevational features that gave a more domestic or institutional feel.

52. In conjunction with officers, design meetings were held and revisions to the proposal have been made. The architecture of apartment blocks now have a clear industrially inspired identity, with appropriate cladding, brickwork and fenestration. In addition, the various house types have a more contemporary architecture that will contribute positively to the development's sense of place.

53. Significant changes to a number of plots which did not appropriately address corners have been made, giving dual aspect windows. Internal highways have been widened to improve vehicular access through the site. Apartments have been located to overlook open space and car parking areas and mitigation of noise impacts have been introduced near to the site's boundaries with Allens Transport.

54. Overall, the design and scale of the development is considered to be appropriate and the design of all apartments and houses to be acceptable.

Layout and Future Occupier Amenity

55. The proposed site layout arrangements are generally considered to be acceptable from a privacy and daylight point of view in terms of back-to-back distances and generally back to flank wall distances. There are some instances where gardens are a little short, in particular where the constraints of the site have resulted in certain layouts having to be devised. In particular, to the south of Old Wharf Road due to the limited width of the land between the road and canal, it was accepted that there would need to be areas where a number of space standards are relaxed in order to achieve a layout and design appropriate to the conservation area. It is now considered that there is high standard of design in this area and the desire to create high quality, sustainable housing far outweighs the minor shortfalls in garden space standards. These shortfalls are not of sufficient number to raise significant concern about the development as a whole.

Noise Impacts

56. The impact of noise on the future occupants of the development has been a consideration in the assessment of the application.

57. This site is potentially affected by several noise sources,

- Two industrial units located in Stamford Street to the north east of the site at higher level
- The Stourbridge War Memorial football stadium that directly adjoins the site to the east
- Titan Works that lies along the north of the site entrance road

- Johnsons Cleaners that is at the south of the junction of the entrance road with High Street
- Allens Transport Ltd., retained adjacent to the development site.

58. With respect to the first four elements above, there are limited concerns about potential noise from these areas, for example, crowd noise and loudspeaker noise from the stadium particularly during the football season. It is considered that suitable noise mitigation can be provided in the dwellings, or by adequate distance between the source and dwellings and conditions to ensure this were added to the previous outline application.

59. In relation to Allens Transport, this development will result in residential development to the boundaries of the site on three sides. It is appreciated that if retained that the company would still operate as existing with heavy goods vehicles passing along part of the access road of the housing estate. The submitted noise assessment suggests, however, that the design of dwellings to meet a modified internal standard will provide sufficient mitigation against noise generated by the business activities of Allens Transport. In addition to this a 3m high acoustic barrier is also considered appropriate as was envisaged to be necessary at the outline stage if the operation remained in place.

60. Whilst this situation is not generally ideal, this brownfield site has a strategic allocation for residential use and the mitigation measures will provide a reasonable measure of protection for the occupiers of the development and is therefore considered on balance, to be appropriate in this development which is in all other respects, appropriate and sustainable. Such mitigation will address the primary concern of noise impacts to allow a positive recommendation.

<u>Highway Matters</u>

61. The site has an access from the A491 High Street to the east, which is a single carriageway and subject to a 30mph speed limit. This was approved at outline stage and in order to mitigate impacts of development, a requirement for a contribution of £35,000 to pay for improvements to the highways in the local area, was secured via S106 agreement.

62. At present there is no publicly accessible link across the canal from the Old Wharf Road site to the open space provision on the south side of the canal. There is an existing bridge within the ownership of Stourbridge Navigation Trust which is not publicly accessible.

However, all reasonable endeavours are to be made to try and bring forward access across this bridge and a condition to secure this was attached to the outline approval.

63. In addition to the above, to improve permeability through the site and provide a safer route to schools, a pedestrian access from Stamford Street to the north of the Old Wharf Road site has been required to be designed into the proposal. This link would enable the provision of a safe route to school for children within the development by avoiding the A491 corridor. Land Ownership details confirmed that there would be no third-party ownership issues to overcome to ensure this access is provided. Further consideration on the exact engineering and route of this access is required to ensure no impact on the ecology of the site and to this end three potential routes are identified to the north of the site. The anticipated works could fall within 50m of the badger sett and therefore a licence from Natural England will need to be obtained. Such licence will need to confirm the exact works in the vicinity of the sett which will be completed in accordance with the method statement attached to the licence.

64. Highway engineer concerns were raised regarding the nature of parking across the site. The proposal provides car parking in accordance with the guidance contained within the Council's Car Parking Standards SPD. Where there are two external spaces, a third is provided within garages which accord with the required space standards. The Parking Standards SPD allows for a condition to be imposed on developments to ensure that garages are used only for the purpose of parking a vehicle. Also, enclosures to route pedestrians from parking areas to entrance doors to minimise on street parking as a result of remote parking design can be provided. Conditions for enclosures and requiring garages to be used only for parking of a vehicle have been included and it is therefore considered the Highways Engineers concerns have been mitigated in this respect.

65. Further, the applicant has sought to ensure that while Allens Transport remains on site and operates wide load haulage vehicles, that potential conflict with pedestrians within the residential has been mitigated as far as possible. An assessment of vehicle activity in the section of Old Wharf Road has been undertaken by consultants which concludes that there is limited potential for conflict taking into account the operators 15 vehicles. The design has been predicated on the basis that vehicles accessing Allens Transport yard will do so along a haulage route of Old Wharf Road and its direct extension to the transport yard. On this haulage route, pedestrian Footways within the application site are separated from the carriageway with either a 1m verge or 1.5m emergency strip buffer. The bend from the Old

Wharf Road extension leading to Allens Transport yard has been designed to allow for a large articulated vehicle to pass a car or for a wide abnormal load to traverse unopposed. In addition, a Prohibition of Waiting Order is required by condition to keep the haulage route free of parked vehicles. High kerbs, bollards and trees will be required within the design in order to help to enforce this prohibition and these features will be required by condition. A 7.5 Tonne weight limit Traffic Regulation Order is also required by condition to prevent large vehicles traversing into other roads of the development. The applicant has provided vehicle tracking drawings showing how a large abnormal load vehicle will manoeuvre and reverse on and off the residential street into the Transport yard entrance within the curtilage of the carriageway. However, the Highway Engineer advises, notwithstanding that limited manoeuvres area likely, that the reversing of large commercial vehicles in a public area with potential cyclists and pedestrians results in a potential accident scenario which should be managed or avoided if possible. It should be noted that the operator of Allens Transport has actively sought to relocate from the site on a number of occasions, to what would be a more suitable location and will continue to do so with support from the applicant, given the allocation of this major brownfield site for housing and outline planning approval for residential development. The applicants advise that if the current application is approved, that the area around the transport yard will be the last to be developed and that is likely to happen towards the end of a four year period.

66. Given due consideration of the above matters and the balance of planning considerations in bringing forward the development of a major brownfield site, it is considered that highway issues have been mitigated as far as is possible such that approval can be recommended.

Nature Conservation

67. Where, exceptionally, the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, species, habitat or geological features, damage must be minimised. Any remaining impacts, including any reduction in area, must be fully mitigated. Compensation will only be accepted in exceptional circumstances. A mitigation strategy was submitted with the outline application and conditions added to that approval.

68. In terms of protected and notable species, the site supports low numbers of foraging and commuting bats and there are badger setts on site. Specifications for new planting and

other habitat creation should be provided with a detailed soft Landscaping Scheme secured by planning condition. In addition, measures to restore and enhance existing habitats, to ensure successful establishment of new habitats, and to maintain the value of all ecological features in the long-term are to be detailed within an Ecology Management Plan secured by planning condition on the outline application. A specific Ecological Report was commissioned by the Council to identify the specific location of Badger presence both within and outside the site with particular reference to accommodating the required pedestrian link to Stamford Street. The conclusion of the report was that main presence lay offsite and that a licence was potentially able to be granted by Natural England for works to accommodate one of the three potential pedestrian links identified on plans.

Flood Risk and Drainage

69. The majority of the sites are located within Flood Zone 1 with small section to the south east section of the Old Wharf Road site being within Flood Zones 2 and 3 of the River Stour on the indicative Environment Agency Flood Zone Map. At outline stage a condition was added to restrict any development outside of the Flood Zone 1. However, current hydraulic modelling results were undertaken in 2010 and do not account for a) site-specific topographic survey date, b) revised River Stour modelling work undertaken for a medical centre at Bradley Road (Planning application P18/1367) and c) the benefit of the fluvial flood mitigation work associated with the proposed medical centre (which was delivered in 2019/2020).

70. An addendum to the Flood Risk Assessment which takes into account the revised works and modelling has been submitted and forwarded to the Environment Agency for comment. As a result of this, they raise no objection to the application subject to the works being carried out in accordance with this addendum.

71. A suitable sustainable drainage strategy has also been submitted, to which the LLFA raise no objection to subject to a condition to ensure it is completed in accordance with the details submitted. This strategy accommodates an area of water storage in a balancing feature to the south of Old Wharf Road (in the conservation area) which will also provide for views across the canal to the south.

Air Quality & Renewable Energy

72. Implementation of Best Practice Measures will help reduce the impact of the construction activities to an acceptable level and further mitigation measures are suggested, such as the implementation of Travel Plans, the use of Electric Vehicle Charging points and low emission gas boilers. Conditions to support this have been attached to the outline application.

73. Black Country Core Strategy ENV7 – Renewal Energy requires major proposals to provide 10% of onsite energy requirements drawn from onsite micro generation, such as through solar panels. In this instance the applicant intends to utilise a combination of solar panels and enhanced construction. The configuration of the development with gable roof slopes facing the south where possible will assist in this consideration.

Landscaping & Open Space Provision

74. An area of public open space will be provided offsite to meet the public open space requirements associated with the development by extending and enhancing an existing area. The proposed site of the public open space sits immediately between the existing area of open space provided by Taylor Wimpey and Riverside House and would link these two areas together helping to form a larger well-connected area of public open space in this location, completing the development and enhancement of this part of the Conservation Area.

75. A landscape masterplan has been submitted, however a detailed landscaping scheme will be required by condition that will ensure that the other areas of open space within the site will function appropriately and mature with the development. Such landscaping will include the provision of street trees within the highway verges and built out features.

Planning Obligations

76. 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.

77. Policy DEL1 requires all new developments to be supported by sufficient on and off-site infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.

78. 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;
b) fairly and reasonably related in scale and kind to the development.

79. A S106 obligation attached to the outline planning approval set requirements for this development site which included provision for local highway improvements. The outline planning approval also addressed the requirement for affordable housing to be accommodated on the Tudor Dairies section of the overall site.

Financial Material Considerations

80. 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).

81. 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'.

82. This proposal would provide 256 dwellings generating a New Homes Bonus grant of 256 times the national average council tax for the relevant bands.

83. The main part of the site off Old Wharf Road is within Zone 1 and therefore not subject to a CIL charge.

84. Whilst these are significant sum(s) of money the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

CONCLUSION

85. Submitted information and revisions to proposals have confirmed that the scheme will constitute a sustainable development which is acceptable in terms of both National and Local planning policy. The development is considered to have considered and mitigated planning harm and given due consideration to highway issues and the balance of planning considerations in bringing forward the development of a major brownfield site. subject to the imposition of appropriate conditions which will address physical and natural impacts arising from the development it is considered that approval can be recommended.

RECOMMENDATION

86. It is recommended that the application be APPROVED subject to the attached conditions.

Conditions and/or reasons:

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Development Layout C5139/001_02 Rev D; Development Layout C5139/001_03; Housetypes: BRAXTON A/A(R)/B/CON Rev A; BYFORD A/A(G)/A(R)/B/B(G)/CON; CANFORD B; EASDALE A/B/B(C)/CON; GOSFORD A/B/B(G)/CON; HUXFORD A/A(G)/A(R)/B/B(G)/CON; LYDFORD A/A(R)/B/B(G)/CON; MANFORD B; MIDFORD A/A(G)/A(R)/B/B(G)/CON; TRUSDALE A/A(C)/A(R)/B(C)/CON; Double Garage B/CON/G; Single Garage CON/G; APARMENT BLOCK A - C5139/400_00 Rev A; C5139/400_01 Rev A; C5139/400_02 Rev A; C5139/400_05; C5139/410_01 Rev A; C5139/410_02 Rev A; C5139/410_03 Rev A; C5139/410_04 Rev A; APARTMENT BLOCK B: C5139/430_00 Rev A; C5139/430_01 Rev A; C5139/430_02 Rev A; C5139/430_05; C5139/440_01 Rev A; C5139/440_02 Rev A; C5139/440_03 Rev A; C5139/440_04 Rev A; Apartment BLOCK C; C5139/460_00 Rev A; C5139/460_01 Rev A; C5139/460_02 Rev A; C5139/460_05; C5139/470_01 Rev A; C5139/470_02 Rev A; C5139/470_03 Rev A; C5139/470_04 Rev A; Location Plan LP-01; Landscape Masterplans LA5330 001A.
2. The development shall be carried out in complete accordance with the Materials Distribution Plan C5139/100_01 Rev B unless otherwise agreed in writing by 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)

3. Notwithstanding the details on Boundary Treatments Plan C5139/100_02 Rev D no above ground development shall commence until details of the materials to be used in the construction the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. Such details shall also show specific boundary types, construction and materials of the boundary treatment to be provided between the southern boundary of the development site and the canalside moorings. The boundary treatment shall be erected in full accordance with the approved details and shall be maintained as such for the life of the development.
   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)
4. Unless the residential development of the haulage yard shown on Development Layout C5139/001_02 can be assured or its lawful use as a haulage yard has been extinguished or otherwise no longer exists, prior to the occupation of plots 158; 163; 164 and 176 the acoustic barrier of 3m in height and surface density of not less than 10kg/m2 along the northern and southern boundaries of the haulage yard shall be installed and retained and maintained for the life of the development, as necessary.
   REASON: To safeguard the amenities of the future occupants of the dwellings at the site in accordance with Borough Development Strategy Policies L1, D2 and D5.
5. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
   - A timetable for its implementation, and
   - A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime 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 sustainability, reducing flood risk and run off and to comply with Adopted BCCS Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island.
6. Notwithstanding the details on the Landscape Masterplan (LA5330 001A); development shall not commence (excluding demolition, site clearance and initial ground works) until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, 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 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 landscaping and to ensure that the approved landscaping 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 and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as landscaping is integral to providing a high quality and sustainable development.

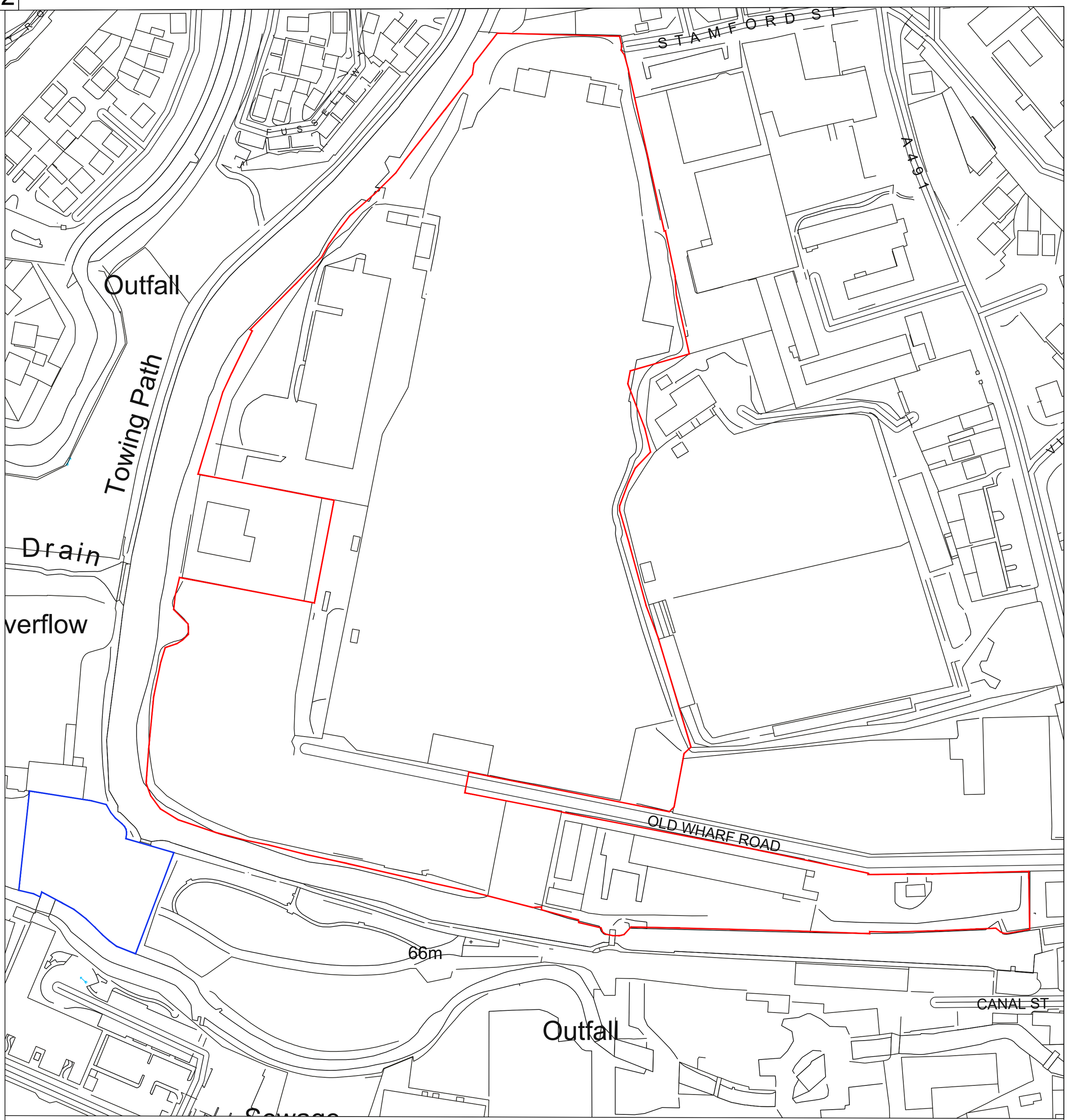
7. The development shall not be first occupied until a schedule of landscape maintenance to the areas of open space and any communal areas (excluding private gardens), including details of its implementation for a minimum period of five years from first planting has been submitted to and approved in 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 landscaping and to ensure that the approved landscaping 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 hereby approved shall be undertaken in complete accordance with the details contained within the submitted Arboricultural Method Statement. Any variation or amendment of the submitted Arboricultural Method Statement shall be approved in writing with the Local Planning Authority before implementation on site.
REASON: To ensure that existing trees are not damaged through the loss of roots, to maintain the visual and environmental quality of the site and surrounding area in accordance with Borough Development Strategy 2017 Policy S22 Mature Trees, Woodland and Ancient Woodland (in part).
9. Development shall not commence until details of the position, layout and programme for the construction & bringing into use of the access to Stamford Street has been submitted to and agreed in writing by the local planning authority. The access shall be constructed in accordance with details submitted and shall be brought into use as soon as any residential development on the land north of Old Wharf Road is occupied and the access is able to link safely and conveniently to roads or footways which have been constructed to at least

base course level with an ability to link to Old Wharf Road.
REASON: To facilitate access into & out of the development by sustainable modes of transport and to ensure that residents are not put at risk by travel through a construction site.

10. No part of the development shall be occupied until visibility splays onto (Old Wharf Road or up to its extension (to Plot 170 ON Ste Layout Plan D) the Highway) have been provided at the junction between the proposed means of access and the highway with an 'x' set back distance of 2.4 metres and a 'y' distance of 59 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 development plan Policies [DD1, DD4, CSP5, DEL1, TRAN2, CEN8 and TRAN5].
11. No part of the development shall be occupied until visibility splays onto an access road other than (Old Wharf Road or up to its extension (to Plot 170 ON Ste Layout Plan D) the Highway) have been provided at the junction between the proposed means of access and the access road with an 'x' set back distance of 2.4 metres and a 'y' distance of 33 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 development plan Policies [DD1, DD4, CSP5, DEL1, TRAN2, CEN8 and TRAN5].
12. No part of the development shall be occupied until visibility splays onto a Footway have been provided at the junction between the proposed means of access and the Footway with an 'x' set back distance of 2.4 metres and a 'y' distance of 2.4 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 development plan Policies [DD1, DD4, CSP5, DEL1, TRAN2, CEN8 and TRAN5].
13. No development shall commence (excluding demolition, site clearance and initial ground works) until details of the Highways Works (Prohibition of Waiting) has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the agreed Highway Works have been completed in accordance with the approved details.
REASON: In the interests of highway safety and to comply with development plan Policies [DD1, DD4, CSP5, DEL1, TRAN2, CEN8 and TRAN5].
14. No development shall commence (excluding demolition, site clearance and initial ground works) until details of the Highways Works (7.5 Tonne Environmental Weight Restriction Traffic Regulation Order) has been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the agreed Highway Works have been completed in accordance with the approved details.
REASON: In the interests of highway safety and to comply with development plan Policies [DD1, DD4, CSP5, DEL1, TRAN2, CEN8 and TRAN5].

15. The dwelling(s) shall not be occupied until details of a Parking Management Plan for the apartments parking area has be submitted to and approved in writing by the Local Planning Authority (The Parking Management Plan will ensure that no parking spaces are allocated for the sole use of any apartment). This Parking Management Plan shall be provided in accordance with the approved details prior to the first occupation of the dwelling(s) and 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 development plan Policies [DD1, DD4, CSP5, DEL1, TRAN2, CEN8 and TRAN5].
INF9 - Informative Adoption of Highways Section 38
The development as proposed contains highways that will be of sufficient public utility to warrant their dedication as public highways under Section 38 of the Highways Act 1980. The development layout, as shown on Dwg. No. SLTW-01 is solely a preliminary design, which will subject to the relevant Road Safety Audits and may require amendments in order to gain Technical Approval of the detailed highway design as part of the Section 38 adoption process.

A2



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LAND OFF OLD WHARF ROAD, STOURBRIDGE

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Project: Titan Works, Old Wharf Road, Stourbridge

Drawing: LOCATION PLAN

Scale: 1:1250 @ A2

Drawn: GR	Project no.	Drawing no.	Rev.
Date: May 2020	3010	LP-01	-

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Schedule of Accommodation

TYPE	HT CODE	REF	DESCRIPTION		LAYOUT MIX			
			STOREY	BEDS	SQFT (struct gross)	PLOTS	TOTAL SQFT	% of Mix
(Private)								
Canford	PA25	CAN	2	2	689	10	6890	4
Gosford	PA34	GOS	2	3	866	40	34640	16
Easedale	PT36	EAS	2	3	931	12	11172	5
Byford	NA32	BYF	2	3	976	17	16592	7
Braxton	NB31	BRAX	2.5	3	1092	29	31668	11
Lydford	PA42	LYD	2	4	1099	15	16485	6
Midford	PA44	MID	2	4	1170	26	30420	10
Huxford	NA42	HUX	2	4	1175	19	22325	7
Trusdale	NT41	TRUS	2	4	1243	25	31075	10
Manford	NA44	MAN	2	4	1385	8	11080	3
1 bed flat	-	-	1	1	539.3	10	5393	4
2 bed flat	-	-	1	2	723.3	41	29655.3	16
Converted	-	-	2	4	900	4	3600	2
							250995.3	100
		Units/NDA			17.67	256	sqft/net acre	
		Average sqft			980.45		17321.97	

House Type Mix %		
2beds	10	5%
3beds	98	49%
4beds	93	46%
	201	100%

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All dimensions to be checked on site and architect notified of any discrepancies prior to commencement.
Do not scale.

any and all elements relating to the fire safety of the building will require separate confirmation and approval by fully accredidted fire engineering consulatant who has to be appointed by the client

Notes:

- Existing retaining wall
- Red Line Boundary
- 2m Grasscrete Strip
- 5m Cliff Buffer
- Ecology Buffer Offsets/ Zone

Rev:	Date:	Comment(s):	Name:	Check:
D	06.10.21	Existing retaining wall shown; Path Option A and cliff buffer amended / relocated to suit. Key Updated.	SAO	SAO
C	30.09.21	Ecology measured added. HGV charge points added.	SB	SB
B	24.09.21	Amends to site layout made as per LPA comments recieved 14.09.21.	SB	SB
A	06.08.21	Plot subs to plots 194-196 and 111-113; minor layout amends as per client comments.	JSW	DZ/ SB

Status: PLANNING RIBA Stage: 3

client: Taylor Wimpey North Midlands

Project: Old Wharf Road, Stourbridge

Title: Development Layout

Drawn: BDF Date: 18.05.21

Checked: BDF Scale @ A0: 1:500

Pro. No:
Drg No: C5139/001_02 Rev D

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Development Layout

PLANNING APPLICATION NUMBER: P21/1402

Type of approval sought	Full Planning Permission
Ward	Wordsley Ward
Agent	
Case Officer	James Mead
Location:	**3, GUARDIANS WALK, WORDSLEY, STOURBRIDGE, DY8 5TH**
Proposal	**CHANGE OF USE OF RESIDENTIAL PROPERTY TO A MIXED USE OF RESIDENTIAL AND CHILDMINDING (RETROSPECTIVE)**
Recommendation Summary:	**REFUSE AND ENFORCE**

SITE AND SURROUNDINGS

1. The application site is a relatively modern two storey pitched roof detached house located at 3 Guardians Walk, Wordsley. The property benefits from a driveway to the front with two parking spaces provided. An integral garage has been converted within the property to provide additional accommodation within the house to support the childminding use.

2. There is a private garden area to the rear of the house. Boundaries consist of fencing, with Number 23 Guardians Walk beyond the rear boundary; the occupiers of which have planted high hedging along their rear boundary. No 1 Guardians Walk is to the west and set forward of the application property and No 5 Guardians Walk is to the east, set slightly forward and slightly higher than the application site.

3. The house sits within the perimeter block of residential houses, most of which are detached and two storeys. The surrounding area is wholly residential in character.

PROPOSAL

4. This application proposes the retrospective change of use of the property for use as a mixed use of residential and childminding.

5. Childminding takes place Monday to Friday between the hours of 7.30am and 5.30pm, with up to 10 children being looked after by 3 members of staff (the applicant and two assistants working in one day). One on site car parking space is available for staff parking. There is an informal arrangement in place with a neighbour for additional parking.

HISTORY

6. There is no relevant planning history associated with this site.

PUBLIC CONSULTATION

7. Letters of notification were sent to the occupiers of six surrounding residential properties. The deadline for comments was 24th October 2021.

8. Two letters of objection have been received from the occupiers of nearby residential properties, objecting to the application on the following grounds

- Noise from children playing in the garden all day, prevents working from home and normal enjoyment of our home.
- Significant increases in traffic at drop off and pick up times. Causing obstruction to existing residents.
- Residents affected by commercial activity of a business in a exclusively residential area.
- Covanants restrict all properties to residential use only.
- This would set a precedent if approved.

9. Councillor Kerry Lewis has requested the application be determined by Planning Committee stating *"The implications this will have on jobs will be detrimental and not forgetting the children who attend this setting who are in a stable environment"*

10. Councillor Miller supports the proposal, stating "*I support this application it does not cause any problems. The parents come, drop or collect children and are gone within minutes. The biggest problem on this estate is the amount of delivery drivers driving fast, parking over drives, roads being blocked"*

11. In addition, two letters in support of the application have been received from a local resident and one member of staff. These are summarised as follows.

- We have no concern, the use is considered, well intentioned and does not affect the use of property.
- We have no concerns over noise levels
- There are no parking issues
- It does not affect property values
- There is no excessive traffic
- This is a vital service to the community
- Children of frontline workers are cared for
- Set as 'Good' by Ofsted

OTHER CONSULTATION

12. Head of Planning and Development (Highway Engineer):
Fundamental concern due to the lack of parking.

13. Head of Environmental Safety and Health:
It is noted that the rear garden of the application property is in relatively close proximity to several other gardens. There is potential for behavioural noise from children using the garden to adversely affect other residents in the immediate area. Recommended a 12-month temporary consent.

RELEVANT PLANNING POLICY

14. National Planning Guidance
- National Planning Policy Framework (2021)
- Technical Guidance to the National Planning Policy Framework (2012)
- Planning Practice Guidance (2014)
- Community Infrastructure Levy Regulations (as amended) (2014)

15. Black Country Core Strategy (2011)
- CSP2 Development outside the Growth Network
- TRAN2 Managing Transport Impacts of New Development
- ENV2 Historic Character and Local Distinctiveness

16. Dudley Borough Development Strategy (2017)

- S1 Presumption in favour of Sustainable Development
- S17 Access & Impact of Development on the Transport Network
- D2 Incompatible Land Uses
- D5 Noise Pollution

17. Supplementary Planning Guidance/Documents

- Parking Standards Supplementary Planning Document (2017)

ASSESSMENT

18. The main issues are

- Working from Home
- Policy
- Neighbour Amenity – Noise
- Parking and Highway Safety.
- Need

Working from Home

19. The Government guidelines encourage people to work from home as long as this does not cause unacceptable harm to the amenity of the area or more importantly immediate neighbours. The key test is whether the overall character of the house will materially change as a result of the business.

20. As a general rule operating a childminding business form your home does not require planning permission so long as no more than 6 children are being cared for by one childminder in line with Ofstead regulations. However, when there is a need to employ assistants to look after a higher number of children, there is a requirement to seek planning permission as this is considered to materially change the character of the house. This is because the home would no longer be primarily used as a private residence; there would be marked rise in traffic and people calling at the house; it involves business activities unusual in a residential area and could cause disturbance and create other forms of nuisance such as noise and smells to neighbouring occupiers.

Policy

21. Dudley Borough Development Strategy Policies D2 and D5 considered relevant from an amenity point of view.

22. Policy D2 - Incompatible Land Uses, for example states *"Development will not be permitted if it is incompatible, in terms of its environmental impact, with the surrounding uses.*

"This will particularly be as a result of the amenity of the occupiers of existing and proposed buildings and the users of the public realm at or near to the site potentially being subject to undue harm as a result of development, especially by virtue of noise and disturbance, light and air pollution, and odours and fumes. This especially relates to the amenity of the occupiers of dwellings".

23. Policy D5 - Noise Pollution, takes a similar stance stating that proposals which are noise generating and which have an impact on amenity will not be supported.

Neighbour Amenity – Noise

24. While, the above policy does not preclude such uses in residential areas, providing there is no harm to the living conditions of nearby residents. In general, larger more commercial operation should be located in areas of mixed commercial development and should not cause demonstrable harm to the occupiers of nearby dwellings.

25. In this instance, the Environmental Safety and Health Team note that the rear garden of the application property is in relatively close proximity to several other gardens and there is potential for behavioural noise from children using the garden to adversely affect other residents in the immediate area. While timing of the use of the garden could be controlled via a condition or as suggested a temporary consent given, some local residents refer to the noise from children playing being unduly loud and disruptive and audible both in their gardens and their houses. The noise arising from upto 10 children playing in what is a relatively small outdoor area is likely to cause undue noise and disturbance to nearby occupiers.

26. In addition, noise and disturbance would also be generated by the comings and goings of additional vehicles and people to the property. This includes from the banging of car doors, revving of engines and general noise from parents and children entering and leaving the property. These activities take place in relatively close proximity to nearby houses and are

likely to be noisy and intrusive, particularly early in the morning at drop off times when background noise would generally be diminished.

27. It is therefore considered that the proposal would be harmful to the living conditions of nearby occupiers with particular reference to noise and disturbance and would be sufficient in this instance to warrant refusal of the application. The proposal would be contrary to polices D2 and D5 of the Dudley Borough Development Strategy and guidance contained within the NPPF (2021).

Parking and Highway Safety

28. As outlined within policies TRAN2 of the Black Country Core Strategy and Policy S17 of the Dudley Borough Development Strategy there is a requirement to ensure that development proposals do not result in significant transport implications. In support of these policies, the Parking Standards SPD recognises the need to provide the *"right amount of parking provision in the right place and to the right size".* In doing so paragraph 3.2 outlines that *"Developments that suggest likely on-street parking which would create or exacerbate issues of highway safety will not be supported."*

29. The property is indicated to be a four-bedroom dwelling that at the time of construction required 3 off-street parking spaces. It is evident from photos of the site that the property has removed the integral garage and reduced the parking capacity at the house. The applicant has stated that staff or customers may also park on a neighbouring driveway by agreement with the resident. Such an agreement cannot be supported as part of the business operation as this may be taken away at any point by the neighbour and cannot be controlled through a planning condition. In any event the applicant states that her own car will be parked on the drive, with one space available for a member of staff, leaving no off street parking for parents to drop off or pick up.

30. Some children could be from the local area and walked to the site, and there is a possibility that customers may have more than one child attending the site with a potential for liked tripes. Nevertheless, some people will arrive by car and have no option to park on the road outside the house. The proposal has the potential to lead to considerable increase in the number of vehicles seeking to park on Guardians Walk and could compromise the free flow of traffic.

31. The proposed change of use to permit childminding at the property will therefore increase the observed parking problems on this road, creating a potential obstruction and highway safety emergency access issue. As such the development has the potential to have a detrimental impact on highway safety, which is contrary to Black Country Core Policy TRAN2 - Managing Transport Impacts of New Development, and Dudley Borough Development Strategy. Policies S17 - Access & Impact of Development on the Transport Network and guidance contained within the National Planning Policy Framework (2021).

CONCLUSION

32. The proposed development is considered to harmful to amenity of adjoining neighbours by way of noise and disturbance. In addition, there would be an unacceptable impact on highway safety. Consideration has been given to policies within the Black Country Core Strategy (2013) and the Dudley Borough Development Strategy (2017).

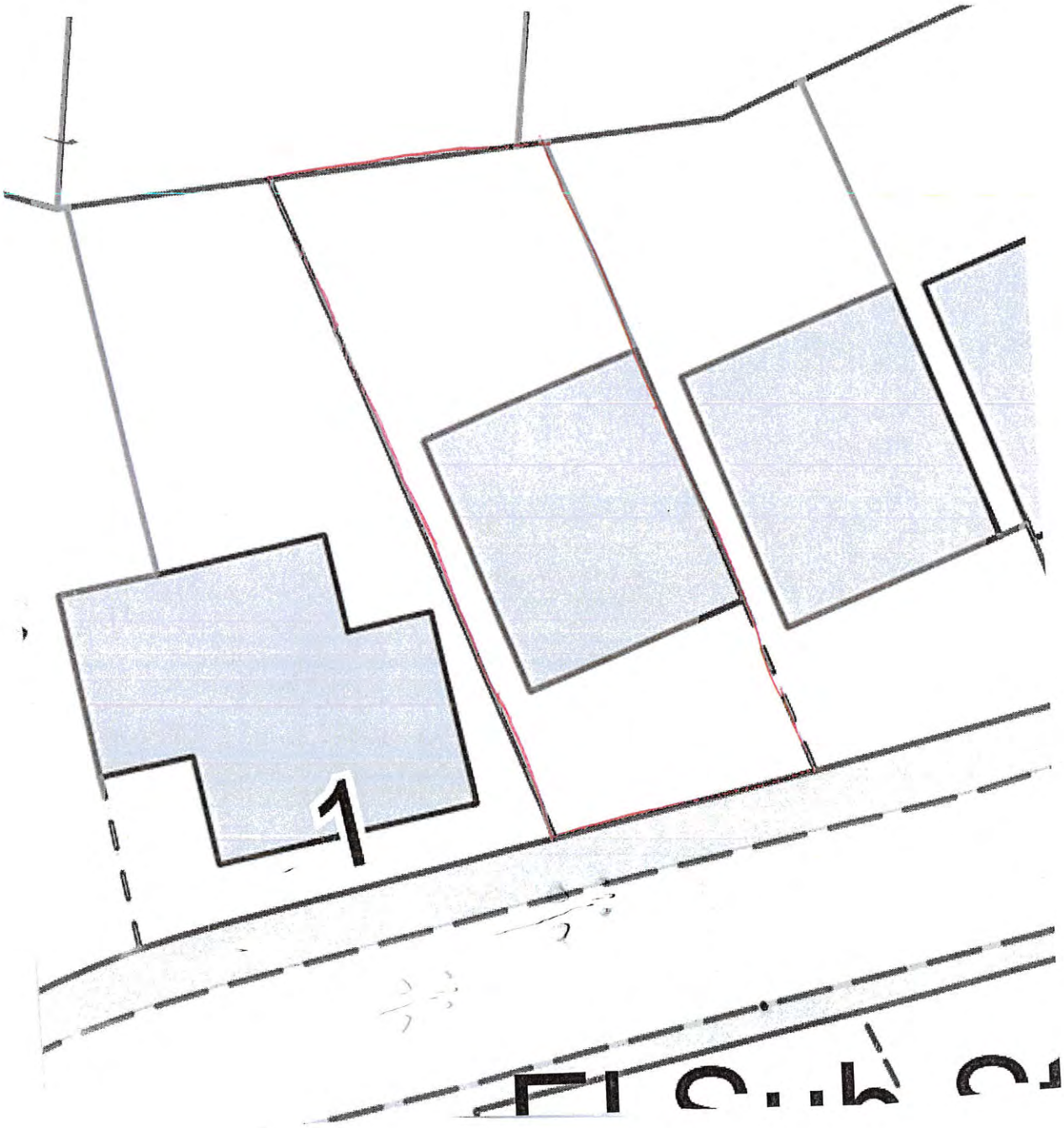
RECOMMENDATION

It is recommended that the application be REFUSED and enforcement action authorised.

Conditions and/or reasons:

1. The intensification of the childminding use in close proximity to adjoining residential premises would have a significantly detrimental impact on neighbour amenity by way of noise and general disturbance associated with the operation. The proposed developed is there considered to be contrary to Policies D2 (Incompatible Land Uses) and D5 (Noise Pollution) of the Dudley Borough Development Strategy 2017 and guidance contained within the National Planning Policy Framework 2021.
2. The proposed development would not provide a sufficient level of parking and would displace vehicles onto the highway resulting in the increased risk to highway safety, as well as interfering with the free flow of traffic on the highway and unacceptable traffic congestion or inconvenience to other users of the highway. As such the proposed development is contrary to Black Country Core Policy TRAN2 - Managing Transport Impacts of New Development, and Dudley Borough Development Strategy Policy S17 - Access & Impact of Development on the Transport Network; the provisions of the Car Parking Standards SPD (2017) and guidance contained within the National Planning Policy Framework (2021).

Location Plan (1:1250)



Block Plan (1:200)

PLANNING APPLICATION NUMBER: P21/1505

Type of approval sought	Full Planning Permission
Ward	Castle and Priory Ward
Agent	Mrs K. Hartley, Delta Planning
Case Officer	Richard Stevenson
Location:	**FORMER HIPPODROME AND ADJACENT LAND AND BUILDINGS, CASTLE HILL, DUDLEY**
Proposal	**DEMOLITION OF EXISTING BUILDINGS AND REDEVELOPMENT FOR A HIGHER EDUCATION FACILITY TOGETHER WITH ASSOCIATED ACCESS, CAR PARKING AND LANDSCAPING**
Recommendation Summary:	**APPROVE SUBJECT TO CONDITIONS IF NO CALL IN FROM SECRETARY OF STATE**

SITE AND SURROUNDINGS

1 The application site comprises the former Gala bingo hall building, an area of associated land that once accommodated the Plaza Cinema located immediately to the west of the former bingo hall and the former JB's nightclub and Martial Arts centre to the east. The Cinema was demolished in 1996, the building being a large and similarly sized building to the former Bingo hall. This triangular section of the site is enclosed by galvanised palisade fencing and is used as a metro compound.

2 The former Bingo hall (formerly the Hippodrome Theatre) was opened in 1938 on the site of the former Dudley Opera House and is of an art-deco/modernist design. The former bingo hall operated as a theatre until the mid-1960's when the building then re-opened as an entertainment venue/club before becoming a bingo hall in the 1980s. The bingo hall closed in 2009 and the building has been vacant since then.

3 The site lies within the Dudley Town Centre Conservation Area, designated on the 16th March 2005. The building is unlisted but is noted on the Historic Environment Record as an undesignated heritage asset, being a large former variety theatre.

The building is of an art deco design with its front elevation being a streamlined design in buff brick. The side and rear elevations are built of red brick.

4 On the eastern side of the application site is a martial arts centre and the former JB's nightclub. This is a modestly scaled 1-2 storey building. To the east of these premises is Station Drive with the former railway alignment beyond. This is now used as the very light rail test track with its associated infrastructure and the under constriction Very Light Rail Innovation Centre located to the north-east

5 The side elevations of the Gala Bingo building are largely exposed within the street scene as you travel Castle Hill and also extensive views of the rear of the building can be seen from the Zoo car park, Tipton Road and Castlegate Island.

6 Immediately abutting the western boundary of the site is the refurbished, Grade II listed Tecton building which accommodates the Zoo offices. Gates and railings to the Castle Hill frontage of the Zoo offices site have been installed to complete the renovation of the building.

7 The application site backs onto the existing Zoo car park and immediately adjoining the eastern boundary of the site, is the pedestrian route that links the Zoo car park to Castle Hill (also a Conservation Area, and a Scheduled Ancient Monument). Opposite the site on the southern side of Castle Hill is a place of worship (formerly the Odeon Cinema) which is of art deco/modernist design and Grade II listed.

8 It should be noted that the lawful use of the former bingo hall (The former Hippodrome Theatre) is as Use Class E – commercial, business and service and not as a theatre, which is a sui generis use. The boxing club/martial arts centre also falls under Use Class E, but the former JB's night club has a lawful sui generis use as a night club/music venue.

PROPOSAL

9 This is full planning application which proposes the demolition of the former bingo hall, the boxing club/martial arts centre and the former JBs night club so the site can be redeveloped as a higher education facility with associated access arrangements, parking and landscaping.

10 The application proposes a four-storey building with a total floorspace of 4250m^2 and is designed as a gateway building to the town centre, with active frontages to each of its four elevations with three main entrances. The building would be significantly lower than the former bingo hall it would replace.

11 The proposed building Is of contemporary design and like the building It is proposed to replace, has strong modernist elements and incorporates a number of art deco themes, particularly to the main entrance to Castle Hill. The development would be principally finished in brick, again reflecting materials in the existing main building.

12 There would be a south-west facing public plaza and new pedestrian and cycle routes integrating the building into its surroundings and providing improved connection from the town centre to Dudley Zoo, the Black Country Living Museum, the Learning Quarter (The existing Dudley College facilities), the proposed new West Midlands Metro station and the proposed Dudley Interchange.

13 A service yard, which would be used for ambulance training has been located to the east of the building, which due to the topography of the site, will sit below ground level.

14 Vehicular access to the development would be from the north via Zoological Way, also providing access to the service yard and a disabled parking area to the east of the building. No other on-site parking would be provided apart from that which already serves the Zoo offices which is to be modified.

15 The application has been submitted with a Design and Access Statement, a Planning Statement, a Heritage Impact Assessment, a Flood Risk Assessment, a Drainage Strategy, nature conservation reports, land contamination information, a Transport Statement, a Travel Plan and Sustainable Design Statement.

16 Additionally, during the consideration of the planning application additional/amended information has been provided, including a Transport Statement addendum, marketing information, a response to comments made by consultees, levels information relating to the land to the east of the proposed building and how it relates to the proposed metro alignment.

17 The development is being funded from a £25million grant from the Town Fund scheme which was awarded on the basis of the lack of higher education opportunities in the Borough, with a lower than average of young people and adults progressing into higher technical or degree level jobs.

18 Worcester University has been selected as the partner higher education institution. It is proposed that site will deliver higher education programmes from the new facility centred around health care and allied professions including nursing, midwifery, paramedic and related health occupations.

HISTORY

APPLICATION No.	**PROPOSAL**	**DECISION**	**DATE**
DY/49/329	Extension to rear of stage.	Granted	17/12/1949
DY/50/241	Erection of new stores.	Granted	21/10/1950
DY/66/14	Change of use of foyer to shopping facilities.	Dismissed	21/02/1966
DB/66/313	Use of basement floor as private club steak bar and to	Granted	21/07/1966
DB/73/11937	Alterations and extensions to existing premises.	Granted	14/06/1973

85/51619	Use of premises as a Bingo club	Granted	03/10/1985
P12/1054	Demolition of former Gala Bingo Building and formation of car park and associated landscaping.	Withdrawn	12/2016
P12/1074	Conservation Area Consent for demolition of former Gala Bingo Building	Withdrawn	12/2016
P16/1677	Demolition of the former Hippodrome Theatre/Gala Bingo building and creation of landscaped public amenity area.	Withdrawn	19/1/2017
P20/1737	Screening Opinion for a higher education facility	Not an EIA development	26/11/2020

19 Planning application P16/1677 is the most recent planning application in relation to the site which sought to demolish the former bingo hall and redevelop as a landscaped amenity area. This application was withdrawn at the applicant's request.

PUBLIC CONSULTATION

20 76 letters of objection have been received following consultation with 14 adjoining neighbours, the posting of a site notice and the publication of an advert within a local newspaper. Consultation was also carried out with the Theatres Trust and the Twentieth Century Society the comments of which are referred to in the Other Consultation section below. Matters of general concern raised relate to the following issues:

- The new building would have a negative impact on the conservation area
- Site is Gateway to town centre
- Design of replacement building is poor
- Building should be retained

- Good example of 1930s Art Deco
- Demolition of building is contrary to planning policy
- Building should be reused as theatre/community use
- Demolition of building is contrary to planning policy
- Site should be used leisure/tourism
- Education campus should be built elsewhere, i.e. Portersfield, edge of centre location like Wellington Road or Blowers Green.
- Building should be locally listed
- Building owned by DMBC
- Impacts on climate change/CO^2 from the demolition
- Town centres need more leisure uses, due to decline in retail
- Existing covenant prevents use for education
- Reference made to Peoples Panel that wanted building retained
- Existing asbestos can be treated
- No viability information submitted
- Retention would help city bid
- College has not helped economy
- College would not help evening economy
- Council has declared a climate emergency
- Too many theatres in West Midlands lost
- Council should support lottery bids for theatre reuse
- Reference made to reuse of similar building opposite as a place of worship
- Town Fund money should be split in smaller projects
- Music school should have been within the building
- Demolition will be expensive
- last remaining lyric theatre in the Midlands, capable of hosting large scale productions
- Requests have been made to have the application "Called In"
- References made to the NNPF and the Councils own Development Plan policies
- Should be an assessment of CO_2 emissions.
- Viability assessment should be carried out.

- There Is no evidence that a theatre use is not viable
- Too many health-related courses locally
- Photos and newspaper articles provided

One further letter of objection received but cannot be given any weight in that the representation was not duly made.

21 One letter of support received on basis of,

- Supports removal of building
- Building needs to be of good design.

OTHER CONSULTATION

22 Head of Planning and Regeneration (Highway Engineer): The highway officers examined the Transport Assessment and recommended further robustness testing. This was undertaken and the development is now considered to be acceptable. The development is closely located to major sustainable infrastructure, the proposed metro and Interchange, numerous on street Highway bus stops, walking routes, cycle routes and also to the Zoo and town centre car parks. The development also proposes to open up an existing key barrier to walking and cycling at Station Drive and provides a 6m wide segregated cycle and walking route, linking Castle Hill with Zoological Drive and Discovery Way. The application is therefore supported subject to conditions.

23 Head of Planning and Regeneration (Land Contamination Team): No objection. Notes that the accompanying report highlights the potential for land contamination and ground gas and recommends further investigation of these matters which can be conditioned.

24 Head of Design and Delivery (Urban Design and Landscape Team): No objection. Due to its location and context, the proposed building will effectively have pedestrian activity along all elevations and the built forms will need to function and provide a public-facing aspect from all sides. It is considered that the character and

appearance of the proposals are well designed, being responsive to the surrounding context and appropriate for the buildings use. Considers that the development reopens a key view of the castle along a major gateway into Dudley

25 Head of Design and Delivery (Historic Environment Team): No objection. Notes the key legislative and policy objectives in relation to demolition in conservation areas, the setting of listed building (i.e. the former Odeon cinema opposite) and other heritage designations (The Castle and Castle Hill Scheduled Ancient Monument) that the Local Planning Authority must consider. Notes the former bingo hall building was constructed in 1937 by A. Hurley Robinson and was used a theatre until the 1960s and latterly became used exclusively for bingo, closing in 2009. Since 2010 building has been on the Theatres Trust at risk register, but it was not statutorily listed following an assessment by Historic England in 2011. Considers that the former bingo hall positively contributes to the Dudley Town Centre Conservation Area, but due to historical demolitions (thereby revealing more elevations of the building not designed to be viewed) it negatively impacts on certain views to and from the Castle Hill Conservation Area. The former JB's nightclub and Boxing club provide a neutral contribution to the character and appearance of both Conservation Areas. However, based on the information provided in support of this application, it is the view of Historic Environment that *'clear and convincing justification'* for the loss of the heritage asset has been provided by the applicant, to demonstrate the ability to comply with the requirements of the NPPF. The architects were also asked to see whether it was possible to adapt the building for reuse, including a facadism proposal, however, it was regrettably apparent that this would not provide appropriate accommodation and was less than desirable from a design point of view. Also considers the replacement building design to be appropriate in relation to the setting of the conservation areas and the other adjoining heritage assets.

26 Head of Environmental Safety and Health: No objection. No adverse impact in relation to noise or air quality. Recommend conditions in relation to any new fixed plant, electric vehicle charging points and dust management during demolition and construction.

27 Lead Local Flood Authority: No objection. The applicant has satisfactorily assessed the risk of flooding from Main River and Surface Water to be low. The site-specific Drainage Strategy for the development is acceptable. Encourage green roof and, tree pits and rainwater harvesting. Request drainage condition.

28 Group Engineer (Highways) (Rights of Way Officer): Requested more information in relation to the eastern side of the building and the metro alignment to ensure there is sufficient space for pedestrians and a segregated cycleway which has been received and satisfactorily addressed questions raised.

29 Historic England: No objection. *"The Hippodrome is a non-designated heritage asset of local significance for its historical and limited architectural interest and on this basis makes a positive contribution to the Town Centre Conservation Area. Its contribution to the significance of the Castle Hill Conservation Area, scheduled castle and listed zoo buildings is mixed as its scale is visually challenging and obstructs views that have the potential to enhance their significance.*

"The proposal would result in the loss of the Hippodrome's significance and limited harm to that of the Town centre Conservation Area. However, the scale of the proposed development would open views of the castle and improve the setting of the listed zoo buildings. It would also, in contrast to the Hippodrome, present both conservation areas with active and attractive elevations on all sides.

"We consider that these aspects of the proposal would enhance and better reveal the significance of the castle, zoo buildings and the conservation areas. They represent heritage benefits that we consider outweigh the harm caused by demolition and we do not therefore object to the application".

Also confirms that demolition should be conditional upon the letting of a contract for the new development.

30 Twentieth Century Society: Object. Two letters received. Have made representations in relation to the loss of a non-designated heritage asset. Building designed by A Hurley Robinson – designer of cinema buildings. Reference is made

to historic performances including Laurel and Hardy and George Formby. Located with conservation area, adjoins another together with relationship with castle. Fine example of 1930 style cinema architecture. Consider building to be of “Considerable local and architectural interest”. Insufficient justification for loss of building – building could be reused. Agree with view of the Theatres Trust that be building could be modified without harm to fabric. Harmful emissions from demolition of building – impact to climate change. References made to the historic environment section of the NPPF and the Dudley Town Centre Character Area Appraisal 2015.

31 The Theatres Trust: Object. Two letters received. On Trusts at risk register. Have had recent engagement with Council. Undesignated heritage asset within setting of castle and Geo Park. Note previous refusal to list – but consider appreciation of 1930s buildings has moved forward. Opened in 1938 designed by architect renowned for cinema design. Sister of now demolished Plaza cinema. Noted former Odeon opposite now used as place of worship. Well known artists played at venue i.e. Morecombe and Wise, Cliff Richard. Should be on the local list. Consider later alterations can be reversed. Significant parts of original features exist. Noting context, setting could be improved. Note that disused theatres elsewhere have been reopened i.e. Walthamstow. Consider viability has not been fully assessed/demonstrated. No evidence of lack of need. Previous indication of large venue in town – but proper consideration of what is required. Town hall provides local facility – but lacks fly tower and has limited capacity. Impact on climate change in relation demolition and CO2 – reference made to Architects Journal. Consider 5-year lease which was offered was too short to allow restoration and funding particularly with ongoing threat of demolition. Lease was too onerous. Driverless Vehicle Consortium was given more time to prepare business case. Alternative uses should also be considered. Do not consider updated supporting information is sufficiently up-to-date. References made to the historic environment section of the NPPF. If approval is recommended an archaeological recording condition is required.

32 West Midlands Police: Consider site should be enclosed and the number of entrances should be reduced. Natural surveillance is important. Vehicular access

into the site should be restricted. Parking should be appropriately manged Landscaping should affect natural surveillance or CCTV. Appropriate lighting should be provided.

33 West Midlands Fire Service: Provide technical advice on fire related matters.

34 Transport for the West Midlands: No comments received.

35 Severn Trent Water: No objection. There may be a public sewer located within the application site. Although our statutory sewer records do not show any public sewers. sewers have statutory protection and may not be built close to, directly over or be diverted without consent. Request drainage condition.

RELEVANT PLANNING POLICY

- National Planning Guidance
  National Planning Policy Framework (Revised 2018)
  Technical Guidance to the National Planning Policy Framework (2012)
  Planning Practice Guidance (2014)
  Historic Environment Good Practice Advice in Planning 2 - Managing-Significance in Decision Taking (2015)
  Historic Environment Good Practice Advice in Planning 3 – Setting of Heritage Assets (2015)

- Black Country Core Strategy (2011)
  CSP1 The Growth Network
  CSP3 Environmental Infrastructure
  CSP4 Place Making
  HOU5 Education and Health Care Facilities
  EMP1 Providing for Economic Growth
  EMP6 Cultural Facilities and the Visitor Economy
  CEN4 Regeneration of Town Centres
  CEN5 District Centres and Local Centres

CEN7 Controlling Out-of-Centre Development

CEN8 Car Parking in Centres

TRAN2 Managing Transport Impacts of New Development

TRAN4 Creating Coherent Networks for Cycle and for Walking

TRAN5 Influencing the Demand for Travel and Travel Choices

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

  S3 Renewable Energy

  S4 Flood Risk

  S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS)

  S6 Urban Design

  S7 Landscape Design

  S8 Conservation and Enhancement of Local Character and Distinctiveness

  S9 Conservation Areas

  S10 Listed Buildings

  S11 Buildings of Local Historic or Architectural Importance

  S13 Areas of High Historic Landscape Value (AHHLV)

  S14 Registered Parks and Gardens and Designed Landscapes of High Historic Value (DLHHV)

  S15 Heritage Assets of archaeological interest, Scheduled Ancient Monuments and Archaeological Priority Areas (APA)

  S16 Infrastructure Improvements

  S17 Access & Impact of Development on the Transport Network

  S18 Cycling

  S19 Dudley Borough's Green Network

  S21 Nature Conservation Enhancement, Mitigation and Compensation

S22 Mature Trees, Woodland and Ancient Woodland

D1 Access for All

D3 Contaminated Land

D5 Noise Pollution

- Dudley Area Action Plan (2017)

  Policy 1 Sustainable Development

  Policy 2 Design Quality

  Policy 3 Urban Structure and Built Form

  Policy 4 Sense of Place and Connectivity

  Policy 5 Landmarks, Views, Vistas and Gateways

  Policy 6 Sustainable Urban Drainage Systems (SUDS) and Flood Risk

  Policy 13 Development Opportunity Site 7: Castle Hill/Tipton Road

  Policy 17 Land uses outside Dudley's Primary Shopping Area

  Policy 19 Education

  Policy 20 Leisure and Tourism

  Policy 21 Conservation and Enhancement of Local Character and Distinctiveness in Dudley

  Policy 22 Dudley Town Centre Conservation Area

  Policy 23 Castle Hill Conservation Area

  Policy 25 Access and Movement

  Policy 26 Managing and Developing the Highway Network in the Town Centre

  Policy 27 Public Transport

  Policy 28 Walking and Cycling

  Policy 29 Car Parking

  Policy 30 Landscape, Survey, Analysis and Design Principles

  Policy 32 Public Realm

  Policy 33 Nature Conservation

- Supplementary Planning Guidance/Documents

  Access for All Supplementary Planning Document

  Design for Community Safety Supplementary Planning Guidance (2002)

  Historic Environment Supplementary Planning Document (2017)

Nature Conservation Supplementary Planning Document (2016)

Document (2007)

Parking Standards Supplementary Planning Document (2017)

ASSESSMENT

36 The main issues are

- General Policy Background
- Historic Environment – Demolition
- Historic Environment – Alterative Uses
- Historic Environment and Design of the New Building
- Amenity
- Access and Parking
- West Midlands Metro and Cycling
- Trees
- Nature Conservation
- Flood Risk
- Air Quality and Climate Change
- Geotechnical
- Financial Considerations
- Other Matters

General Policy Background

37 As noted above the site accommodates three buildings, the former bingo hall (the former the Hippodrome Theatre), the former JB's night club and the boxing club/martial arts centre which are attached to each other and are located at the foot of Castle Hill on the edge of Dudley town centre. The site also includes the zoo offices car park and a compound. It is proposed to demolish the buildings and redevelop for educational purposes.

38 The site is situated within the Dudley Town Centre Conservation Area and is adjacent to the Castle Hill Conservation Area. The buildings fall within the setting of

Dudley Castle, a Scheduled Monument and a Grade I listed structure, as well as the setting of the Grade II listed former Odeon Cinema (now a place of worship on the southern side of Castle Hill). The buildings also fall within the setting of a number of listed Tecton buildings and structures that form part of the Dudley Zoological Gardens, including the distinctive Grade II* entrance to Castle Hill and the Grade II zoo offices. All are within the Black Country Geopark. Consequently, the proposed demolition of the existing buildings, and the erection of replacement development will need to be considered in line with statutory duties relating to the historic environment as well as relevant national and local heritage planning policies and associated guidance.

39 The former bingo hall was historically used as variety theatre which has been vacant for over 12 years after being most recently used a bingo hall and is a recognised heritage asset (HER Ref: 4983). Likewise, the former JB's nightclub was a music venue used by some well know British bands prior to their rise to fame (HER Ref. 15262). This and the adjoining boxing club/martial arts centre was historically used as a skating rink.

40 In 2011 an application was submitted to Secretary of State/Historic England for the former bingo hall to be placed on the statutory list (Case No.465438), after much deliberation it was concluded not to add the former theatre to the statutory list. Since 2010 the building has been on the Theatres Trust at Risk Register .

41 The Dudley Town Centre Conservation Area Character Appraisal identifies the former bingo hall as making a medium positive, contribution to the conservation area on the basis of its street façade, and the role it plays in the gateway into the conservation area at this point. The Appraisal also identifies the vacant condition of the building as being negative detractor to the Dudley Town Centre Conservation Area. The Castle Hill Conservation Area appraisal considers that former Hippodrome Theatre negatively impacts on the setting of the Conservation Area: '*The Hippodrome Theatre is seen in certain views as a blocky rectilinear silhouette with an unrelieved long elevation standing directly behind the listed former Safari Café (now the entrance, gift shop)'.*

42 When dealing with applications within Conservation Areas and their setting and the setting of a statutory listed buildings and scheduled monuments, Local Planning Authorities have a statutory duty under the provisions of sections 66 (1) and 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to, when exercising any of their planning powers to have 'special regard' to certain matters.

43 When an LPA exercises planning functions in a Conservation Area Section 72 (1) of the above acts states;
'In the exercise, with respect to any buildings or other land in a conservation area, of any powers under any of the provisions mentioned in subsection (2), ***special attention*** *shall be paid to the desirability of* ***preserving or enhancing the character or appearance of that area'****.*

44 Section 66 (1) of the above act sets out the general duty of an LPA in respect of exercising planning functions in respect of listed buildings,

"In considering whether to grant planning permission for development that affects a listed building or its setting, the local planning authority ***shall have special regard*** *to the desirability of preserving the building or its setting or any feature of special architectural interest or historic interest which it possesses."*

45 Section 74 of the same Act specifically refers to the control of demolition in Conservation Areas and it sets out that when considering the demolition of a non-listed building in a Conservation Area, particularly one that is considered to have a positive contribution such as the Hippodrome, it is to be treated as if it is a listed building (i.e. a designated heritage asset) and that accordingly Sections 16 and Section 17 of the Act are to be referred to which sets down the details in respect of applications for listed building consent but also paragraphs 197, 199, 200, 201 and 202 of the NPPF are to be taken into consideration. The instruction to take this approach is made clear in paragraph 207 of the NPPF which states,

"Not all elements of a World Heritage Site or Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 201 or less than substantial harm under paragraph 202, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole".

46 That notwithstanding, the applicant and the local planning authority are directed to Paragraph 199 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

47 The NPPF defines 'significance' of a heritage asset as, *'the value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence but also from its setting'* (NPPF, page 71).

48 This application proposes the demolition of the Heritage Asset so within the context of the NPPF, demolition of the Hippodrome would result in the total loss of significance of the heritage asset and as such, as a local planning authority we are directed by the NPPF to apply para.201 and/or 202 of the NPPF.

49 Para 201 states "*Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply,*

a) the nature of the heritage asset prevents all reasonable use of the site; and

a) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and

b) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and

c) the harm or loss is outweighed by the benefit of bringing the site back into use.

50 Paragraph 202 states '*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use'.*

51 Coupled with the national planning policies in relation to the historic environment and design are Black Country Core Strategy Polices policies ENV 2 Historic Character and Local Distinctiveness and ENV 3 Design Quality together with policies S6 Urban Design; S8 Conservation and Enhancement of Local Character and Distinctiveness; S9 Conservation Areas; S10 Listed Buildings; S11 Buildings of Local Historic or Architectural Importance; S14 Registered Parks and Gardens and Designed Landscapes of High Historic Value (DLHHV) and S15 Heritage Assets of archaeological interest, Scheduled Ancient Monuments and Archaeological Priority Areas (APA).

52 In addition Dudley Area Action Plan policies 2 Design; Quality 3 Urban Structure and Built Form; 4 Sense of Place and Connectivity; 5 Landmarks, Views, Vistas and Gateways; 21 Conservation and Enhancement of Local Character and Distinctiveness in Dudley; 22 Dudley Town Centre Conservation Area and 23 Castle Hill Conservation Area are of relevance from a design and historic environment point of view.

53 Matters relating to the historic environment, the demolition of the buildings, most notably the former bingo hall, and alternative uses and the design of the replacement building are explored in more detail below.

54 Additionally of relevance to the application is Black Country Core Strategy Policy EMP6 [Cultural Facilities and the Visitor Economy] – encourages the promotion and protection of other cultural attractions and events which represent and celebrate the wide range of culture and diversity across the Black Country and again is explored in the historic environment sections below.

55 The proposed development of a higher education facility has significant policy support in line with Black Country Core Strategy (2011) Policy HOU5 [Education and Health Care Facilities]. Education facilities are fundamental to achieving the vision for sustainable communities and economic prosperity and is key to delivering key spatial objectives. Policy HOU5 states that,

"'*new higher education facilities should be well designed and well related to neighbourhood services and amenities, well related to public transport infrastructure and directed to a centre appropriate in role and scale to the proposed development and its intended catchment".*

56 This proposed development sits within the regeneration corridor 11a (Dudley – Brierley Hill – Stourbridge). These are areas served by an extensive transport system and therefore provide the most sustainable areas for redevelopment/growth. The Black Country Core Strategy states that the common role of the strategic centres is to be the principle location for major cultural, leisure, entertainment, and community facilities, and to provide the widest possible range of such facilities appropriate for their catchments. It is also demonstrably clear that a further higher education facility in this area relates well to the public transport infrastructure and will lead to an enhancement in training and research in Dudley and would assist in levelling up by allowing easier access to higher education.

57 The NPPF also sets out the Government's commitment to ensuring planning policies and decisions create the conditions to foster business investment, expansion, and adaptation. Stating significant weight should be placed on the need to support economic growth and productivity. The Dudley Area Action Plan acknowledges that investment in Dudley College has contributed towards town

centre regeneration. An increase in student number and staff using the facilities has had a positive impact on vitality and viability of the town centre.

58 The importance of education facilities to the health and well-being of Dudley is recognised in the Dudley Borough Development Strategy by Policy S2 - Planning for a Healthy Borough], this seeks to protect existing education facilities, as well as ensuring that the new facilities are sited well to ensure accessibility and choice.

Historic Environment – Demolition

59 As you will note from above, both the Twentieth Century Society and the Theatres Trust have objected to the loss of the former bingo hall stating what they consider to be the buildings architectural and historical interest, particularly due to the named architect associated with the design of the building, but also the stars of variety and entertainment of the mid 20th century who played at the venue when it was used as a theatre. They also reference the buildings location within and adjoining a conservation area and the setting of the castle. They also consider the building is worthy of reuse and point to examples elsewhere which have been bought back into use and make reference to the abortive attempts to buy/lease the building from the Council.

60 However, the individual significance of the former bingo hall in the view of Historic England is that its contribution to the conservation areas is more limited, and they consider this rests chiefly in its historical rather than architectural interest due to the modesty of its original design and the impact of change upon it. Though still considered a non-designated heritage asset, its interior and exterior detailing in the view of Historic England has been lost and high, blank elevations of unrelieved brickwork that were never meant to be seen have been revealed by demolition of what was the Plaza cinema. As part of the Castle Hill street scene they consider its scale now appears visually challenging and its uncompromising relationship with listed zoo buildings and impact on views to and from the castle are negative factors that counter its historical interest. These views are also similarly identified within the Castle Hill Conservation Area appraisal.

61 The Council conservation officer considers the building positively contributes to the Dudley Town Centre Conservation Area but due to historical demolitions (thereby revealing more elevations of the building not designed to be viewed) it negatively impacts on certain views to and from the Castle Hill Conservation Area.

62 Historic England notes that the site also includes the former skating rink (now the former JB's night club and boxing club/martial arts centre) which has been extended and altered in such a way as to lose any architectural value it may once have had. Other than a minimal historical interest, this building is of no significance and in their view, it is considered to be negative element in the conservation area.

63 Historic England consider that removal of the buildings would improve the setting of the castle, the listed Zoo buildings and the appearance of the Castle Hill Conservation Area by opening up views of the castle which are not currently available because of the scale of the former bingo hall. This would be particularly so from the east, Castlegate Island and Birmingham Road, Tipton Road and from the Zoo car park. Views out from the Zoo and castle would also be improved.

64 Historic England are therefore persuaded that the application offers an improvement to the setting of the listed Zoo buildings and to the scheduled castle and it that would better reveal their significance, enhancement of the Castle Hill Conservation Area and some enhancement of the Town Centre Conservation Area.

65 Paragraph 207 of the NPPF relates to the loss of a building that makes a positive contribution to a conservation area but recognises that not all buildings do so. In this case Historic England considers that the former bingo halls positive contribution is balanced by the negative impact of its uncompromising bulk and unattractive blank brick facades. Historic England therefore consider the harm to the Town Centre Conservation Area caused by demolition to be limited and less than substantial.

66 In considering NPPF paras. 197 onwards, Historic England concludes less than substantial harm to a conservation area should be weighed against the public benefits of an educational facility providing significant medical training up to degree

level. Historic England consider the enhanced setting of the listed zoo buildings and scheduled castle, improvement in views of these buildings and general uplift in the appearance and vibrancy of the conservation areas to be public heritage benefits that outweigh the harm caused. Historic England are also aware that the proposal would help deliver the regeneration aims set out in the Dudley Area Action Plan which would presumably also be considered a public benefit. This is a view shared by the Local Planning Authority and would complement the tourism-based regeneration initiatives at the zoo and the Black Country Museum and not least the educational and research benefits of the Very Light Rail Innovation Centre and the recently completed Dudley Institute all in the Castle Hill area of the town centre.

Historic Environment – Reuse of Building

67 The Twentieth Century Society, the Theatres Trust as well as number of objectors consider the building should be used as theatre or other type of entertainment venue or community use and correctly refer to the policy tests at both a local and national level in relation to the proposed loss of non-designated or designated heritage, is whether the building can be viably reused for another purpose, and other avenues other than demolition have been fully considered. They also reference policies in relation to the protection of cultural faculties, including Policy EMP6 - Cultural and the Visitor Economy.

68 It is understood that the building closed in 2009 as bingo hall (the last operator being Gala) and following a lack of interest from the market, the building was purchased by the Council in November 2010. The intended purpose of the acquisition was to secure either the re-use of the building as part of the Castle Hill regeneration initiative or redevelopment at a lower density to open up views of Dudley Castle and create an enhanced gateway to the town centre.

69 In early 2012 the Council was approached by the Friends of Dudley Hippodrome, who expressed interest in acquiring the property. In November of 2012 they proposed to reuse the building as multi-purpose arts and cultural venue. The Council commissioned an independent specialist assessment of the plan. As part of this review the independent assessors consulted two major commercial theatre

operators running regional theatres in the UK. The view of both was that the theatre and entertainment marketplace in the West Midlands was already very well provided for. Both were of the opinion that subsidy would be required to underpin the operation.

70 In late 2013 the Council was approached by the ROK Group. In 2014 the ROK submitted a proposal to operate the building as a multi-functional events venue. The Council commissioned the same consultant to undertake an appraisal of the ROK proposal. The consultants questioned whether the proposals would be able to obtain sufficient private sector investment available to undertake the refurbishment and concluded that there was insufficient information to assess whether the operation could be made viable. Discussions with the ROK continued during 2014, but as they were not able to guarantee the use of the Zoo car park, there were issues related to the cost of the removal of asbestos, deferral of business rates and the final capital receipt which meant they gave notice to the Council they did not wish to proceed in April 2015.

71 In parallel to the above negotiations with ROK, a second business plan was received from the Friends of Dudley Hippodrome in late 2014. However, the consultant concluded the plan was not realistic in relation to the capital investment which would be required.

72 In August 2015 a further marketing exercise was undertaken, with an extended deadline to reply by the end of October 2015. The only offer was received from the Friends of Dudley Hippodrome. There was a further business plan from the Friends which proposed the refurbishment of the building on a phased basis to provide a "*regional centre of excellence in training in theatrical skills and performing arts…*" The Council commissioned an independent third party to assess the proposal that had no previous involvement with the building. Again, the issues of viability and finance was apparent.

73 In June 2016 a new enquiry came forward from Black Country Hippodrome Ltd. (BCHL). This resulting in a five-year lease being agreed. The purpose of the lease

was to grant a period of time to seek support from a variety of sources to see if a funding package could be pulled together which will enable the former bingo hall to be repaired/renovated and brought back into use. The five-year lease was broken into one-year periods, each with critical milestones to be achieved.

74 In 2018 the lease was terminated early as Council considered BCHL had failed to meet key milestones including the development of a funding strategy and a proposed scheme. Following the termination of the lease, the Council invited further Expression of Interests in the site and two bids were received, one from the Dudley Hippodrome Community Group and a second from the Dudley Driverless Vehicle Consortium. The bid from the Dudley Hippodrome Community Group was not further pursued by the Council due to lack of funding Information. The bid from the Dudley Driverless Vehicle Consortium to turn the site into a driverless vehicle test centre was, however, further explored, but ultimately did not come to fruition.

75 In July 2019, the Government announced its Towns Fund, which is aimed at providing investment to 100 places across the country to facilitate regeneration and drive economic growth and prosperity. To oversee Dudley's funding bid, the Dudley Towns Fund Board was established. One of the key priorities identified by the Towns Fund Board is to address a lack of higher education opportunities in the Borough. The Town Fund Board has therefore sought £25 million of investment from the Government to develop a higher education centre in the town, which was subsequently awarded.

76 The current site was identified as being suitable for the proposed use given the proximity of the of other training and development uses. However, bearing in mind the historic environment issues and at the request of the conservation officer, at the pre application stage, the prospective applicant was required to explore the option of conversion and extension of the existing former bingo hall to see if the proposed new use (a higher education facility) could be accommodated within it. The appointed Architect has a good track record of delivering similar schemes in the Borough, one of which is the former Fire station located in Tower Street Dudley where the façade of the 1930's building was retained and incorporated into the

higher education scheme.

77 It became evident, however, that the building was not suitable for the proposed higher education use. Initial concepts also included whether it possible to retain the facade of the building as shown in the Design and Access Statement. However, it was clear that the resulting massing and design were not appropriate and did not provide the desired layout. It was therefore concluded by Historic England that an alternative high-quality replacement would be more appropriate. This is explored in more detail below.

78 It should also be noted that there are two other performance spaces within the town centre, which include a facility within Dudley College and the Town Hall which is currently being improved with an additional bar area, bistro and toilets, together with improved disabled facilities. Additionally, there are further performance faculties in Stourbridge and Brierly Hill. In terms of the wider area there are venues in Wolverhampton, and many others located in Birmingham city centre.

79 It is therefore apparent that despite a number of attempts to find alternative viable uses, together with period of marketing for the non-designated heritage asset, it is clear that a viable use could not be found, nor that the current proposed use could be satisfactorily accommodated within the existing building. The applicants have therefore satisfactorily demonstrated that the total loss of significance, i.e., demolition is necessary to achieve substantial public benefits that outweigh the harm/loss and as such, is in accordance with the requirements set by both paragraph 201 and 202 of the NPPF and also local Development Plan policies. Historic England in its response notes that it has taken into account aforementioned NPPF paragraph 202 and the local planning authorities Historic Environment has additionally taken into account paragraph 201.

Historic Environment and Design of New Building

80 The application proposes a four-storey building with a total floorspace of 4250m^2 and is designed as a gateway building to the town centre with active frontages to

each of its four elevations, with three main entrances. The building would be significantly lower than the former bingo hall it would replace.

81 The proposed building Is of contemporary design and like the building It is proposed to replace, has strong modernist elements and incorporates a number of art deco themes particularly to the main entrance to Castle Hill. The building would be principally finished in brick again reflecting the existing main building.

82 As well as the building having to be acceptable in itself it has to be appropriate in terms of the setting of the two conservation areas, the castle and other designated and non-designated heritage assets such the former Odeon cinema opposite, and the Tecton buildings within the adjoining Zoo boundary.

83 As noted above, Historic England note some of deficiencies of the existing building, such as massing and consider that the new building *"Would enhance the significance of the castle, the listed zoo buildings and the appearance of the Castle Hill Conservation Area by opening up views of the castle and creating a building with a mass and form that responds to the current form of the streetscene, relates better to the listed zoo buildings, presents active and attractive elevations on all sides and relates well to the vison for how this part of the conservation area will be used"*

84 They also state, *"The architectural quality of the proposal is good, it incorporates material and design references to the Hippodrome that would complement the conservation areas' 1930s buildings and a textured roofscape that would sit well in the context of Dudley's historic skyline"* and therefore have *been "persuaded that the application offers an improvement to the setting of the listed zoo buildings and the scheduled castle that would better reveal their significance, enhancement of the Castle Hill Conservation Area and some enhancement of the Town Centre Conservation Area". They have had regard to* Paragraph 206 of the NPPF in coming to this view.

85 Due to the significance of the site, the urban designer with the Planning and Delivery Service has been consulted. They consider that the character and appearance of the proposals are well designed, being responsive to the surrounding context and appropriate for the building use. They, like Historic England, note the proposed massing which sits much lower than the Hippodrome is a significant improvement, opening up and framing views to the castle along this key gateway into Dudley town centre.

86 The use of detailing and fenestration (particularly of faience and terracotta detailed panelling) helps to add much needed human scale to this location which will be well used by pedestrians.

87 They also consider the development has been well thought-out, with fenestration and solid-to-void used appropriately along each elevation, particularly to the building "rear" (northern elevation) which is perhaps more likely to be viewed than the perceived "front" of the building, particularly by those arriving by car or tram.

88 The urban designer also considers use of the eastern elevation for servicing is a sensible decision, the change in levels and the mid-height walling here also welcomed in order to enable inter-visibility between service areas and external public realm to minimise the potential of anti-social behaviour.

89 Therefore, from a design point of view, the replacement building is considered to act as a more appropriate gateway to the town centre and improves the setting of various heritage assets. Moreover, it provides significant regeneration benefits for a site which has mostly laid vacant for over a decade and also to provide significant educational training and "levelling up" opportunities from its proposed use.

90 In conclusion, therefore, the local planning authority considers that 'special attention' has been paid to the desirability of preserving and enhancing the character of appearance of both the Dudley Town Centre Conservation Area and the Castle Hill Conservation Area and their settings (S.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990) and that 'special regard' has been

paid to the desirability of preserving the setting of statutorily listed buildings such as the Grade I listed Dudley Castle, (also a Scheduled Monument) (S 66 of the aforementioned act). The local planning authority is also satisfied in its assessment of the demolition of the former Bingo Hall that 'special regard' has been made to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (S16 (2) of the aforementioned act.

Neighbour Amenity

91 The surrounding area is generally commercial in nature with adjoining uses including a hotel and associated bar, a place of worship (both on the opposite side of Castle Hill), the presently under construction light rail innovation centre to the north east and the zoological gardens to the north west. The only residential units close-by are a handful of flats within the place of worship. It is not considered that the proposed development would create any additional impact on the amenity of these flats.

92 The Head of Environmental Safety and Health is satisfied that the proposed operation would not have any significant noise implications and raises no objection accordingly. However, conditions in relation to fixed plant which will required in connection with the proposed use are requested.

Access and Parking

Metro and Buses

93 The proposed Wednesbury to Brierly Hill to West Midlands Metro extension will pass immediately to the east and south of the application site along Station Drive and Castle Hill.

94 The applicants have provided updated plans which show the development in relation to the current metro alignment and confirms there will be no conflict. Moreover, the removal of the boxing club/marital arts centre and the former JBs

night club would allow for a more open aspect adjoining metro, which if they were to be retained would create a pinch point.

95 It should be noted that the site will be served by the proposed Castle Hill tram stop which would be approximately 150m to the north and was granted planning permission in October 2021 due to its proposed relocation further north. The West Midlands Metro will enable the site to have wide catchment area that is not reliant on the private car with direct services being provided to Birmingham and Wolverhampton, as well as a number of centres within neighbouring Sandwell. Direct interchange will also be possible with heavy rail at Dudley Port.

96 The site is also close to the proposed Dudley interchange which is proposed to replace the existing bus station. Wider programmed public realm improvements associated with the metro extension would provide a more attractive pedestrian link from the town centre to the site.

Cycling

97 Provision for cyclists in the immediate and wider area provides a good level of accessibility to the site via this mode. Designated cycle infrastructure includes,

- the shared footway/ cycleway adjacent to Zoological Drive
- mixed on-road/ off-road cycle route along Tipton Road; and
- sections of on-road cycle lanes and bus lanes along Castle Hill.

98 The existing arrangements at the southern extent of Zoological Drive provide access to Castle Hill for pedestrians and cyclists only, however, this is not of a good quality and is very narrow.

99 Tipton Road and Castle Hill form part of the National Cycle Network (NCN) Route 54 which extends between Stourport and Derby, via Kidderminster, Dudley, Lichfield and Burton. In the vicinity of the application site, NCR 54 is a traffic-free route. To the north-east of the application site, NCR 54 connects with NCR 81

which provides a mostly traffic-free route between Birmingham and Wolverhampton via the canal network.

100 The development will also include secure cycle storage for 48 cycles and shower facilities. It is the aspiration of the Authority that at least 10% of all trips could be undertaken by cycle and therefore space could be identified that could expand on the proposed provision.

101 As stated above, Station Drive provides for the proposed alignment for metro as well as a cyclist a pedestrian route. The widths currently available to pedestrians and cyclists off the carriageway are inadequate and a major barrier to sustainable movements.

102 The application seeks to provide a 6m wide area for pedestrians and cyclists with a segregated cycle route adjacent Station Drive which will provide a link to the existing cycle route and National cycle network to the north of the site and linkages to the new signalised junction with pedestrian facilities on Castle Hill / Trindle Road.

103 These improvements will break the significant barrier to sustainable movements between Trindle Road, the Town Centre, The proposed Health Hub, VLR, the Institute of Technologies building, Black Country Living Museum and beyond.

Parking

104 Car parking is not proposed to be located on-site, with the exception of provision for disabled users. It is rather the intention of the applicant to seek agreement with the landowner/ operators of neighbouring car parks, to allow staff and students to utilise these existing parking facilities.

105 The existing Zoo car parks are significantly underutilised during the times at which the proposed facility will be operational, specifically weekdays during school term time. The applicant has confirmed that it is seeking a legal agreement to allow visitors to the proposed development to park on the Zoo car park. A total number of some 300 has been agreed and the Transport Assessment confirms there is

existing capacity on the Zoo carpark to accommodate this during term time. In addition, the applicant has secured 23 permanent spaces for use of the development on the Zoo car park. Similar arrangements are already in place with the Dudley College and the nearby Institute of Transformative Technology and have been proven to work.

106 A total of seven disabled parking bays are proposed to be accommodated within the curtilage of the site. However, given the number of persons on site, additional parking will be required within the zoo car park.

107 A Parking Management Plan will be required by condition. This will give the details of the number of spaces available on the Zoo car park for this development. Should parking be required out of normal term time and the Zoo car park is running at capacity, the plan will indicate to visitors, alternative non car methods of travelling to the site, plus alternative public carparks such as in the town centre.

108 Within this plan details of staggered start and finish times can be provided to avoid unnecessary congestion at the Discovery Way / Tipton Road / Aldeney Way signal junction.

Trip Generation

109 The applicants Transport Assessment was made on an assumption of modal splits based on where each student type may live and potential further student accommodation within the vicinity of the site and the town centre. They considered,

- 751 Undergraduates, 80% will travel sustainably
- 105 Foundation students, 95% will travel sustainably
- 518 Masters / day students, 20% will travel sustainably
- 60 Staff, 14% will travel sustainably

110 Sustainable travel modes are considered to be walking, cycling, and public transport These assumptions were used to derive a vehicle trip generation figure of AM Peak 169 two way trips for the AM peak and 166 two way trips for the PM Peak with the

required peak parking accumulation of 162 vehicles which is to be accommodated within the Zoo parking area during term time only.

111 However, the highway officer had evidence that students travelling by car mode in the local area could be in the region of 50%. This figure was used as a test of robustness to consider the impact of this scenario. Further work undertaken by the applicants under the worst case scenario indicated an AM peak of 308 two way trips and a PM peak of 116 two way trips

112 The PM peak trip rate was unchanged as the students arriving in the am peak had mostly left the site prior to the pm peak. The worst case scenario also required peak parking accumulation of some 300 vehicles which is proposed to be accommodated within the Zoo parking area during term time only. The Applicants confirmed there is term time capacity within the Zoo car park and an agreement is in place, which is referred to above.

113 Traffic modelling scenario indicates there will likely be queuing as a result of the development on Tipton Road in both directions in the morning and evening peaks, but this will be more noticeable in the AM peak where the junction is running at capacity and within capacity in the PM. However, this is somewhat theoretical, as the amount of traffic within Tipton Road is constrained by congestion at Tipton Road / Birmingham Road signals and Castle Gate island already.

114 The town centre VISSIM model produced to look at the impacts of metro and the Portersfield development actually predicted that traffic levels will reduce slightly in the peak hours from 2023 to 2031 because of this congestion effect.

115 Nonetheless, the modelling produced will help Highways officers to monitor the situation and make changes to the operation of the junction to optimise its capacity.

116 However, a positive from any additional congestion would be that visitors to the development would find the sustainable travel options such as metro, bus, cycling and walking even more attractive.

Servicing

117 The proposed access off Zoological Drive will connect to the parking area for disabled users and servicing areas at the east of the building. It is anticipated that all deliveries and servicing will take place within the curtilage of the application site in a secure compound southeast of the building.

118 The secure service area is suitable for accommodating the largest expected delivery vehicles. It is anticipated that refuse vehicles and rigid delivery vehicles will require regular access to the site and larger flatbed Heavy Good Vehicles (HGVs) will require infrequent access for the delivery/ maintenance of machinery.

119 At this stage, it is proposed that flatbed access to the plant room for plant replacement and large deliveries of equipment, would occur once every two months. Waste collection vehicles are proposed to access the application site twice a week while recycling collection would occur on a weekly basis.

120 The servicing arrangements require a condition requiring that only service vehicles enter or exit the site out of opening times and are also undertaken with vehicles with rear reversing cameras and a banksman.

Travel Plan

121 The submitted Travel Plan requires further development and is considered an important element here to provide intensive promotion of the Metro, bus and train along with cycling and walking before and after opening. Therefore, a Travel Plan condition is proposed

122 In conclusion the highway officer is of the view that the site is well located in relation to existing or planned sustainable transport infrastructure, such as the proposed metro, the planned Interchange, numerous on street bus stops walking, cycle routes and also the zoo and town centre car parks. The development also proposes to open up a key barrier to walking and cycling at Station Street and provides a 6m

wide segregated cycle and walking route linking Castle Hill with Zoological Drive and Discovery Way.

Trees

123 There are no trees of significance or any soft landscape features within the site which could be adversely impacted upon by the development. If anything, the provision of additional open space allows for potentially more soft landscaping and tree planting, the latter of which is encouraged in the latest version of the NPPF.

Nature Conservation

124 The ecologist notes within the two nature conservation surveys submitted with the application, that the site comprises a large building of brick construction and with a flat roof. A smaller adjacent building that currently provides accommodation for a martial arts centre and a night club was also included in the survey. Land associated with the site is principally hard standing that is becoming colonised by ephemeral species. The site is located in an urban area and surrounding land is primarily business premises. However, natural and semi-natural habitats associated with Dudley Zoo occur directly to the rear of the buildings.

125 Daytime survey work undertaken on the site revealed a small number of potential bat roosting opportunities on the exterior of the Hippodrome building. Evening survey work concentrated on areas that had been identified as providing potential bat roosting sites. However, very little bat activity was recorded close to the buildings and no bats were seen to emerge from possible bat roosting space.

126 On the basis of the survey work undertaken on the site, the ecologist considers it to be unlikely that protected species legislation with regard to bats will affect the proposed development scheme.

127 The ecologist has also looked at the site from a wider protected species perspective including Badgers. They note that there are no evidence of setts within the general

hard standing and built form, but there is evidence of foraging or commuting., and therefore they recommend a watching brief during demolition and that trenches are designed during construction to allow escape for Badgers when works are undertaken.

128 Therefore, the proposed development accords with Black Country Core Strategy Policy ENV1 Nature Conservation and Dudley Borough Development Strategy Policy S21 Nature Conservation Enhancement, Mitigation and Compensation.

Flood Risk

129 Black Country Core Strategy Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island and Dudley Borough Development Strategy Policy S5 [Minimising Flood Risk and Sustainable Drainage Systems are designed to reduce the extent and impact of flooding and also reducing the potential urban heat island effects. Therefore, all development should incorporate Sustainable Urban Drainage Systems and should create new green space, increase tree cover and green roofs. On sites requiring flood risk assessments, development should reduce surface water flows back to equivalent greenfield rates.

130 The application has been submitted with Flood Risk Assessment (FRA) and a Drainage Strategy the Lead Local Flood Authority are satisfied as to its conclusions which confirm the site is not within a high-risk flood zone in relation to fluvial or surface water. The Lead Local Flood Authority consider the Drainage Strategy to be satisfactorily, although notes that green roof and rainwater harvesting for example, would be beneficial from a sustainable drainage point of view. A standard drainage condition is requested.

131 Severn Trent raises no objection to the proposal and recommend a standard drainage condition. They also note that the site contains no recorded public sewers but caveat their response accordingly.

132 Therefore, from a drainage point of view there are no concerns.

Geotechnical

133 The applicants have submitted relevant information in relation to land contamination and soil gases, and such the Head of Planning and Regeneration (Land Contamination Team) raise no objection subject to the imposition of standard planning conditions.

134 From a ground stability point of view, the application site is located outside of a high-risk coal mining area designation, and such no supporting information has been required in this respect.

Air Quality and Climate Change

135 The Head of Environmental Safety and Health raises no concerns from an air quality point of view, but requests that dust is controlled during demolition and construction through appropriately worded condition(s). They also request the provision of electric vehicle charging points.

136 The Twentieth Century Society and the Theatres Trust raise concerns regarding the demolition of the building and the impact that would have on climate change from the generation of carbon through the demolition of the building, with them both attributing refences to an architectural journal which assesses the demolition of a theatre in Derby.

137 This calculation, however, cannot be independently verified and in response the applicant states that it inevitable that the demolition and redevelopment of the buildings will result in carbon emissions. However, if the proposal is acceptable on other grounds this would not be sufficient to resist demolition and redevelopment, particularly as the Council has no specific adopted Development Plan policy in this regard.

138 It should be noted that the applicants state the replacement building would be highly sustainable and would be achieved through sustainable design principles as outlined in the Sustainable Design Statement.

139 In addition, due to the scale of the development Policy ENV 7 – Renewable Energy of the Black Country Core Strategy is of relevance. The policy seeks to ensure on larger developments that 10% of the sites energy needs is generated by on site micro generation. This is proposed to be conditioned.

140 Therefore, there is nothing to imply the proposed development would not comply with Black Country Core Strategy policies ENV7 Renewable Energy and ENV8 Air Quality, or Dudley Borough Development Strategy Policies S1 Presumption in Favour of Sustainable Development

Financial Considerations

141 The proposed development does not attract any planning gain or obligations which would need to be controlled through a Section 106 Agreement. Also, the proposed form of development does not attract Community Infrastructure Levy.

Other Matters

142 it is considered that Historic England is the only statutory consultee in this case, and not the Twentieth Century Society. Councils are required to *"consult and seek the advice of The Theatres Trust before they issue a decision on any planning application or development involving land on which there is a theatre or which will have an impact on theatre use*", as defined in the Theatres Trust Act 1976. Councils are also obliged through the Town and Country (Development Management) (England) Order 2015 (as amended) where development would affect a theatre.

143 It should also be noted that the building does not have an authorised or lawful use a theatre (sui generis) and has not been used as such for an extended period of time (and would indeed need planning permission to be used as such again) and as

such, it is debatable as to whether they are a statutory consultee in this case. However, as courtesy, and due to their ongoing role and discussions with the Council and the Friends Group it was considered appropriate to consult them on the planning application, along with the Twentieth Century Society.

144 Reference has been made to a restrictive covenant on the site. This is not a planning consideration and does not prevent the grant of planning permission should the proposal be satisfactory from a planning point of view.

145 The Secretary of State for Levelling Up, Housing and Communities has written to the Council requesting that they are given notice of the application being presented to committee and that a decision notice should not be issued until they have had an opportunity to consider the resolution of the committee.

146 Therefore, despite the recommendation for approval below, the Local Planning Authority are unable, until either the Secretary of State confirms they are happy for the decision to be issued or wishes to consider the application himself, a decision cannot be issued by the Council.

CONCLUSION

147 The applicants have sufficiently demonstrated that there is public interest from a historic environment point of view to enable the demolition of the heritage asset (The former Hippodrome) and the adjoining building(s). Consideration has been given to the improvements which would be made to the setting of the Castle (a Scheduled Ancient Monument) by way of improved views, as well as enhancing the two conservation areas within which the application site falls or adjoins, by the provision of building with active frontages on all sides that the current buildings do not. Consideration has also been given to the significant benefits a higher education facility would have on the town centre and the wider area, particularly given its concentration on medical and health related training. Moreover, consideration has been given to the alternative uses and the retention of the facade within the scheme which was not considered to be possible or beneficial. The development is not

considered have any adverse impact on highway safety, nature conservation or amenity. Consideration has been given to policies within the Black Country Core Strategy (2013); and the Dudley Borough Development Strategy (2017); and Dudley Area Action Plan (2017), together with the provisions of the National Planning Policy Framework.

RECOMMENDATION

Subject to the referral to the Secretary of State for Levelling Up, Housing and Communities that it recommended that the application be resolved to 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:
   Site Plan PL02C
   Level 1 Plan PL03A
   Level 2 Plan PL04A
   Level 3 Plan PL05A
   Level 4 Plan PL06A
   Castle Hill (South) Elevation PL07
   Public Plaza (West) Elevation PL08
   Zoo Entrance Plaza (North) Elevation PL09
   Trindle Road (East) Elevation PL10
   Section A-A PL11
   Section B-B PL12
   Section C-C PL13
   Landscape Concept Plan PL14
   Demolitions Plan PL15
   Trindle Road Section PL17
   Section A-A Incl Midland Metro PL18
   REASON: For the avoidance of doubt and in the interests of proper planning.
3. No development shall commence (excluding demolition) until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried

out in accordance with authoritative UK guidance.
REASON: These details are required prior to the commencement of development 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.

4. Where the approved risk assessment (required by condition 3 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by 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: These details are required prior to the commencement of development 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.
5. Following implementation and completion of the approved remediation scheme (required by condition 4 above) and prior to the first occupation of the development, 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 have been 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.
6. No development shall commence (excluding demolition) until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
   REASON: These details are required prior to the commencement of development 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.
7. Where the approved risk assessment (required by condition 6 above) identifies ground gases or vapours posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such ground gases or vapours has been submitted to and approved in writing by 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: These details are required prior to the commencement of development 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.

8. Following implementation and completion of the approved remediation scheme (required by condition 7 above) and prior to the first occupation of the development, 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 ground gases or vapours have been 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.
9. The rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the nearest /any sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.
   Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the Local Planning Authority.
   REASON: To protect the amenities of nearby residents and comply with DBDS Policies D2 and D5.
10. Work shall not begin on the demolition and construction of the development until a method statement for the control of dust and emissions arising from the demolition and construction of the development has been submitted to and approved by the Local Planning Authority. All works which form part of the approved scheme shall be implemented throughout the construction and demolition phase of the development.
    REASON: To minimise the impacts to air quality associated with the development and to protect the health and well being of residents in accordance with BCCS Policy ENV8 - Air Quality.
11. No above ground development shall commence until details of electric vehicle charging bays with a vehicle charging point, to be provided in accordance with the Council's standard (Parking Standards SPD) have been submitted and approved in writing by the Local Planning Authority. Such details shall include signs and bay markings indicating that bays will be used for parking of electric vehicles only whilst being charged. Prior to first occupation, the electric charging points and bays shall be installed in accordance with the approved details and shall thereafter be maintained for the life of the development.
    REASON: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.

12. No above ground development hereby permitted should not commence 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. This is to ensure that the development is provided with a satisfactory means of drainage as well as to prevent or to avoid exacerbating any flooding issues and to minimise the risk of pollution.
    REASON: In the interests of sustainability, reducing flood risk and run off and to comply with Adopted BCCS Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island.
13. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details.
    Those details shall include:
    -A timetable for its implementation
    -A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime 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 sustainability, reducing flood risk and run off and to comply with Adopted BCCS Policy ENV5 - Flood Risk, Sustainable Drainage Systems and Urban Heat Island.
    INFORMATIVE - The Applicant should supply information showing arrangements to provide adequate long term maintenance, including an appropriate legal agreement to ensure maintenance in perpetuity, before any approval is granted. It is essential that the responsibility for future maintenance, repairs or improvements to the balancing device is ascertained at an early stage of negotiations.
    The use of Sustainable Drainage techniques such Green Roofs, Tree Pits and Rainwater Harvesting, for example, should be seriously considered as options for this type of development proposal and form part of the Sustainability Statement.
14. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, 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 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 landscaping and to ensure that the approved landscaping 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 and Policy D2 Incompatible Land Uses (in part).

15. No development shall commence (excluding demolition, site clearance and initial ground works) until details of public realm enhancement works have been submitted to and approved in writing by the Local Planning Authority. The public realm works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
REASON: In order to make a positive contribution to place-making and provide a high quality public realm 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 and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as the required works may need to be incorporated into buildings on the site.
16. No above ground development shall begin until details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and shall thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority
REASON: To safeguard the character, appearance and setting of the Dudley Town Centre Conservation Area and Castle Hill Conservation Area in accordance with Policy S9 (Conservation Areas) of the adopted Dudley Borough Development Strategy and Policy 22 (Dudley Town Centre Conservation Area), Policy 23 (Castle Hill Conservation Area) and Policy 21 (Conservation and enhancement of local character and distinctiveness in Dudley) of the Dudley Area Action Plan and Policy ENV 2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy (2011)
17. No development shall commence until details of the design, materials and colour(s), of the retaining walls hereby approved on the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be completed in accordance with the approved details prior to occupation and the walls shall be retained and maintained as approved for the lifetime of the development.
REASON: In the interests of the visual amenities of the site and the surrounding area and to comply with Borough Development Strategy 2017 Policy S6 Urban

Design and Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part).

18. No development (excluding demolition, site clearance and initial ground works) shall commence until details of works of public art have been submitted to and approved in writing by the Local Planning Authority. The works of public art shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.
    REASON: In order to enhance the cultural and social development and identity of the area and make a positive contribution to place-making 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 and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) in that the required works may need to be incorporated into buildings on the site.
19. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of hard landscape works for the site have been submitted to and approved in writing by the Local Planning Authority. The details shall include existing and proposed finished levels or contours; the position, types, colours and textures of the materials of all site enclosures, car parking layout and other vehicular (including driveways) and pedestrian areas; hard surfacing areas, minor artefacts and structures (e.g. street furniture, refuse storage areas, cycle stores etc), The works approved as part of this condition shall be completed in accordance with an approved details and a timetable which has been submitted to approved in writing by the Local Planning Authority. The hard landscape works shall thereafter be retained for the life of the development.
    REASON: In order to make a positive contribution to place-making and provide a high quality landscaping 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 and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as landscaping is integral to providing a high quality and sustainable development.
20. No above ground development shall commence 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 BCCS Policy EMP5 - Improving Access to the Labour Market.

21. The building shall not be first occupied until details of onsite energy micro generation with an equivalent 10% of the sites energy needs has been submitted to an approved in writing by the Local Planning Authority, The onsite micro generation 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: To reduce the environmental impact of the development and to comply with BCCS policy ENV7
22. The development hereby by approved shall not be first occupied until the nature conservation enhancement and/or mitigation works which are recommended within the submitted nature conservation report/assessment have been undertaken and completed. The nature conservation enhancement and/or mitigation works shall thereafter be retained and maintained in accordance with the recommendations of the nature conservation report/assessment / or for the life time of the development.
    REASON: To ensure the provision, protection and maintenance of the site's ecology and comply with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S21 Nature Conservation Enhancement, Mitigation and Compensation
    Policy S5 - Minimising Flood Risk and Sustainable Drainage Systems (in part) and
    Policy S21 Nature Conservation Enhancement, Mitigation and Compensation
    Policy S20 The Borough's Geology (in part)
    Policy S1 Presumption in favour of Sustainable Development (in part)
23. No development shall commence (INCLUDING demolition, site clearance and initial ground works) until a scheme detailing how any trenches, including foundations, created on the site at any point during development shall be protected whilst there are no humans on site in order to minimise the risk of harm to badgers and other wildlife has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented on site throughout development in accordance with the agreed details.
    REASON: In order to enhance, encourage and protect the nature conservation value of the site and in accordance with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure Provision Borough Development Strategy 2017 Policy S21 Nature Conservation Enhancement, Mitigation and Compensation
    Policy S20 The Borough's Geology (in part)
    Policy S1 Presumption in favour of Sustainable Development (in part) and
    Policy S21 Nature Conservation Enhancement, Mitigation and Compensation (in part)
    Policy S19 Dudley Borough's Green Network (in part)
    Black Country Core Strategy Policy ENV1 Nature Conservation (in part)

This detail is required prior to the commencement of development in case species which are legally protected are present.

24. A) Prior to the commencement of the development hereby permitted, a written scheme of investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of historic building recording works to be carried out within the site, including post-fieldwork reporting and appropriate publication.
B) The historic building recording site work shall thereafter be implemented in full in accordance with the written scheme of investigation approved under condition (A).
C) The development shall not be occupied until the historic building recording has been completed in accordance with the written scheme of investigation approved under condition (A) and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.
REASON: The development impacts upon heritage/archaeological assets and preservation by record is required, this is in full accordance with the Council's Historic Environment SPD but also in accordance with Policy S15 (Heritage Assets of archaeological interest, Scheduled Ancient Monuments and Archaeological Priority Areas) of the adopted Dudley Borough Development Strategy and ENV2 of the BCCS and Para 205 of the NPPF.
25. The demolition works hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been executed and planning condition 24 has been fully discharged for the redevelopment for which the contract provides. Evidence that a contract has been executed shall be submitted in writing to the Local Planning Authority 14 days prior to any demolition works commencing.
REASON: To preserve the established character of [Name of Conservation Area] Conservation Area pending redevelopment in conformity with Borough Development Strategy 2017 Policy S9 Conservation Areas. Details are required prior to the commencement of works due to the sensitive nature of the site.
26. The development shall not be occupied until details of the design, size, location, artwork and text for an interpretation panel (which should have regard of the site's historic context) have been submitted to and approved in writing by the Local Planning Authority. The Interpretation Panel shall thereafter be installed in accordance with the approved details prior to the first occupation of the development and shall be retained for the life of the development.
REASON: In order to illustrate the historical and archaeological background to the site and enhance historic character and local distinctiveness in accordance with and BCCS Policies ENV2 - Historic Character and Local Distinctiveness and DEL1 Infrastructure Provision and Borough Development Strategy 2017 Policy S9 Conservations Areas, Policy S10 Listed Buildings and Policy S15 Heritage Assets of Archaeological Interest, Scheduled Ancient Monuments and Archaeological Priority Areas.
27. No above ground development shall commence until details of the types, colours and textures of all the materials to be used on the external surfaces of the building hereby approved shall be submitted to and approved in writing by the Local Planning Authority. Details/samples of the type, texture, colour and bond of the bricks/faience tiles to be used and a sample panel measuring not less that 1m2 shall be erected on site and approved in writing by the Local Planning

Authority. Key plans to cross reference the materials to the building facades will be required to clearly explain the use and type of material. The panel shall be retained on site for the duration and the development and thereafter new brick work shall only be constructed in accordance with these approved details and the details shall follow as closely as possible the details provided in the submitted Design and Access Statement. The development shall be carried out in complete accordance with the approved details.
REASON: To safeguard the character, appearance and setting of the Dudley Town Centre Conservation Area and Castle Hill Conservation Area in accordance with Policy S9 (Conservation Areas) of the adopted Dudley Borough Development Strategy and Policy 22 (Dudley Town Centre Conservation Area), Policy 23 (Castle Hill Conservation Area) and Policy 21 (Conservation and enhancement of local character and distinctiveness in Dudley) of the Dudley Area Action Plan and Policy ENV 2 (Historic Character and Local Distinctiveness) of the Black Country Core Strategy (2011).

28. No development (excluding demolition) shall commence (excluding demolition, site clearance and initial ground works) until detailed plans and sections showing existing site levels and proposed ground floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in complete accordance with the approved details.
REASON: In the interests of the visual amenities of the area and to safeguard the amenities of occupants of neighbouring properties 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).
29. No above ground development shall commence until details of the joinery to be used in the external elevations (windows, doors) and their colour and finish have been submitted to and approved in writing by the local planning authority. Large scale architectural drawings at 1:1, 1:2 or 1:5 and samples of the sections and profiles of jambs, heads, cills and glazing bars together with their relationships to masonry apertures. Development/works shall proceed in accordance with the agreed details and be retained for the lifetime of the development.
REASON: To safeguard the architectural and historic integrity of the listed structure in accordance with BCCS Policy ENV2 - Historic Character and Distinctiveness and Borough Development Strategy 2017
30. No works of construction, levels changes, regarding or other site clearance or infrastructure works involving ground disturbance shall commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to an approved in writing by the Local Planning Authority. Such archaeological work shall comprise a suitably targeted watching brief with appropriate provision for archaeological investigation and recording and including subsequent analysis, reporting and archiving.
REASON: The site is of archaeological significance and it is important that in accordance with BCCS Policy ENV2 - Historic Character Distinctiveness and Borough Development Strategy 2017 Policy S15 Heritage Assets of

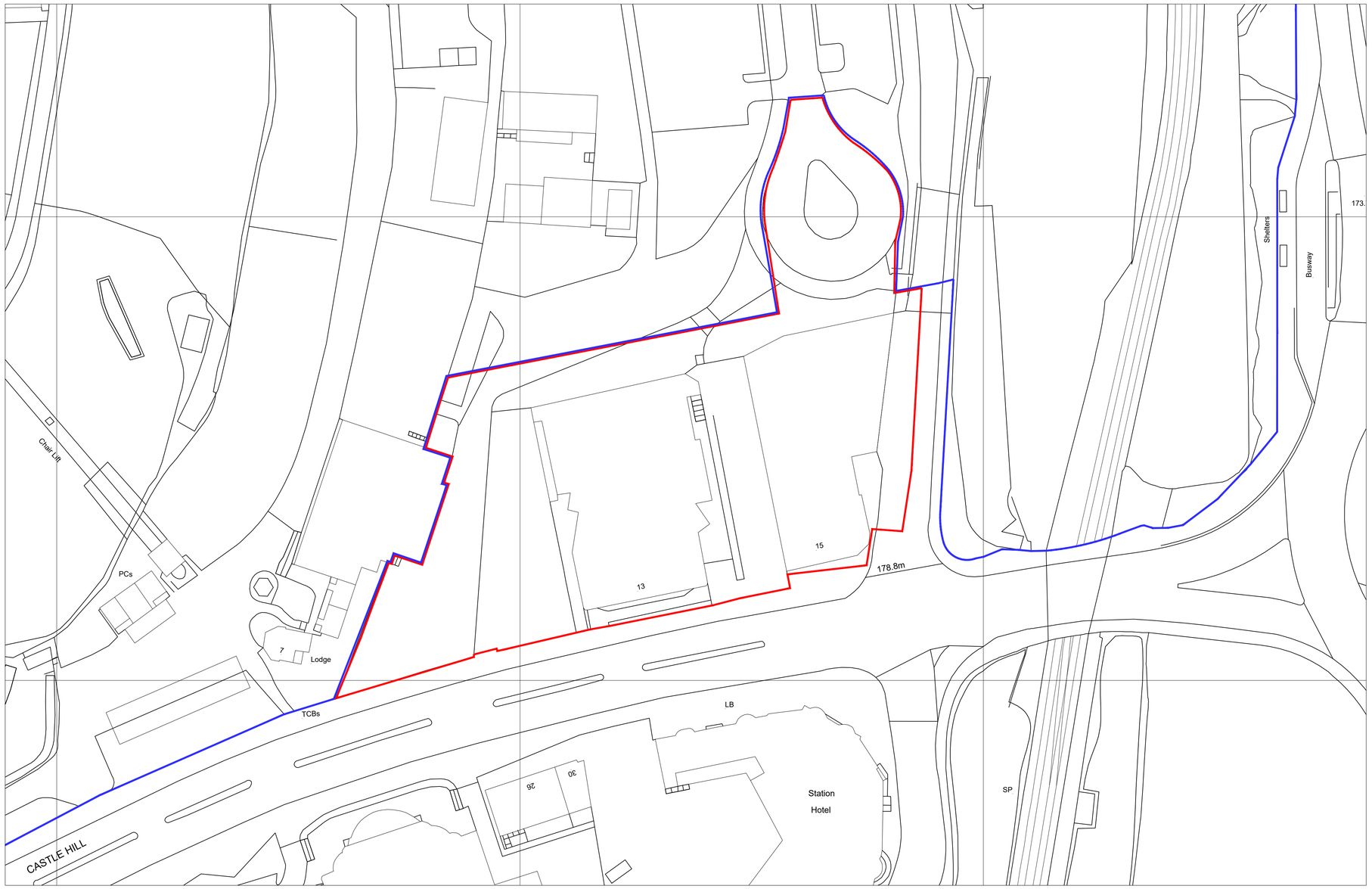
Archaeological Interest, Scheduled Ancient Monuments and Archaeological Priority Areas. Details are required prior to the commencement of development/works due to the statutory protection / sensitive nature of the site. NOTE: A brief outlining the work required can be supplied by the Local Planning Authority on request.

31. Notwithstanding the details shown on the approved plans no above ground development shall commence until precise details of modifications to the existing zoo offices car park have been submitted to and approved in writing by the Local Planning Authority. The modified car park shall thereafter be laid out I accordance with the approved plans footway and shall be provided prior to the first opening of the development unless otherwise agreed in writing by the Local Planning Authority. The footway and cycleway shall thereafter be retained for the life of the development.
REASON: To ensure there is no conflict with pedestrians and to comply with BBCS Policy TRAN2.
32. The development shall not be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority, including details of a Travel Plan Co-ordinator, mode of travel surveys (including staff and students) details of Car Parking Management, Public Transport, Walking and Cycling initiatives, Publicity and Marketing, Set targets and monitoring, together with a timetable for the implementation of each such element. The Travel Plan shall be implemented in accordance with the details approved by the local planning authority and remain operational for the life of the development.
REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2,
33. No development shall be commenced (excluding demolition, site clearance and initial ground investigation works) until details of the existing highway retaining structures, including sections and calculations to prove the structure is capable of supporting likely future loadings and works to ensure the structure may sustain the future loading have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall thereafter be occupied until such works have been completed in accordance with the approved details.
REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
34. No development shall be commenced (excluding demolition, site clearance and initial ground investigation works) until details of the proposed highway retaining structures, including sections and calculations to prove the structure is capable of supporting likely future loadings have been submitted to and approved in writing by the Local Planning Authority. No part of the development shall thereafter be occupied until the retaining structure has been provided in accordance with the approved details.
REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings

Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

35. Prior to the first occupation of the development, and where required details of road restraint systems shall be submitted to and agreed in writing by the Local Planning Authority. Such road restraint systems shall be installed where required in accordance with the approved details and thereafter maintained for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
36. The development shall not be occupied/used until details of secure and covered staff, student and visitor cycle storage and shower facilities have been submitted to and approved in writing by the Local Planning Authority. These facilities shall be provided in accordance with the approved details prior to the first use/occupation of the development and 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 Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
37. The development shall be first occupied/used until details of the bin stores have been submitted to and approved in writing by the Local Planning Authority. The bin stores shall be provided in accordance with the approved details prior to the first use/occupation of the development and 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 Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
38. No development shall commence (excluding demolition, site clearance and initial ground works) until details of the Highways Works as indicated on the approved plans including, details of the proposed Public Right of Way, forming a 6m wide Cycleway / Footway between the proposal and metro track on Station Street [including details of lines, widths, levels, gradients, cross sections, drainage and lighting street furniture, signage and lining] have been submitted to and approved in writing by the Local Planning Authority the development shall not be occupied until the agreed Highway Works have been completed in accordance with the approved details and under the Supervision of the Highway Authority.
REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

39. 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 Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
40. No development shall commence (excluding demolition, site clearance and initial ground investigation works) 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. The development shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. 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 Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
41. No development shall be commenced (excluding demolition, site clearance and initial ground investigation works) until details of a Service Vehicle Management Plan, including details of out of opening servicing times, rear camera systems, a banksman and an off Public Highway area for HGV reversing. No part of the development shall thereafter be occupied until the Service Vehicle Management Plan has been provided in accordance with the approved details.
REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2.
42. No development shall be commenced (excluding demolition, site clearance and initial ground investigation works) until details of a Parking Management Plan, including details of agreed parking capacity on the Zoo car parks, staggered class start and finish times, alternative public parking arrangements and advice on none car travel modes. No part of the development shall thereafter be occupied until the Parking Management Plan has been provided in accordance with the approved details.
REASON: In the interests of highway safety and to comply with BCCS Policy TRAN2
INFORMTATIVE: This should also cater for any disabled parking which cannot be provided on site.
43. Prior to first occupation details of the relocation of the lighting column / sign / bus stops/ bus shelter shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the lighting column have been relocated in accordance with the approved details.
REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.



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0m 1m 5m 10m

north

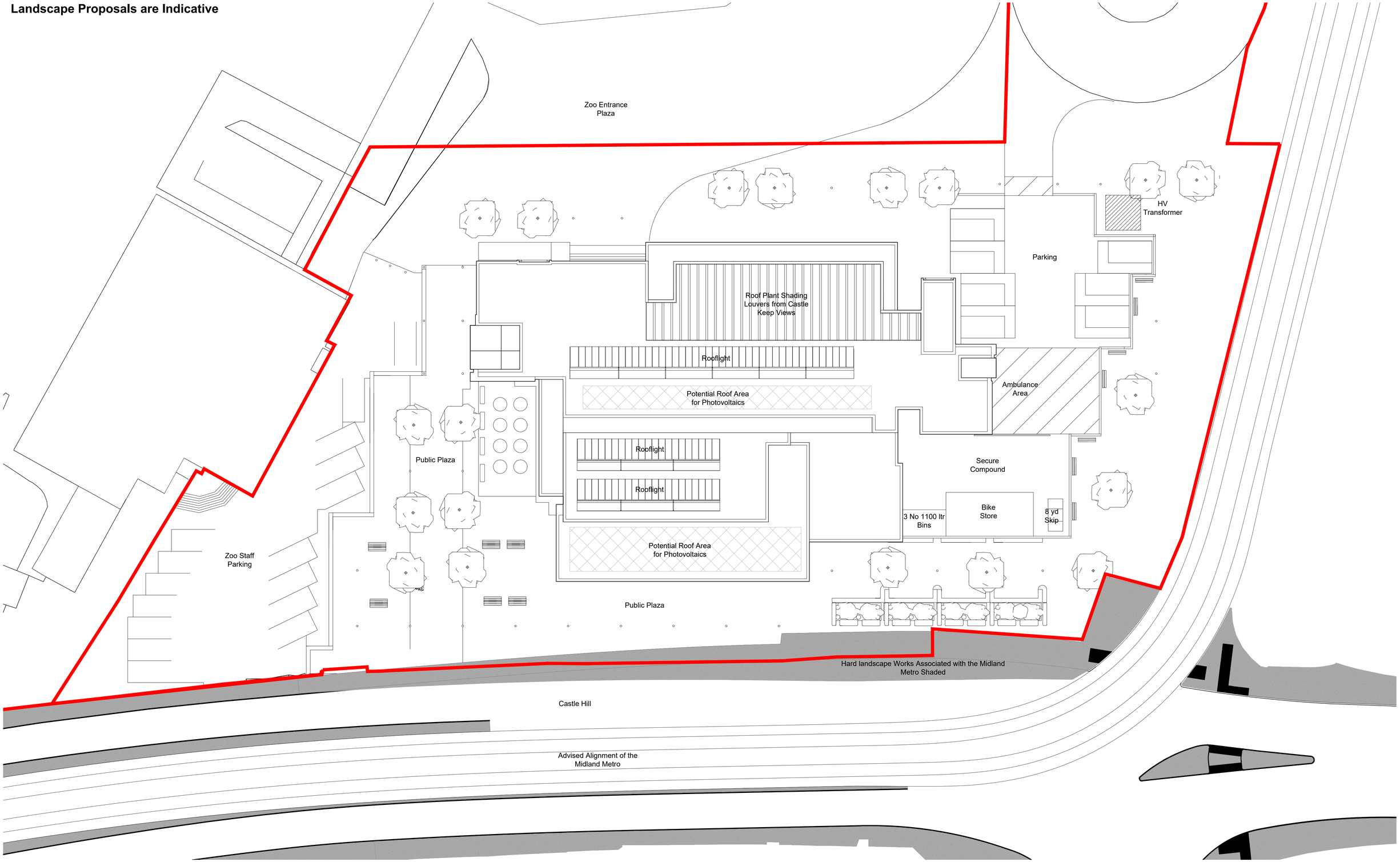
HEALTH INNOVATION DUDLEY

Red Line Block Plan

Drawing Number : 1938/PL01 Rev A

Scale : 1.500 @A1 Date : 23/07/21

Landscape Proposals are Indicative



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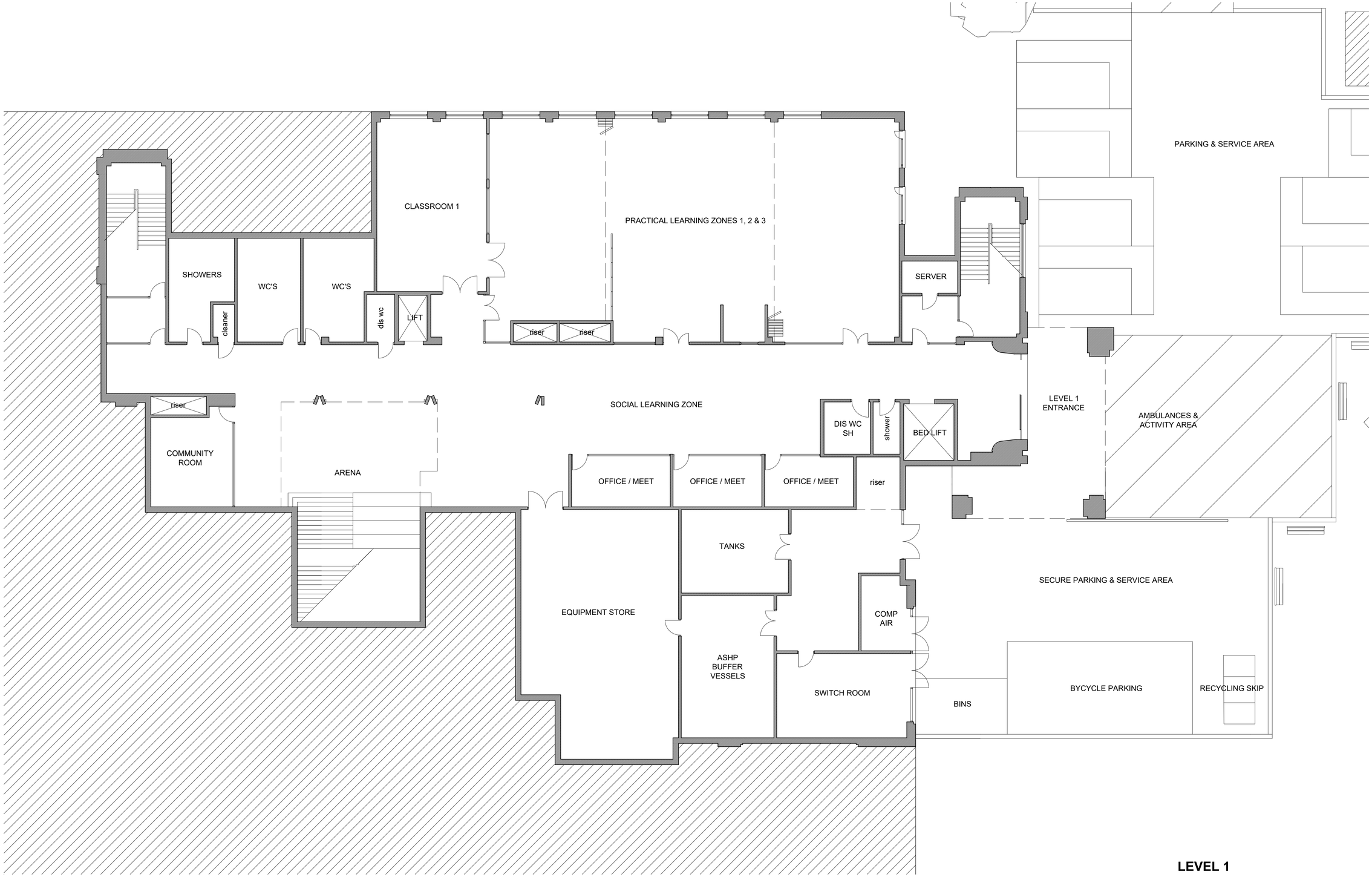
HEALTH INNOVATION DUDLEY

Roof Plan & Site Layout

Drawing Number : 1938/PL02 Rev A

Scale : 1.200 @A1 Date : 23/07/21



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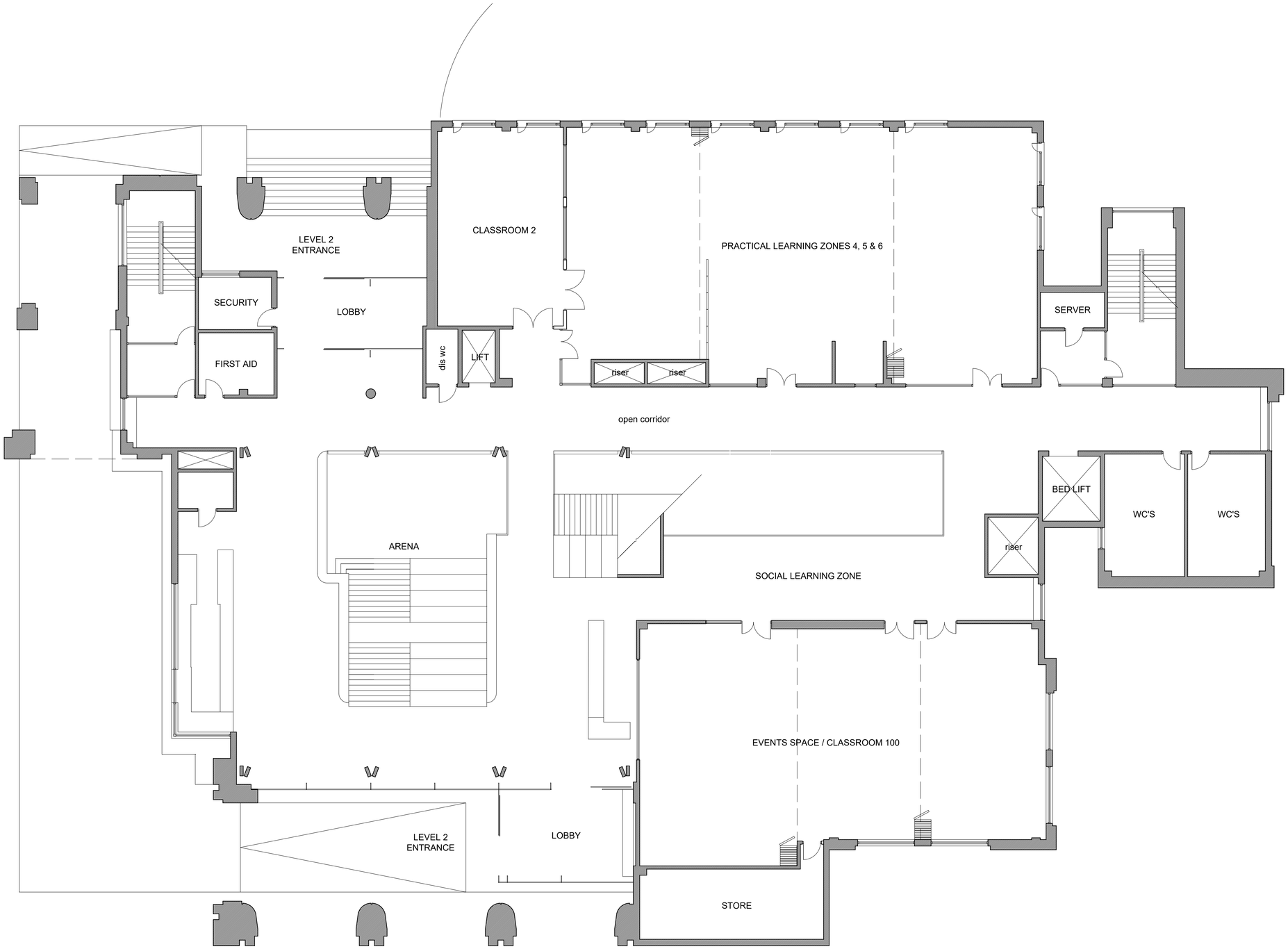
HEALTH INNOVATION DUDLEY

Level 1 GA Plan

Drawing Number : 1938/PL03 Rev A

Scale : 1.100 @A1 Date : 23/07/21



LEVEL 2

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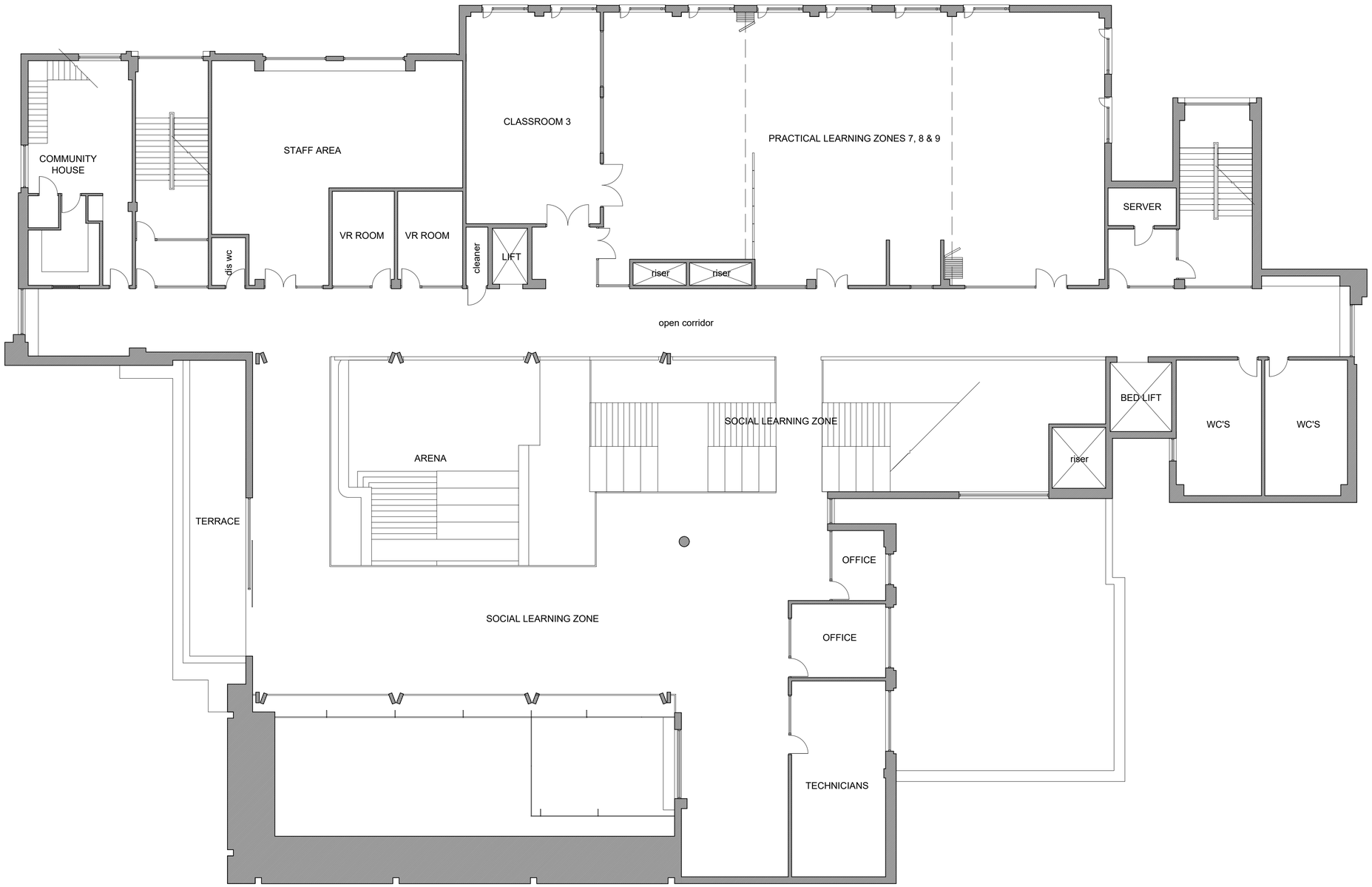
HEALTH INNOVATION DUDLEY

Level 2 GA Plan

Drawing Number : 1938/PL04 Rev A

Scale : 1.100 @A1 Date : 23/07/21



LEVEL 3

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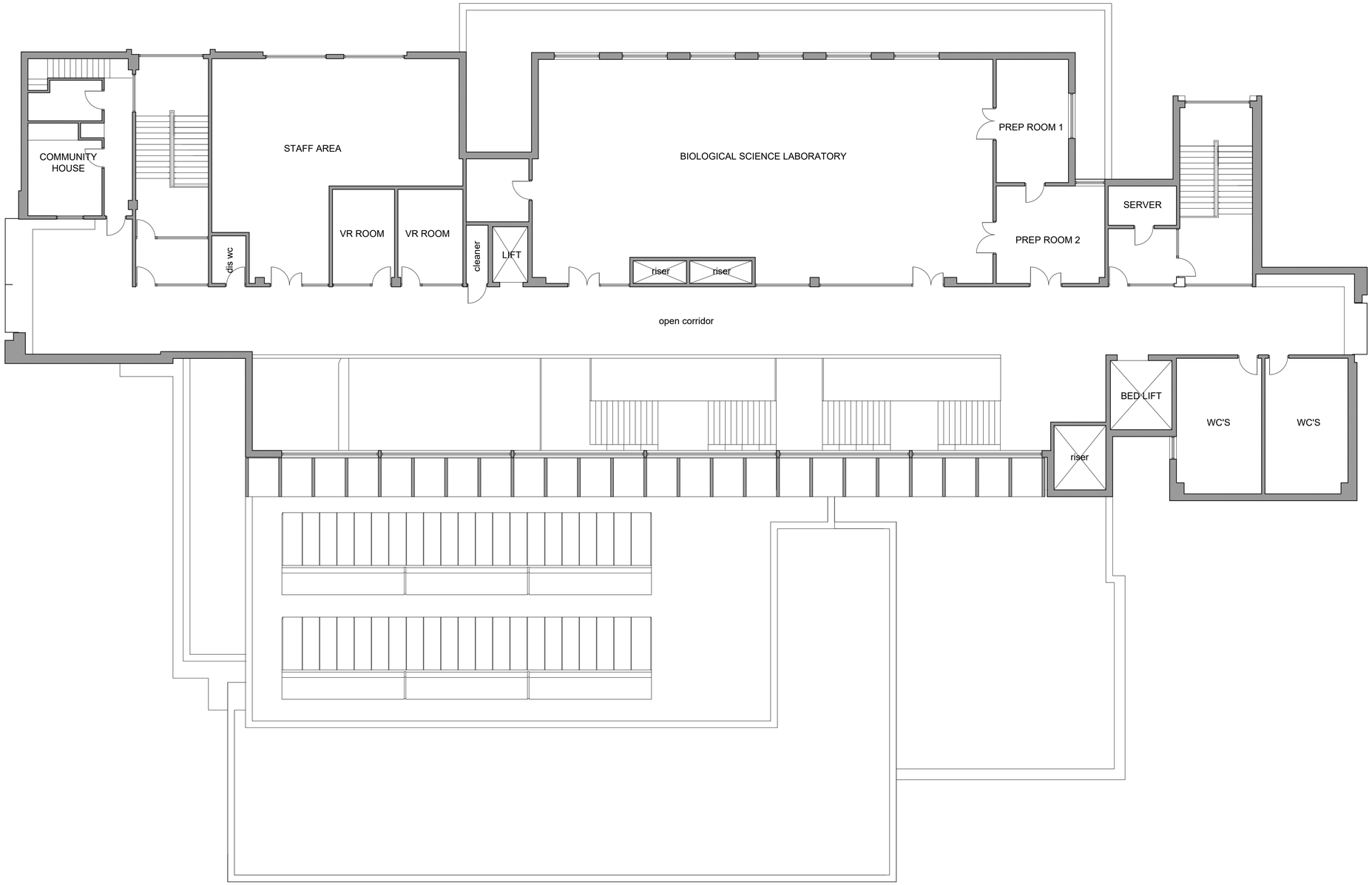
north

HEALTH INNOVATION DUDLEY

Level 3 GA Plan

Drawing Number : 1938/PL05 Rev A

Scale : 1.100 @A1 Date : 23/07/21



LEVEL 4

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HEALTH INNOVATION DUDLEY

Level 4 GA Plan

Drawing Number : 1938/PL06 Rev A

Scale : 1.100 @A1 Date : 23/07/21

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HEALTH INNOVATION DUDLEY

Castle Hill (South) Elevation GA

Drawing Number : 1938/PL07

Scale : 1.100 @A1 Date : 19/07/21

Public Plaza (West) Elevation

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HEALTH INNOVATION DUDLEY

Public Plaza (West) Elevation

Drawing Number : 1938/PL08

Scale : 1.100 @A1 Date : 23/07/21

Zoo Entrance Plaza (North) Elevation

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HEALTH INNOVATION DUDLEY

Zoo Entrance Plaza (North) Elevation
Drawing Number : 1938/PL09

Scale : 1.100 @A1 Date : 23/07/21

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HEALTH INNOVATION DUDLEY

Trindle Road (East) Elevation

Drawing Number : 1938/PL10

Scale : 1.100 @A1

Date : 27/07/21

PLANNING APPLICATION NUMBER: P21/1568

Type of approval sought	Full Planning Permission
Ward	Brierley Hill Ward
Agent	Adam Grace
Case Officer	James Mead
Location:	**OLD NEW INN, 17, HIGH STREET, BRIERLEY HILL, WEST MIDLANDS, DY5 3AB**
Proposal	**DEMOLITION AND CONSERVATION OF EXISTING BUILDING AND ERECTION OF NEW BUILDING TO CREATE 5 BED HMO AND 6 NO. 1 BEDROOM FLATS WITH ASSOCIATED WORKS**
Recommendation Summary:	**APPROVE SUBJECT TO CONDITIONS**

Addendum to Report

On 12th October 2021 this application was referred to be determined at Planning Committee by the Chair of the Development Control Committee, which will take place on 17th November 2021.

SITE AND SURROUNDINGS

1. The Old New Inn is a late 19th century public house situated at the junction of High Street and Bell Street South, Brierley Hill. The building is dilapidated and in disrepair and is suffering from structural failures due to neglect and vandalism. Its last known use was as a public house, which has not operated on the site for at least 12 years.

2. The site sits within the Brierley Hill Conservation Area within the Town Centre Boundary. At this end of the town centre the immediate area is dominated by a large traffic junction. The building itself is framed by the rear of a large brick shopping centre to the north and some 1960's era deck access flats above shops to the south. Opposite is a small car park and St Mary's RC Church, while to the North West and accessed from Bell Street South is St Michaels Church.

3. The surrounding area is wholly commercial in character with the High Street extending to the north with a Gym and Bingo Hall in close proximity with other small A1 and town centre uses. Flats above shops are prevalent and there are residential areas to the south.

PROPOSAL

4. The application proposes part demolition and conservation of the existing building and erection of new building to create 6no. flats and a five bedroomed House in Multiple Occupation (HMO) with associated works.

5. It is proposed to conserve as much of the existing building as possible. A structural survey submitted does however make it clear that the building is significantly in danger of collapse and the areas of retention would be minimal.

6. The front part of the building would retain its two-storey character, with as many features retained as possible and upgraded where needed. This part of building would provide the 5 bed HMO.

7. To the rear a new three storey flat roofed building would be construed. This would be flat roofed with overhanging eaves detailing. It would be constructed with modern materials with a brick plinth base, render and cladding (zinc or equivalent). A total 6no one-bedroom flats would be provided. Access to all flats and the HMO would be from Bell Street South, with a central foyer. Bins and cycle store would be provided internally. A small outside courtyard area at ground floor would also be provided. No off-street parking is proposed.

8. The application has been submitted with a Design and Access Statement, Heritage Statement and Structural Report.

9. The application follows approval P19/0877 in March 2020, which was for 9no flats. The main difference between that application and this, is that the three flats previously approved within the existing building are replaced with the five bed HMO.

HISTORY

APPLICATION No.	**PROPOSAL**	**DECISION**	**DATE**
P21/1002	Part demolition and conservation of existing building and erection of new building to create 17 bed	Withdrawn	08/07/2021

	HMO and associated works		
P19/0877	Part demolition and conservation of existing building and erection of new building to create 9no flats with associated works.	Approved with conditions	17/03/2021
88/52831	Erection of covered walkway and internal alterations.	Approved with conditions	24/01/1989
80/51989	Erection of toilet block.	Approved with conditions	28/07/1980

PUBLIC CONSULTATION

10. Direct notification was carried out to the occupiers of 23 adjoining properties, a site notice was posted, and the application was advertised within the express and star newspaper.

11. Councillor Adam Davies objects to the application. He states 'My concern focuses on the following key points;

- Not in line with regeneration strategy
- Lack of parking
- A high likelihood of increased crime

12. In addition, one letter of objection was received from a local resident, issues raised.

- Failure to promote sustainability and sense of place.
- Failure to foster character and distinctiveness.
- Risk of harm to the Conservation Area and failure to justify such risk.
- Failure to meet the NPPF requirement of sustainable development.
- No parking.

OTHER CONSULTATION

13. <u>Head of Planning and Development (Highway Engineer):</u>

A parking survey has been submitted by the applicant, confirming on street parking is available in the area. Cycle storage is needed.

14. Head of Planning and Development (Land Contamination Team):
No objection raised.

15. Head of Environmental Safety and Health:
No comments received. However previous comments are noted, conditions relating to air quality were requested.

16. West Midlands Police:
This area is in a high crime rate area, If approved there is a potential to see an increase in Police demand.

RELEVANT PLANNING POLICY

17. National Planning Policy

- National Planning Policy Framework (NPPF) 2021
- Technical Guidance to the National Planning Policy Framework.
- Planning Practice Guidance (2014)
- Community Infrastructure Levy Regulations (as amended) (2014)

18. Black Country Core Strategy 2011

- Policy HOU1 (Delivering Sustainable Housing Growth)
- Policy HOU2 (Housing Density, Type and Accessibility)
- Policy TRAN2 Managing Transport Impacts of New Development
- Policy ENV 3 Design Quality
- Policy ENV 2 Historic Character and Local Distinctiveness
- Policy ENV8 Air Quality

19. Dudley Borough Development Strategy 2017

- Policy S1 (Presumption in favour of Sustainable Development)
- Policy L1 (Housing Development)
- Policy S6 (Urban Design)
- Policy S11 (Building of Local Historic or Architectural Importance)

20. Supplementary Planning Guidance

- Parking Standards SPD
- New Housing Development SPD

ASSESSMENT

21. The main issues are

- Principle/Policy
- Heritage Asset
- Layout and Design
- Neighbour and Occupier Amenity
- Access and Parking
- Financial Material Considerations

Principle/Policy

22. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It encourages the effective use of land by utilising brownfield sites and focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF also seeks to boost housing supply and supports the delivery of a wide choice of high quality homes, with a mix of housing (particularly in terms of type/tenure) to create sustainable, inclusive and mixed communities.

23. The Black Country Core Strategy adopted in 2011 sets out The Vision, Sustainability Principles and The Spatial Objectives for future development in the Black Country to 2026. One of the Spatial Objectives of the Strategy is to help to deliver sustainable communities on redundant land, that make the most of opportunities such as public transport, are well served by residential services and green infrastructure, have good walking, cycling and public transport links to retained employment areas and centres, are set in high quality natural and built environments and are well integrated with surrounding areas.

24. The Black Country Core Strategy (BCCS), Policy HOU1: 'Delivering Sustainable Housing Growth' also requires at least 63,000 net new homes up to 2026.

25. Policy L1 of the Dudley Borough Development Strategy states that new development will be supported on previously developed land and on sites in sustainable locations, close to public transport facilities and links. Housing development will be permitted, provided that the design of the development is of an appropriate form, siting, scale, and mass; that it would not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings; that it would provide an appropriate level of amenity for future occupiers of the development and that the development would provide adequate access, parking and provision for the manoeuvring of vehicles, with no detrimental impact on highway safety and free flow of traffic.

26. The proposal would constitute windfall development on a brownfield site. The overriding strategy is for residential led regeneration of previously developed land, this is a small site providing a net gain of six individual flats and one dwelling as an HMO and would not prejudice the overall strategy. It is considered the principle of redeveloping this site for residential purposes would be a positive step in line with national and local policy. The site is within an established mixed use area, close to public transport links and with easy access to local services.

Heritage Asset

27. The proposed application site contains The Old New Inn public house. It is an early 19th century public house, recorded on a map of 1824 as being owned and occupied by Thomas Tomkinson, a major landowner in Brierley Hill. Sadly, the structure of the old New Inn has succumbed to dereliction and abuse. It is on the whole unsuitable for full retention, it is currently a very dangerous building. Fire damage, damp and frost have ravaged the structure to the point where its full retention is not viable.

28. The Structural Report submitted with the application considers that the building is considered to be beyond practical repair with very little structure deemed to be in reasonable condition. There is considerable cracking and foundation movement to the brickwork that will require extensive repair and generally rebuilding. The first floor is in poor condition and will need to be replaced. The roof is likely to require full replacement. It is apparent that the building has deteriorated in recent years. The structure is considered to

be reaching an 'unstable' position and the masonry front wall could become detached at any time in the future.

29. Paragraph 203 of the NPPF states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly a non-designated heritage asset a balanced judgment will be required having regard to the scale of any harm or loss to the significance of the heritage asset.

30. The Council's Historic Environment Officer and planning case officer has worked extensively with the applicant and their agent to ensure that a full conversion and sympathetic extension of the heritage asset has been fully explored. The contents of the structural survey are accepted by the Council and the applicant will where appropriate retain as much of the existing structure as possible. While Paragraph 196 of the NPPF states *'Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision'.* The public house has remained vacant for a number of years. In this case, the site is unlikely to come forward with a proposal that takes into account the only remaining structure on the site and it is likely that the structure would become more dangerous. The applicants Heritage Assessment itself notes that "*we are sympathetic that the pub has sat within this conservation area and the street scene of Brierley Hill High Street for well over 100 years and that is form and mass demands attention and celebration. Though substantially the structure will be lost we cannot necessarily say that the existing public house is a particular high quality though it's age and previous usage made it significant within the street we feel that using the materials massing in geometry of the existing pub we can improve upon its external appearance and make a much more efficient use of the space".*

31. Given this, while the loss of the majority of the structure is unfortunate, efforts will be made to retain as much of the surviving elements. So while more modern materials and approach will be taken, it is considered that the proposal as a whole will have a neutral impact upon the significance of the heritage assets.

32. In conclusion, accounting for the neutral impact of the proposed development upon the character and appearance of the area, it is considered that no material weighting, for or

against the development, should be afforded within the planning balance to the application for planning permission on heritage grounds.

Layout and Design

33. Chapter 12 of the NPPF focuses on good design as a key element of sustainable development. Paragraph 126 states "*Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities"*

34. Policy S6 (Urban Design) of the Dudley Borough Development Plan identifies that new development should be designed in accordance with good urban design principles. In addition, 'The New Housing Development' SPD encourages good quality accommodation in attractive environments. It contains a series of urban design principles and refers to minimum design and amenity guidance. Particular emphasis is given to assessing context and responding positively to local character.

35. The New Housing SPD provides detailed guidance with respect to assessing context and local character. Where a potential development site is located in the context of a broad character area, the council requires development to consider the appropriate design response to the defining characteristics of that area.

36. While the frontage of the site will be rebuilt and retained where possible; a new modern designed building would be developed facing Bell Street South. It is considered that the proposed development would make a positive contribution to the streetscene. The layout of the site reinforces the strong building line along High Street. An active frontage is provided with front doors and windows to the ground floor flats facing onto Bell Street South. Bin and cycle stores are provided.

37. Materials to be used are acceptable, with a mix of brick and render. A glazed link between the older building and the new building would be incorporated and the roof has an overhanging eaves details, with a zinc cladding. Conditions to secure exact detail of materials will be required.

38. Overall, the scale of the development would be appropriate for this frontage. The position/width of the proposed building would not appear out of context. It results in a

development following a broad pattern of development and would not be harmful to the surrounding area.

Neighbours and Occupier Amenity

39. Internally, all six apartments meet the Government's *Technical Housing Standards* in terms of overall space provided. Although these standards are not adopted locally they provide a useful guideline in the assessment of internal space. Furniture layouts also indicate that the normal furniture could be accommodated in all rooms. All habitable room windows face either to the front and rear. To the rear there is adequate separation between the proposed development and surrounding development. As such, it is not considered either existing or proposed neighbours' amenities would be unduly affected.

40. It is considered that the layout of the HMO element, whereby each bedroom proposed achieves a satisfactory internal layout resulting in adequate living space aimed at single tenants provides an acceptable level of amenity for occupiers. All rooms have en-suite accommodation; a communal kitchen/lounge and dining area is also provided. The layout would provide good surveillance from habitable room windows of the respective street scenes. In addition, occupancy levels of the proposed HMO would be similar if not less than that of the 3no flats previously approved within the building and as such the impact would be no different to the already approved development of 9no flats that could be implemented at the site.

41. The development would not conflict with the 45 Degree Code in respect of adjoining properties.

42. It is acknowledged there is some useable amenity space for residents to the rear, although not in accordance with the amount advocated within the New Housing SPD. Notwithstanding this, it is acknowledged that this is a Town Centre location; whilst the size and shape shown would have limited practical use, it is considered this would be offset by the proximity to shops and services within the centre.

43. It is recommended that a condition be attached to any planning consent to mitigate against the effects of poor air quality in this location. This would be in accordance with BCCS policy ENV8 which requires development to reduce exposure to poor air quality to help improve the health and quality of life of the population.

44. In regard to the comments from West Midlands Police, each case must be assessed on its individual merits and in this instance, given that none of the crime statistics can be directly attributed to this use at this location, it is considered that a reason for refusal based on crime or fear of crime could not be substantiated in this instance. Furthermore, a condition will be attached to any approval requiring the development to operated in accordance with the HMO management plan submitted.

Access and parking

45. Policy L1 also requires that development should provide adequate access and parking to ensure that there would be no detrimental impact on highway safety. The Highway Engineer has not raised any objection to the proposal. Whilst the development has no designated parking, the site occupies a Town Centre location and a parking survey has been submitted to demonstrate that the existing on street parking provision in the immediate vicinity of the application site would be sufficient to meets the needs of the development. In addition, the site is within a highly sustainable location, being within close proximity of services within Brierley Hill Town Centre and there are good transport links including buses to centres of employment within Dudley and beyond. It is not considered traffic and parking demand associated with a residential use on this site would increase and the impact of new flats at this location on the surrounding highway network would be negligible. There are no highway safety matters arising and the proposal therefore complies with Policy TRAN2 of the Black Country Core Strategy and the Parking Standards SPD (2017).

Financial Material Considerations

46. Clause (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). The clause 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'.

47. This proposal would provide 6 new dwellings generating a New Homes Bonus grant of 6 times the national average council tax for the relevant bands. Whilst this is a significant sum

of money the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

48. The proposal is liable for CIL but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required.

CONCLUSION

49. The redevelopment of the site for residential accords with both national and local policy. The development would provide new housing to help meet the boroughs demand for new homes, and the proposed type and tenure' layout and design are appropriate for the area and can be accommodated without any significant adverse impact on existing residents and heritage assets, or the local highway network. The proposals would provide a high-quality development, which is considered would make a positive contribution to the area and which constitutes sustainable development.

RECOMMENDATION

It is recommended that the application be APPROVED subject to the attached 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: 402-00; 402-01; 402-10; 402-20; 402-12; 402-11; 402-305 B; 402-306 D; 402-307 C; 402-308 A and 402-309 A;
   REASON: For the avoidance of doubt and in the interests of proper planning.
3. Development shall not commence until details/samples of the type, texture, colour and bond of the bricks to be used (in the new build and in the repairs of the historic existing building) and a sample panel measuring not less that 1m2 shall be erected on site and approved in writing by the Local Planning Authority. The panel shall be retained on site for the duration and the development and thereafter new brick work shall only be constructed in accordance with these

approved details. The development shall be carried out in complete accordance with the approved details.
REASON:- In order to ensure the quality and visual appearance of the development in the Brierley Hill High Street Conservation Area and to preserve the architectural and historic integrity of the building in accordance BCCS Policy ENV 2, Dudley Borough Development Strategy Policies S8, S9 and S11 and Brierley Hill Area Action Plan Policies 2 and 59.

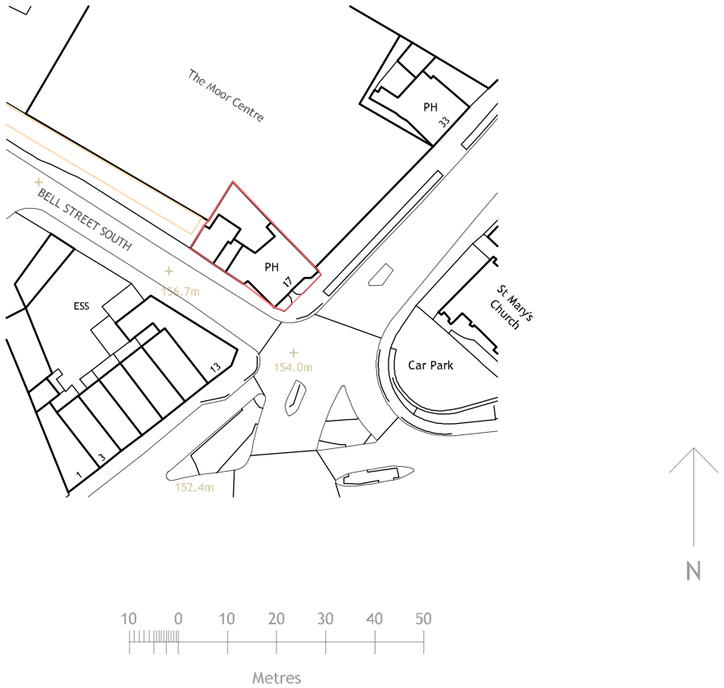
4. Development shall not begin until details/samples of the type, texture and colour of all the roofing tiles and rainwater goods to be used in the reconstruction of the existing building have been submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details and retained for the lifetime of the development.
REASON:- In order to ensure the quality and visual appearance of the development in the Brierley Hill High Street Conservation Area and to preserve the architectural and historic integrity of the building in accordance BCCS Policy ENV 2, Dudley Borough Development Strategy Policies S8, S9 and S11 and Brierley Hill Area Action Plan Policies 2 and 59.
5. Notwithstanding the details on the submitted plans, development shall not begin until details of the joinery (for the replacement windows and external doors) to be used in the external elevations of the existing building and its colour and finish, along with large scale architectural drawings at a scale no less than 1:10, have been submitted to and approved in writing by the Local Planning Authority of all replacement windows and doors. The details shall indicate profiles and sections of heads, cills, jambs and glazing bars together with their relationships to masonry apertures. They shall also indicated if they are to be double-glazed. The development shall proceed in accordance with the approved details and retained for the lifetime of the development.
REASON:- In order to ensure the quality and visual appearance of the development in the Brierley Hill High Street Conservation Area and to preserve the architectural and historic integrity of the building in accordance BCCS Policy ENV 2, Dudley Borough Development Strategy Policies S8, S9 and S11 and Brierley Hill Area Action Plan Policies 2 and 59.
6. Details of the mortar mix to any areas of repair shall either be submitted to and approved in writing by the Local Planning Authority, or provided on site as a sample panel measuring not less than 1m2 for the Local Planning Authority to inspect. The works shall thereafter be carried out in accordance with the same approved details.
REASON:- In order to ensure the quality and visual appearance of the development in the Brierley Hill High Street Conservation Area and to preserve the architectural and historic integrity of the building in accordance BCCS Policy ENV 2, Dudley Borough Development Strategy Policies S8, S9 and S11 and Brierley Hill Area Action Plan Policies 2 and 59.
7. Notwithstanding the details shown on the submitted plans development shall not begin until details have been submitted to and approved in writing by the Local Planning Authority of the location of all vent pipes, heating appliances, flues, air intake and extraction equipment terminals in order to demonstrate that they will not have a detrimental impact on the appearance of the listed building. The scheme shall be implemented in accordance with the approved details and retained for the lifetime of the development.

REASON:- In order to ensure the quality and visual appearance of the development in the Brierley Hill High Street Conservation Area and to preserve the architectural and historic integrity of the building in accordance BCCS Policy ENV 2, Dudley Borough Development Strategy Policies S8, S9 and S11 and Brierley Hill Area Action Plan Policies 2 and 59.

8. Development shall not begin until a scheme for protecting residents in the proposed dwellings from noise from traffic using High Street has been submitted to and approved in writing by the local planning authority. All works which form part of the approved scheme shall be completed before occupation of the permitted dwellings unless otherwise agreed in writing by the Local Planning Authority. The protection measures in the agreed scheme shall be maintained throughout the life of the development
   REASON: In order to safeguard the amenities of the occupiers of the proposed dwellings and to comply with Policy D5 of the Dudley Borough Development Strategy.
9. The development shall be carried out in full accordance with the submitted Site Construction Management Plan prepared by MCD Construction Consultancy dated June 2019. The approved plans shall be adhered to throughout the construction period.
   REASON: To protect the amenity of residents in the vicinity of the site during construction of the development and to comply with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings
10. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NOx emission concentration rate of <40mg/kWh.
    REASON: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.
11. No above ground development shall commence until a schedule of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.
    REASON: In the interests of the visual amenities of the area; to ensure the character of the Brierley Hill Conservation 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) and policies of the Brierley Hill Area Action Plan.
12. The demolition works hereby permitted shall not be undertaken before a contract for the carrying out of the works of redevelopment of the site has been executed and relevant conditions discharged for the redevelopment for which the contract provides. Evidence that a contract has been executed shall be submitted in writing to the Local Planning Authority 14 days prior to any demolition works commencing.
    REASON: To preserve the established character of the Brierley Hill

Conservation Area pending redevelopment in conformity with Policy S8 *Conservation and Enhancement of Local Character and Distinctiveness) and Policy 9 (Conservation Areas) of the adopted Dudley Borough Development Strategy.

13. Before any demolition begins, details shall be submitted to and approved in writing by the local planning authority of the measures to be taken to secure the safety and structural stability of the retained building. The details submitted must be informed by the advice of a qualified structural engineer. The scheme shall be implemented in accordance with the approved details.
    REASON: To safeguard the stability of the historic structure which is to be retained and in accordance with Policy S9 (Conservation Areas) of the adopted Dudley Borough Development Strategy.
14. Notwithstanding the details shown in the submitted plans, development hereby permitted shall not commence until large scale architectural drawings have been submitted to and approved in writing by the Local Planning Authority of proposed new railings and gates for the front elevation illustrating their design, component size, technical specification, material, RAL colour and finish and how they will be attached to the existing boundary wall.
    REASON:- In order to ensure the quality and visual appearance of the development in the Brierley Hill High Street Conservation Area and to preserve the architectural and historic integrity of the building in accordance BCCS Policy ENV 2, Dudley Borough Development Strategy Policies S8, S9 and S11 and Brierley Hill Area Action Plan Policies 2 and 59.
15. No development shall commence (excluding demolition, site clearance and initial ground works) until detailed plans and sections showing existing site levels and proposed ground floor levels of the dwellings have been submitted to and approved in writing by the Local Planning Authority. The development thereafter shall be implemented in complete accordance with the approved details.
    REASON: In the interests of the visual amenities of the area and to safeguard the amenities of occupants of neighbouring properties 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).
16. The development hereby approved shall be carried out in accordance with the submitted HMO Management Plan. The Management Plan shall be implemented in accordance with the details approved by the Local Planning Authority, prior to the first occupation of the development hereby approved, and remain operational for the life of the development.
    REASON: In the interests of highway safety and residential amenity and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings.



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Client: A. Mazleghani

Pr	Preliminary	■	C	Contract
F	Feasabilty		Cn	Construction
P	Planning		As	As Built
T	Tender		Other	

Project: Old New Inn, Brierley Hill

Title: Location Plan / Existing

Drwg Scale: 0 10m 20m Scale 1:1250 A3

Drawing No: 402-00

Revision: .

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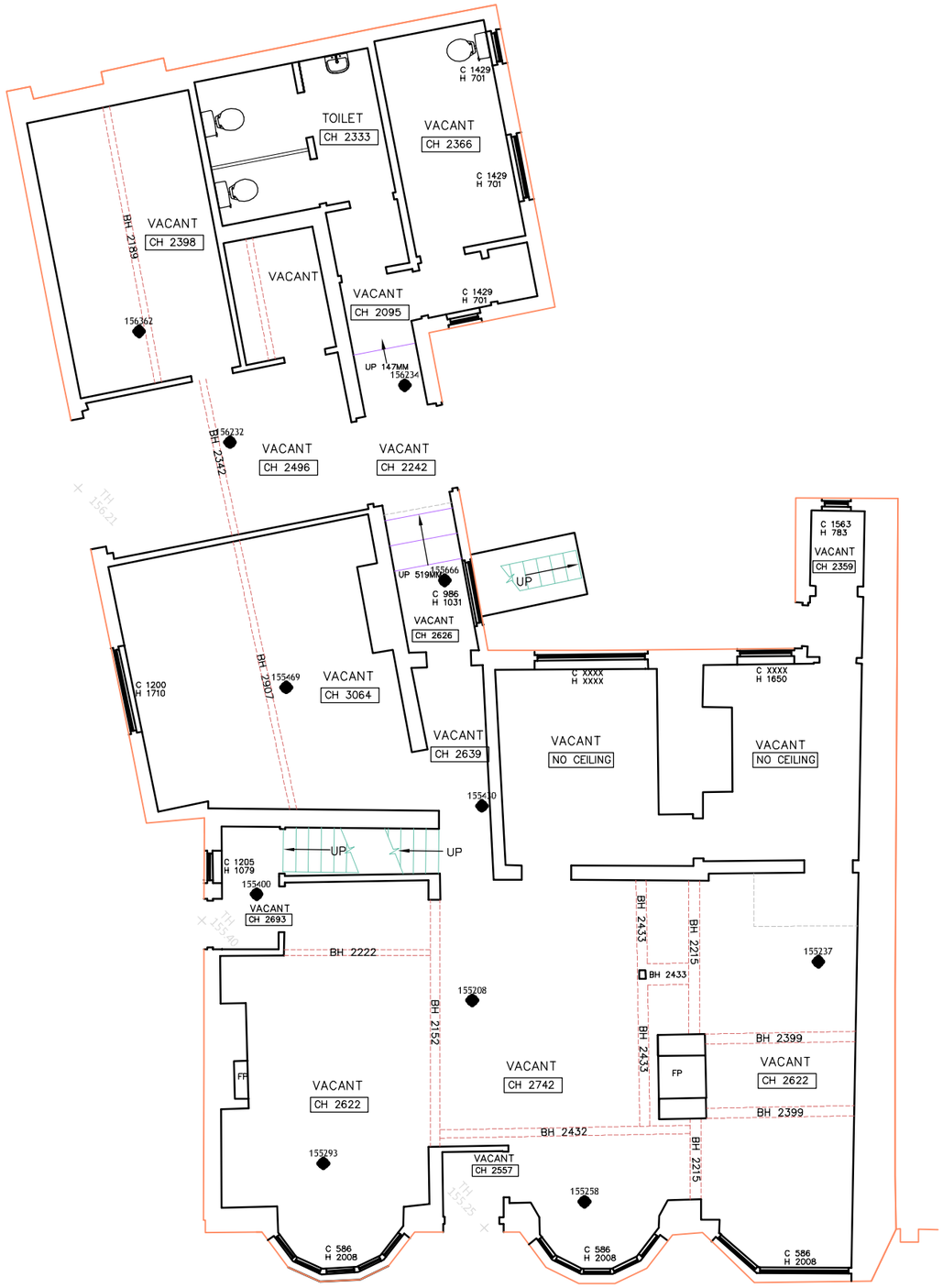

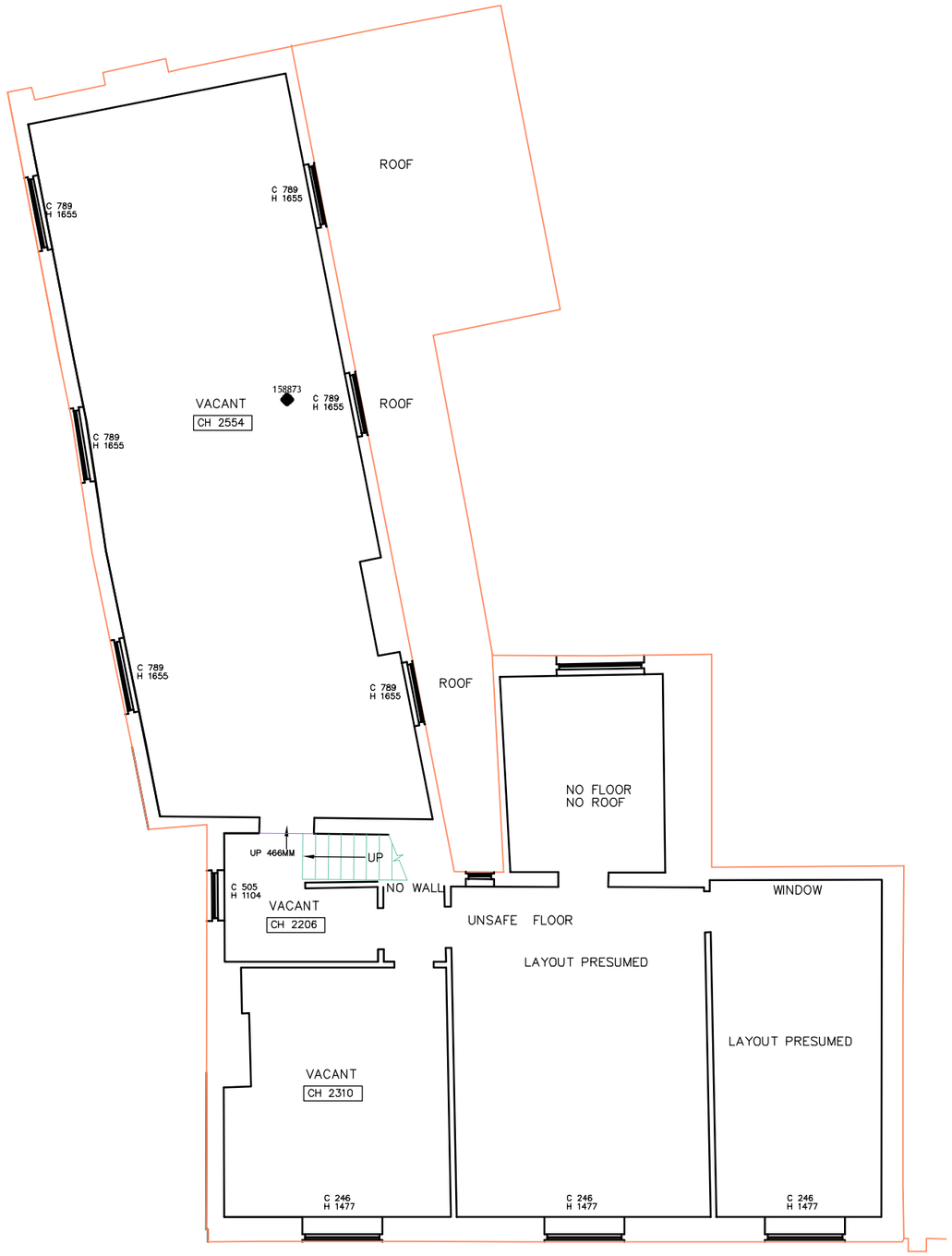

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Client: A. Mazleghani

Pr	Preliminary		C	Contract
F	Feasability		Cn	Construction
P	Planning	■	As	As Built
T	Tender		Other	

Project: Old New Inn, Brierley Hill

Title: Existing Survey Internal Ground and First Floors

Drwg Scale: 0 1m 2m Scale 1:100 A3

Drawing No: 402-11

Revision: .

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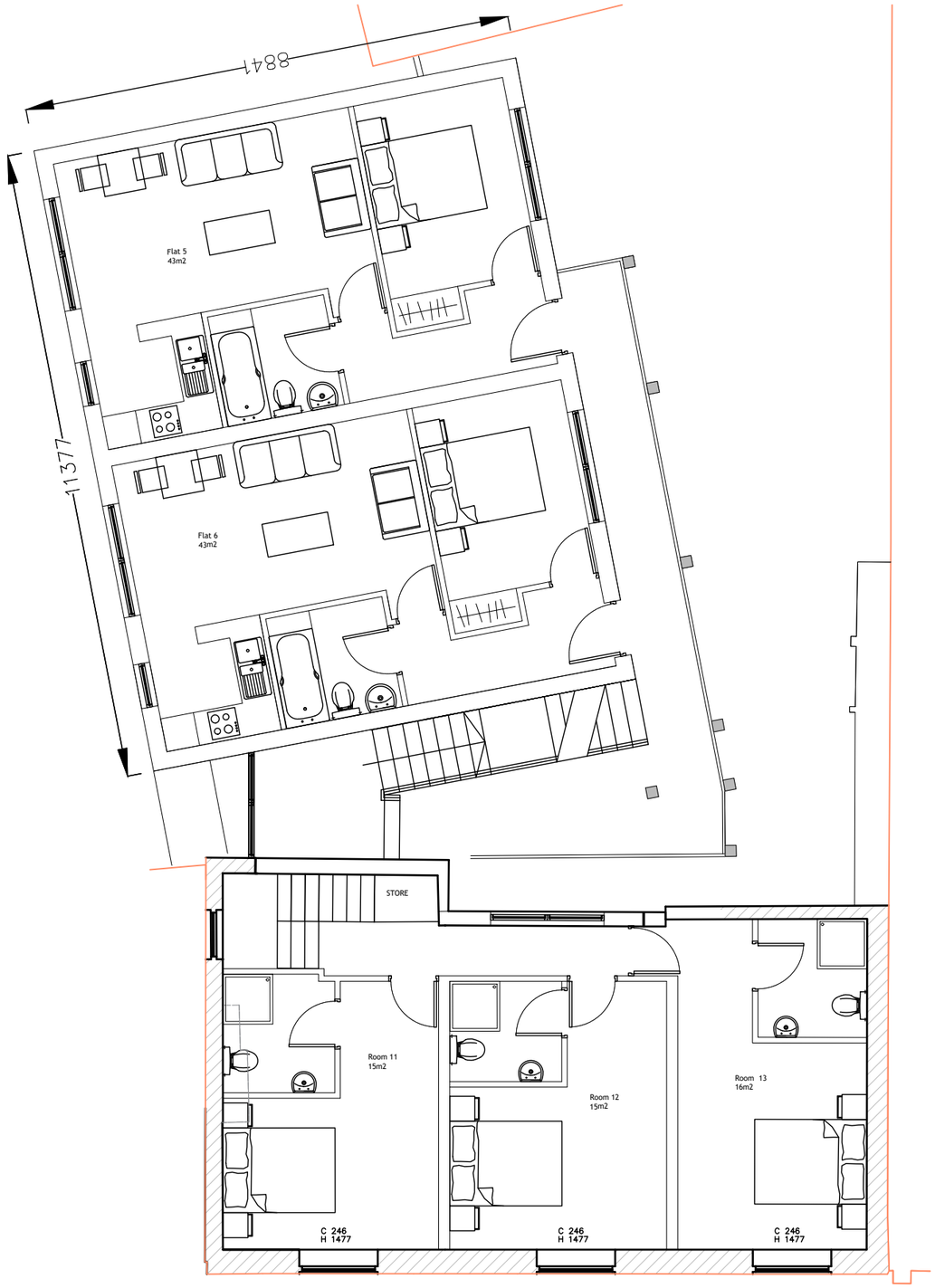

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Client: A. Mazleghani

Pr	Preliminary		C	Contract
F	Feasabilty		Cn	Construction
P	Planning	■	As	As Built
T	Tender		Other	

Project: Old New Inn, Brierley Hill

Title: Proposed Ground and First Floors

Dwg Scale: 0 1m 2m Scale 1:100 A3

Drawing No: 402-305

Revision: b

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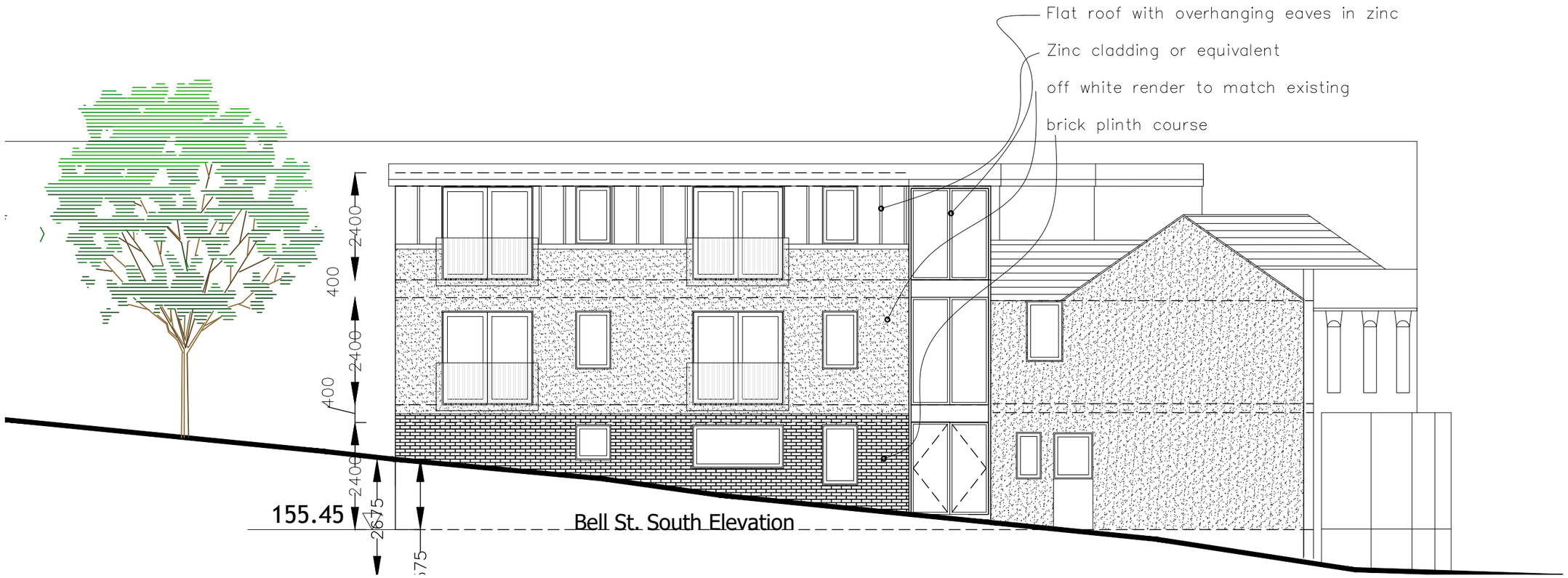
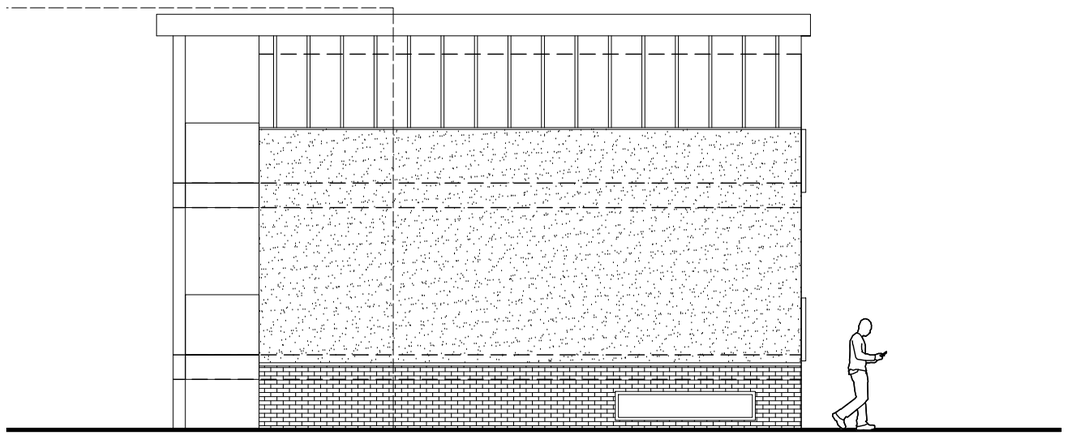


High Street Elevation



Gable off Bell Street South

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Client: A. Mazleghani

Pr	Preliminary		C	Contract
F	Feasabilty		Cn	Construction
P	Planning	■	As	As Built
T	Tender		Other	

Project: Old New Inn, Brierley Hill

Title: Existing Survey Site Sections

Drw Scale: 0 1m 2m Scale 1:100 A3

Drawing No: 402-307

Revision: C

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PLANNING APPLICATION NUMBER: P21/1819

Type of approval sought	Full Planning Permission
Ward	St. James's Ward
Agent	
Case Officer	James Mead
Location:	**LAND AT THE JUNCTION OF, STEPPINGSTONE STREET AND GREYSTONE PASSAGE, DUDLEY, DY1 1SB**
Proposal	**ERECTION OF 1 NO. DWELLING WITH ASSOCIATED WORKS (RESUBMISSION OF P21/1063)**
Recommendation Summary:	**APPROVE SUBJECT TO CONDITIONS**

REFERRAL TO DEVELOPMENT CONTROL COMMITTEE

The application has been referred to Development Control Committee as the applicant is a Councillor.

SITE AND SURROUNDINGS

1. The application site relates to a landscaped piece of land at the junction of Steppingstone Street and Greystone Passage, Dudley. The site is set within a predominantly residential area and occupying a plot of some 0.026 hectares and forms part of green amenity space that defines the corner of Steppingstone Street, Greystone Passage and Dock Lane.

2. The application site is bound to the north by 79 and 81 Steppingstone Street, these are semi-detached hipped roofed two storey properties, both of which are set approximately 1.5m higher than the application site due to the land level difference between Greystone Passage and Steppingstone Street. An existing brick wall forms the boundary with these properties.

3. To the rear of the site (east) is an area of land, bound by a breeze block wall, that appears to be an area of hardstanding that has become overgrown in connection with the existing property at 79 Steppingstone Street. Beyond this is No.21 Greystone Passage a semi-detached bungalow forming part of a recently constructed row of 8 houses all to the north side of Greystone Passage.

4. To the south of Greystone Passage are two storey residential properties of varying designs and styles. Further to the south beyond the green area is a wider industrial and commercial area. To the east, further residential area and the existing Dudley Leisure Centre.

PROPOSAL

5. This proposal is for the erection of 1no. three bed detached dwelling. The property would front onto and have vehicular access to Greystone Passage. Off street parking appears to be provided to the side with a private garden area also to the side.

6. The property would measure a maximum length of 12m and 9.2m wide. It would measure They would measure 4.8m in height to the eaves and 8m in height to the main ridge to provide a two-storey detached property.

7. Internally, the house would be provided with two large receptions rooms, kitchen and WC on the ground floor and three bedrooms and bathroom at first floor.

8. The property would be designed with a pitched roof and forward projecting gable wing to the front, with small single storey addition to the side. The proposed dwellings would be finished in facing brickwork, with a tiled roof and UPVC windows and doors.

9. Site area is 0.026 hectares, which equates to a density of 38.5 dwellings per hectare.

10. This application is before Development Control committee as the applicant is an elected member.

11. The application is a resubmission of previously refused application P21/1063. The application has now been submitted with an appropriate Coal Mining Risk Assessment.

HISTORY

APPLICATION NO.	PROPOSAL	DECISION	DATE
86/50585	Erection of building for use as children's day care centre.	Approved with conditions	03/06/1986
86/51619	Erection of building for use of day care centre	Approved with conditions	04/12/1986
P21/1063	Erection of 1 no. dwelling with associated works	Refused	14/09/2021

12. Planning application P21/1063 was refused as the application site falls within the defined Development High Risk Area; therefore, within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of a planning application. Insufficient information was submitted to make an informed decision in this regard. This revised application is identical to the previously refused application, however a coal mining risk assessment has been submitted.

PUBLIC CONSULTATION

13. Letters of notification were sent to six nearby occupiers and a site notice was posted with the final dates for comments being 24th October 2021. No comments have been received.

OTHER CONSULTATION

14. Head of Environmental Safety and Health.

No objection subject to safeguarding conditions with respect to noise and air quality.

15. Head of Planning and Development (Highway Engineer):

The proposed layout does reduce cross corner visibility for drivers travelling from the junction of Steppingstone Street on the inside of the bend turning on to Greystone Passage. At the present time 22m forward visibility is available and this will reduce to 17.7m equating to approximately 1 second less response time for the driver observing a pedestrian in the road.

16. Land Contamination:

Consideration of land contamination and ground gas risk is required, and conditions are recommended to secure this in the event the application is approved.

17. The Coal Authority

No objection subject to conditions.

RELEVANT PLANNING POLICY

18. National Planning Policy

- National Planning Policy Framework (NPPF) 2021
- Technical Guidance to the National Planning Policy Framework.
- Planning Practice Guidance (2014)

19. Black Country Core Strategy (2011)

- CSP3 Environmental Infrastructure
- CSP4 Place Making
- DEL1 Infrastructure Provision
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility

- TRAN2 Managing Transport Impacts of New Development
- ENV2 Local Character and Distinctiveness
- ENV3 Design Quality

20. Dudley Borough Development Strategy (2017)
    - S1 Presumption in Favour of Sustainable Development
    - S6 Urban Design
    - S17 Access & Impact of Development on the Transport Network
    - L1 Housing Development, Extensions and Alterations to Existing Dwellings
    - D3 Contaminated Land
    - D4 Unstable Land

21. Supplementary Planning Documents / Guidance
    - Access for All
    - Design for Community Safety
    - Parking Standards SPD
    - New Housing Development SPD

ASSESSMENT

22. The main issues are
    - Principle/Policy
    - Layout and Design
    - Neighbour and Occupier Amenity
    - Access, Parking and Highway Safety
    - Land Contamination and Stability
    - Financial Material Considerations

Principle/Policy

23. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out

principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It encourages the effective use of land by utilising brownfield sites and focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF also seeks to boost housing supply and supports the delivery of a wide choice of high-quality homes, with a mix of housing (particularly in terms of type/tenure) to create sustainable, inclusive and mixed communities.

24. The Black Country Core Strategy adopted in 2011 sets out The Vision, Sustainability Principles and The Spatial Objectives for future development in the Black Country to 2026. One of the Spatial Objectives of the Strategy is to help to deliver sustainable communities on redundant land, that make the most of opportunities such as public transport, are well served by residential services and green infrastructure, have good walking, cycling and public transport links to retained employment areas and centres, are set in high quality natural and built environments and are well integrated with surrounding areas.

25. The Black Country Core Strategy (BCCS), Policy HOU1: 'Delivering Sustainable Housing Growth' also requires at least 63,000 net new homes up to 2026.

26. Policy L1 of the Dudley Borough Development Strategy states that new development will be supported on previously developed land and on sites in sustainable locations, close to public transport facilities and links. Housing development will be permitted, provided that the design of the development is of an appropriate form, siting, scale, and mass; that it would not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings; that it would provide an appropriate level of amenity for future occupiers of the development and that the development would provide adequate access, parking and provision for the manoeuvring of vehicles, with no detrimental impact on highway safety and free flow of traffic.

27. It is considered the principle of redeveloping this site for residential purposes would be broadly in line with national and local policy. The site is within an established residential area, close to public transport links and with easy access to local services. However, consideration of design and amenity also needs to be given along with other material planning considerations.

Layout and Design

28. Chapter 12 of the NPPF focuses on good design as a key element of sustainable development. Paragraph 126 states "Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities"

29. Policy S6 (Urban Design) of the Dudley Borough Development Plan identifies that new development should be designed in accordance with good urban design principles. In addition, 'The New Housing Development' SPD encourages good quality accommodation in attractive environments. It contains a series of urban design principles and refers to minimum design and amenity guidance. Particular emphasis is given to assessing context and responding positively to local character.

30. The New Housing SPD provides detailed guidance with respect to assessing context and local character. Where a potential development site is located in the context of a broad character area, the council requires development to consider the appropriate design response to the defining characteristics of that area. It is noted that provided with the application are a number of streescene drawings, which show the property in relation to the surrounding area. These drawings are however inaccurate and do not reflect the level differences between the site and those properties to the rear on Steppingstone Stone Street. Notwithstanding this, it is considered that the position/width of the proposed dwelling, although particularly prominent on this corner would, on balance, not appear out of context. Two storey properties are a feature elsewhere and there is a mix of property styles and types apparent in the street. It results in a development that would not, on balance, be harmful to the surrounding area.

31. Despite being set close to the back edge of the pavement the house would be brick built with roof tiles. This would help to assimilate the new development with the existing surrounding area. The front projecting gable is not a feature seen elsewhere in the street and could be considered to be an alien feature and as incongruous to the street and overall character. However, taking into account the isolated position at the entrance to Greystone Passage, it is not considered that this would be a sufficient reason to warrant the refusal of the application in this instance. Conditions to ensure appropriate materials are recommended.

Neighbours and Occupier Amenity

32. The Council's New Housing SPD recommends a series of numerical standards to ensure existing and future occupiers' privacy and outlook. The development has been designed so that the front facing main habitable room windows of the proposed dwellings are orientated away from existing properties. Windows to the side elevation would either be obscurely glazed secondary windows, not serve habitable rooms, or would not overlook due to proposed boundary treatment.

33. Amenity space for proposed house is to the side, providing approximately 55sqm of space, which is less than guideline figures of 65sqm outlined in the New Housing Development SPD. The SPD recommends at least an 11m distance at the rear, which is met in this case. Given this, it is not considered that this would be sufficient reason to warrant the refusal of the application in this instance. However, it is considered appropriate in this case to remove permitted development rights for further extensions.

34. The property would provide an internal layout of suitable size, with at least one good sized accessible double bedroom and a furniture layout shows that ample storage can be accommodated to meet the expected requirements.

35. Applying the 45-degree code, it is noted that the properties would not breach the code, to any neighbouring property. Therefore, it is not considered there would be any undue loss of light to any adjacent property.

Access, Parking and Highway Safety

36. As outlined within policies TRAN2 of the Black Country Core Strategy and Policy S17 of the Dudley Borough Development Strategy there is a requirement to ensure that development proposals do not result in significant transport implications. In support of these policies, the Parking Standards SPD recognises the need to provide the *"right amount of parking provision in the right place and to the right size"* to support the *"creation of new residential developments both in terms of good scheme layout and design and also highway safety" (para. 3.1).* In doing so paragraph 3.2 outlines that *"Developments that suggest likely on-street parking which would create or exacerbate issues of highway safety will not be supported."*

37. To ensure that developments respect the above, the Parking Standards SPD specifies minimum parking standards for new residential developments, seeking a minimum of two adequately sized parking spaces for any three bedroomed dwelling. In this instance, the proposed development seeks to secure two parking spaces. The parking would be considered remote from the house as it is suggested this would be adjacent to the boundary with 21 Graystone Passage.

38. There was some concern that the position of the house at this corner impedes the appropriate visibility required at junction of Steppingstone Street and Greystone Passage, due to the nature of the road at this point. However, after visiting the site, the Highways Engineer is satisfied that with appropriate conditions to ensure appropriate forward visibility at the bend and onto the footpath and highway that there would not be any detrimental impact to highway safety.

Land Contamination and Stability

39. The Council's Land Contamination Officer has reviewed the submitted documents. Due to the previous historic uses of the site, it is recommended that further assessments regarding ground contamination and gases is required. Conditions to secure this are recommended.

40. Previously, the Coal Authority objected to the application due to the absence of appropriate information to assess that the site is safe, stable and suitable for development.

41. The NPPF at paragraph 183 states that "*Planning policies and decisions should ensure that:*

    a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
    b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
    c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

42. Paragraph 184 goes on to state "Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

43. The application site falls within the defined Development High Risk Area. The Coal Authority's information indicates that the application site lies in an area where historic unrecorded underground coal mining activity is likely to have taken place at shallow depth. The applicant has now submitted an appropriate Coal Mining Risk

Assessment. The Assessment has been informed by an appropriate range of geological, historical and coal mining information including the results of intrusive ground investigations / drilling and grouting works, undertaken on the adjacent site.

44. The report considers that currently the site is likely to be at risk from probable shallow coal mining due to the mine workings encountered on the adjacent housing development site. The report provides 2 options to mitigate the risk to the site from shallow coal mine workings (ground stabilisation works or reinforced raft foundation).

45. Where a desk-based assessment cannot conclude with certainty the extent of the remedial measures required to address the coal mining risks identified at a site, the Coal Authority considers that in order that the application site, as a whole (not just the planned dwelling) is made safe and stable for the development proposed, ground stabilisation works should be carried out in the first instance, unless justification can be given why this cannot be undertaken. A foundation solution will only stabilise the building, not the ground beneath / within the site.

46. The ground stabilisation works will need to be designed and undertaken by a suitable qualified and experienced person to ensure that development, as a whole is made safe and stable. The applicant is aware that Permission is required from the Coal Authority Permit and Licensing Team before undertaking any activity, such as ground investigation and ground works, which may disturb coal property.

47. Given the above, the Coal Authority recommend conditions are added to any approval to provided appropriate remediation works and/or mitigation measures to address land instability arising from Coal Mining Legacy, as may be necessary.

Financial Material Considerations

48. 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).

49. 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'.

50. This proposal would provide one house generating a New Homes Bonus grant of one times the national average council tax for the relevant bands.

51. The proposal is liable for CIL but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required

CONCLUSION

52. The redevelopment of the site for housing accords with both national and local policy. The development would provide new housing to help meet the boroughs demand for new homes, and the proposed type and tenure' layout and design are appropriate for the area and can be accommodated without any significant adverse impact on existing residents or the local highway network. The proposals would provide a good-quality development, which is considered would make a positive contribution to the area and which constitutes sustainable development.

RECOMMENDATION

53. It is recommended that the application be APPROVED subject to the attached 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: Location Plan; Block Plan; Proposed Elevations; Proposed Floor Plan; P03 Rev B and P02 Rev A.
   REASON: For the avoidance of doubt and in the interests of proper planning.
3. No above ground development shall commence until details of the electric vehicle charging points, to be provided for the dwellings in accordance with the Council's standard (Parking Standards SPD), has been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation the electric vehicle charging points shall be provided in accordance with the approved details and shall be maintained for the life of the development.
   REASON: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.
4. No above ground development shall commence until a schedule of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details unless otherwise agreed in writing by 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)
5. No above ground development shall begin until details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and shall thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority
   REASON: In order to make a positive contribution to place-making and provide a high quality public realm 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)
   This detail is required prior to the commencement of above ground works as the required works may need to be incorporated into buildings on the site and as well as needing to protect the amenity of existing and proposed occupiers.
6. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of the soft landscaping scheme for the site have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented in accordance with the approved details before the end of the first planting season following first occupation of the development.
   Any trees or shrubs planted in pursuance of this permission including any planting in replacement for which is removed, uprooted, severely damaged,

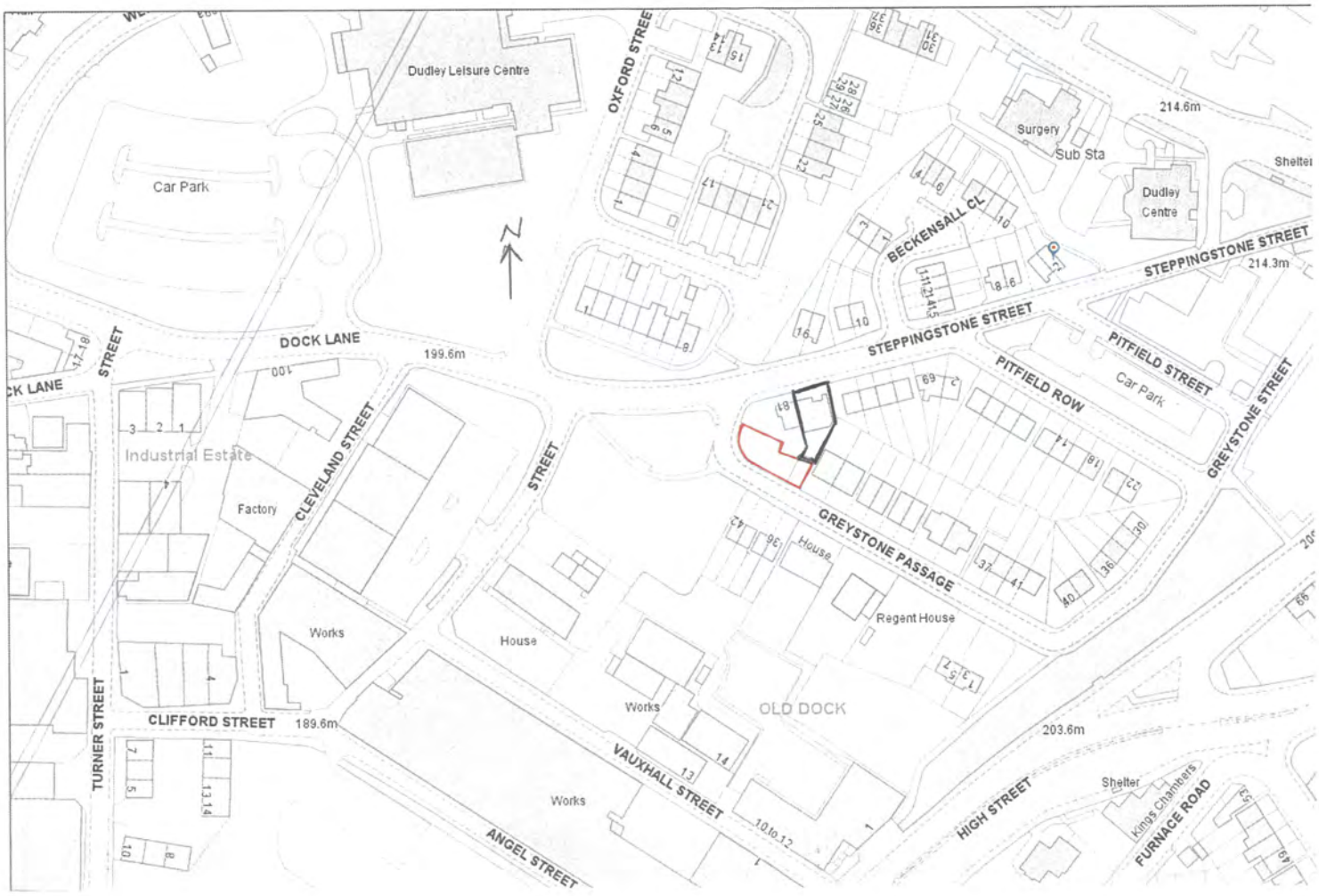
destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.
REASON: In order to make a positive contribution to place-making and provide a high quality landscaping 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 and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as landscaping is integral to providing a high quality and sustainable development.

7. No development shall commence (excluding demolition, site clearance and initial ground investigation works) 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. The development shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. 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 Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings
Policy D2 Incompatible Land Uses (in part)
and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
8. No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
REASON: These details are required prior to the commencement of development 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.
9. Where the approved risk assessment (required by condition 8 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by 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: These details are required prior to the commencement of development 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.
10. Following implementation and completion of the approved remediation scheme (required by condition 9 above) and prior to the first occupation of the

development, 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 have been 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.

11. No development shall commence until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
REASON: These details are required prior to the commencement of development 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.
12. Where the approved risk assessment (required by condition 11 above) identifies ground gases or vapours posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such ground gases or vapours has been submitted to and approved in writing by 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: These details are required prior to the commencement of development 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.
13. Following implementation and completion of the approved remediation scheme (required by condition 12 above) and prior to the first occupation of the development, 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 ground gases or vapours have been 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.
14. No development shall commence until 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 made 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: To ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.

15. 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: To ensure the safety and stability of the development, in accordance with paragraphs 183 and 184 of the National Planning Policy Framework.
16. Work shall not begin on the construction of the development until a method statement for the control of dust and emissions arising from the construction of the development has been submitted to and approved by the Local Planning Authority. All works which form part of the approved scheme shall be implemented throughout the construction and demolition phase of the development.
    REASON: To minimise the impacts to air quality associated with the development and to protect the health and well being of residents in accordance with BCCS Policy ENV8 - Air Quality.
17. The parking area hereby approved shall be completed with a surface and sub-strata that is permeable, or provision shall be made to direct run-off water from the hard surface to a permeable area within the curtilage of the dwelling house, which shall be retained as such for the life of the development.
    REASON: To provide a necessary facility in connection with the proposed development and to prevent uncontrolled runoff of rainwater from front gardens onto public roads/drainage in accordance with BCCS Policy ENV5 and Borough Development Strategy 2017 Policy S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS).
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 NOx emission concentration rate of <40mg/kWh.
    REASON: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.
19. 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, B, D and E 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) and Policy D4 Unstable Land


Dudley Leisure Centre
Car Park
OXFORD STREET
Surgery
Sub Sta
214.6m
Shelter
Dudley Centre
BECKENSALL CL
STEPPINGSTONE STREET
214.3m
STEPPINGSTONE STREET
PITFIELD STREET
PITFIELD ROW
Car Park
GREYSTONE STREET
DOCK LANE
199.6m
STREET
Industrial Estate
Factory
CLEVELAND STREET
STREET
GREYSTONE PASSAGE
House
Regent House
Works
House
Works
OLD DOCK
CLIFFORD STREET
189.6m
TURNER STREET
VAUXHALL STREET
Works
ANGEL STREET
203.6m
HIGH STREET
Shelter
Kings Chambers
FURNACE ROAD

1:1250

25m 0 25m 50m 75m 100m 125m

N

1:500

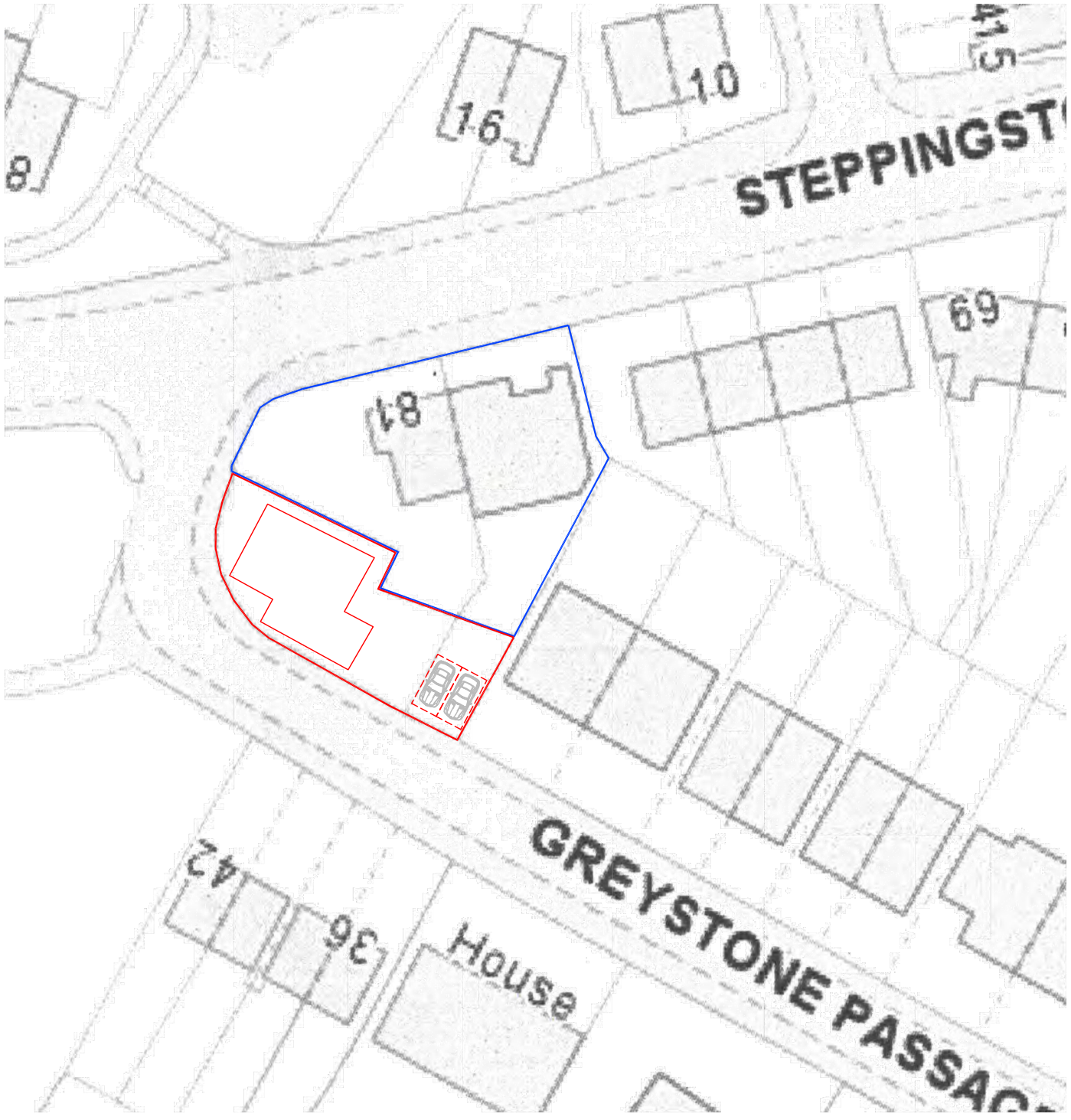
10m 0 10m 20m 30m 40m 50m

NOTES

1.1 Do not scale.

1.2 All dimensions are in mm unless otherwise specified.

1.3 Assume all site details are existing unless otherwise specified.



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152

AREA LOCATION PLAN
SCALE 1:1250

BLOCK PLAN
SCALE 1:500

REV.	DATE	DESCRIPTION	CHK	APP

Site/Client:

Land at Junction of
Greystone Passage
& Steppingstone Passage

Title: Location Plans

Drawing no. 2021/1064/101

SPACE
DESIGN PLANNING

Tel: 0121 517 0271 E:info@spacedp.co.uk

Issue:	Scale: As Shown @A3		Checked:	Date:
	Dim: mm	Date: 02/09/21	Approv:	Date:

PLANNING ISSUE

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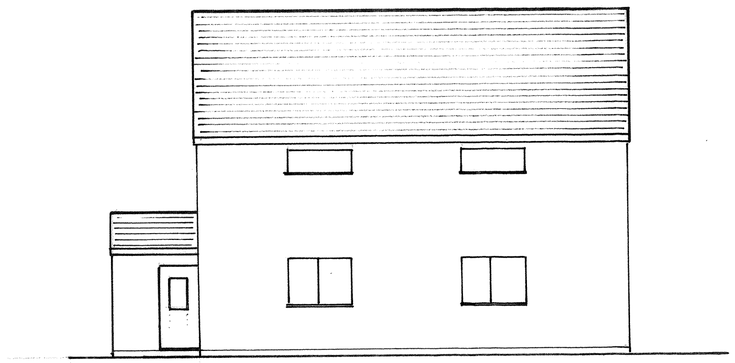


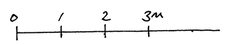
LHS ELEVATION

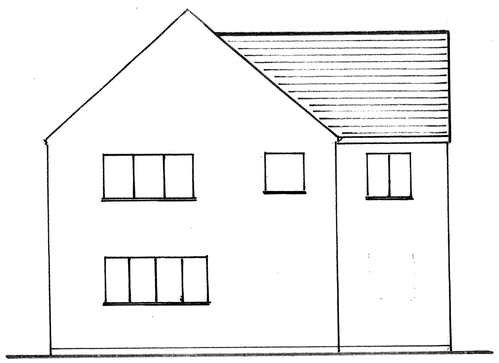
LAND AT JUNCTION OF

STEPPING STONES STREET

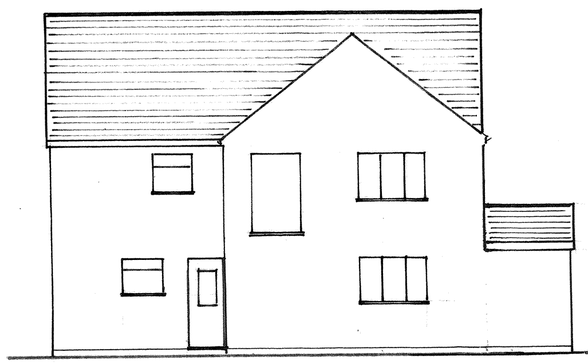
SCALE 1:100

SCALE BAR



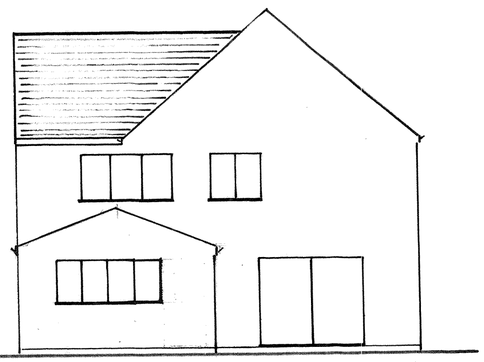


FRONT ELEVATION

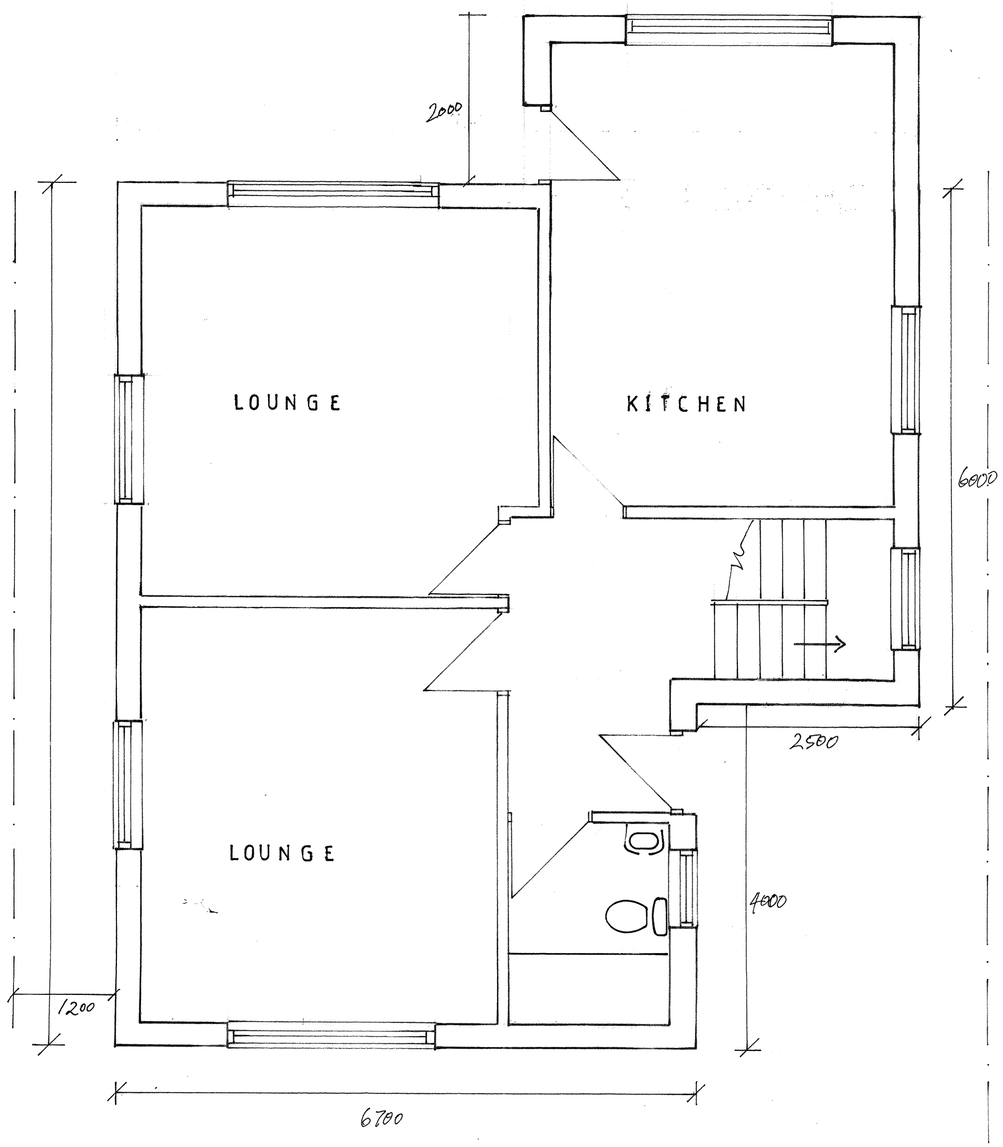


RHS ELEVATION FRONTING

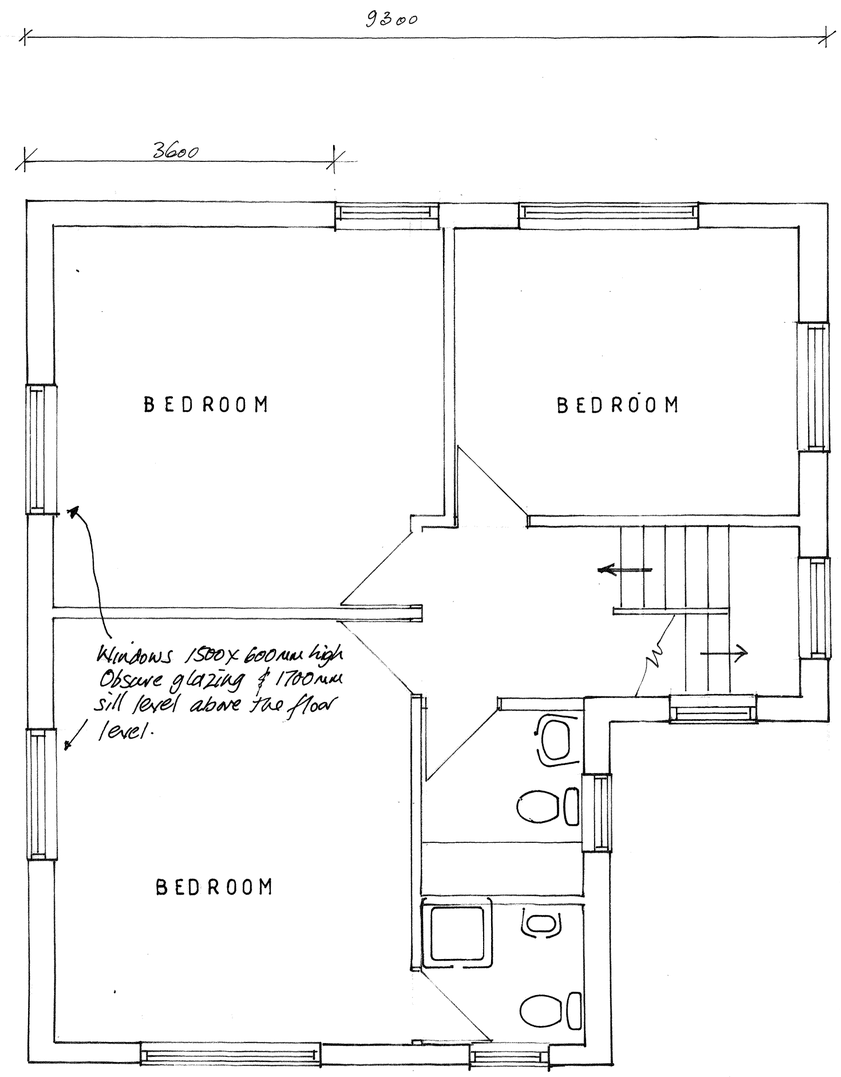
GREYSTONE PASSAGE



REAR ELEVATION



g.floor plan

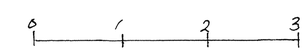


f.floor plan

LAND AT JUNCTION OF

STEPPING STONES STREET

SCALE 1:50



SCALE BAR

1m 10m

NOTES

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Only for indicative purposes.
Do not scale except for planning purposes.
All dimensions in milimeters unless stated otherwise.

1 Proposed South Side Street Scene
1 : 150

Rev	Description	Date	Dr by	App by
B	car parking identfied	18.8.21	mm	
A	ground & windows corrected	19.6.21	mm	

PLANNING

Client:

Project:
Land at Junction of Greystone Passage & Steppingstone Passage

Drawing Title:
South Side Street View

Drawn	Paper Size	Scale	Date
mm	A3	as shown @ A3	17/05/2021

Project No.	Drawing No.	Revision
2021/1064	P103	B

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1m 10m

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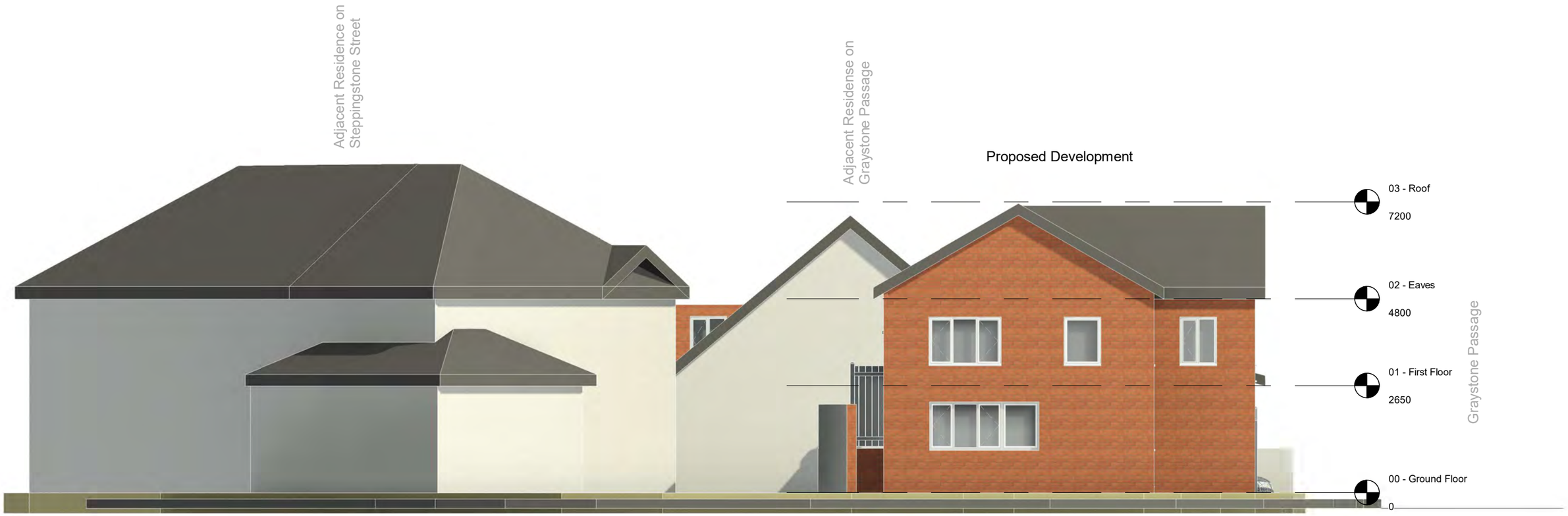

1 Proposed West Side Street Scene
1 : 100

Rev	Description	Date	Dr by	App by
A	car parking identfied	18.8.21	mm	

PLANNING

Client:

Project:
Land at Junction of Greystone Passage & Steppingstone Passage

Drawing Title:
West Side Street View

Drawn	Paper Size	Scale	Date
mm	A3	as shown @ A3	17/05/2021

Project No.	Drawing No.	Revision
2021/1064	P102	A

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Dudley
Metropolitan Borough Council

Agenda Item No. 7

Development Control Committee – 17th November 2021

Report of the Director of Regeneration and Enterprise

Planning Enforcement – Enforcement Plan Review 2021

Purpose

1. The purpose of this report is to provide a review of the Enforcement Plan that was introduced in 2017. The report also seeks to inform Committee of the activities of the Borough's Planning Enforcement team, and to provide a brief appraisal of the enforcement teams performance across 2019/2020 and 2020/2021

Recommendations

2. It is recommended:-

- That the information contained in the report and document (attached as Appendix 1) be noted.
- That the minor amendments made to the enforcement plan and enforcement complaint form following the review be approved.

Background

3. The Borough's adopted Planning Enforcement Plan (2017) commits officers to report periodically on the activities and performance of the Development Management section in respect of enforcement matters.

4. The enforcement plan also commits the Section to undertake a review every two years. This forms the first review of the plan since its introduction.

5. The review has resulted in the following changes to the Enforcement Plan (appendix 2), and Enforcement Complaint Form (appendix 3):

- Enforcement complaints related to domestic properties to be moved from priority 2 to priority 3 cases.
- Remove requirement for officers to provide updates to complainants after 28 days and 56 days, and instead officers to update complainants as soon as action agreed.
- Additional guidance to be included related to the steps that will be taken prior to formal action being taken.
- Additional guidance as to how the Local Planning Authority will determine whether prosecution action is expedient.

Finance

6. There are no direct financial implications resulting from this report.

Law

7. The enforcement plan is not a statutory requirement, however, the production of one is recommended within paragraph 59 of the National Planning Policy Framework. The Enforcement Team are afforded relevant powers to enforce unauthorised development under Part V11 Sections 171-196 of the Town and Country Planning Act 1990, Part IV Sections 38-46 of the Planning (Listed Building and Conservation Areas) Act 1990 and Regulation 7 of the Town and Country Planning (Control of Advertisements England) Regulations 2007.

Risk Management

8. Officers have reviewed the Council's Risk Management Framework and do not consider that there are any material risks arising from the findings, or recommendations of this report.

Equality Impact

9. There are no equality impacts arising from the recommendations of this report.

Human Resources/Organisational Development

12. This report makes reference to the remodelling of the Planning Enforcement service following the adoption of the Enforcement Plan. It has no other implications in terms of human resources or service transformation.

Commercial/Procurement

13. It is not considered that there are any impacts upon Commercial or Procurement legislation arising from this report.

Council Priorities

14. The Council's Enforcement Plan is intended to accord with the following Council priorities:
    - '*Regenerating the Borough'* – The enforcement plan sets a clear direction for when unauthorised developments will be enforced against and how. The effective functioning of the enforcement team ensures that the Council's policies and aspirations for regeneration of the Borough can be adequately managed and where unauthorised developments may conflict with this they can be adequately controlled.
    - *'Create a cleaner and greener place'*: The Council's Borough Development Strategy sets out key policies and aspirations to safeguard and promote the sustainability of the borough. Through effective enforcement the Planning Service can ensure that development within the borough complies with these policies.
    - "*support stronger and safer communities"*: The Enforcement Plan empowers residents within the borough to be self-reliant ensuring that members of the community proactively engage with the Planning Service to report unauthorised developments within their community.

17. The Council declared a climate change emergency in July 2019 and committed to net zero carbon emissions by 2041. The enforcement team will continue to promote compliance with sustainability objectives In existing and future planning policies.

Helen Martin
Director of Regeneration and Enterprise
Contact Officer: Emily Napier
Telephone: 01384 814136
Email: Emily.napier@dudley.gov.uk

Appendices
Appendix 1: Enforcement Plan Review
Appendix 2: Enforcement Plan (updated)
Appendix 3: Enforcement Complaint Form

Planning Enforcement

Review of the Enforcement Plan and performance and service delivery update.

Introduction to enforcement plan review

In April 2017 Development Control Committee formally endorsed the Borough's new Planning Enforcement Plan. The Plan came into effect in September 2017 and set out that a review of the plan was proposed for 2019. The main aspirations of the Plan were to:

- Improve the provision of publicly available information, both in the Enforcement Plan document itself and on the Council's web pages, to enable residents to look into their issue themselves where possible and to clarify whether it was actually a planning matter which enforcement officers could help with.
- Significantly reduce instances of logging and investigation of complaints which were not planning related or where there was clearly no planning breach, freeing up enforcement officers to more effectively use their resources to resolve genuine enforcement issues more efficiently and to undertake more proactive enforcement/regeneration work.
- Improve procedures and introduce a new complaint form to ensure that investigating enforcement officers have the necessary information to 'hit the ground running' once a new case is logged, thereby reducing response times for residents.

A previous review of the service was undertaken in 2019 and sought to understand the impacts of the introduction of the plan. This demonstrated that there has been a drop in the number of enforcement complaints relating to issues which do not represent a breach of planning control. The aspiration of the plan was to reduce the amount of unproductive

paperwork being carried out by Enforcement officers, in order to free up resources for more positive and proactive enforcement activity.

CASES OPENED:

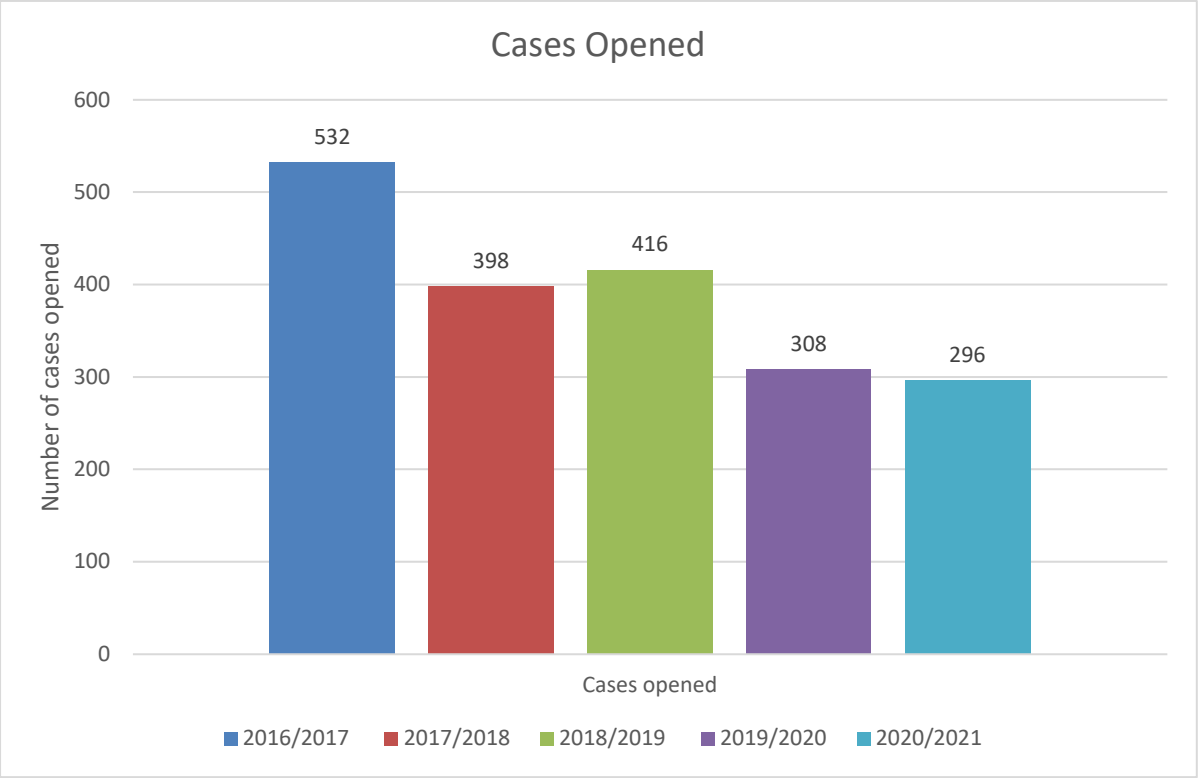


Table 1 - Number of enforcement complaints received per annum

Table 1 demonstrates that there has been a steady decline in the number of enforcement cases opened since the introduction of the Enforcement Plan. This does indicate that the introduction of the plan, and the requirement for an enforcement complaint has reduced the number of frivolous cases, which was an objective. However, further consideration is required as to whether the requirement for a form, and the guidance contained within the plan has also acted as a barrier for the submission of genuine enforcement complaints.

CASES CLOSED:

No breach cases:

Two reasons for cases being closed with no further action are where, following an investigation, the Local Planning Authority determine that no breach of planning has occurred. Since the introduction of the plan a brief snapshot of the circumstances that have led to a closure reason of “no breach” are as follows:

- Breach of planning has occurred for more than 10 years

- Development undertaken in accordance with the Town and Country Planning (General Permitted Development) Order 2015.
- No evidence of breach of conditions occurring
- Works being undertaken in accordance with planning permission
- Complaint relates to Council Owned land and therefore passed onto relevant department
- Renovations to property not considered to be a change of use
- Use of dwelling as Small HMO less than 6 people and accords with Town and Country Planning (General Permitted Development) Order.

The second reason being where the matter is not considered to be a planning issue. Since the introduction of the enforcement plan, a number of reasons for cases being closed due to the complaint not being a planning manner have included the following;

- Concerns with pests
- Neighbouring fence not replaced
- Queries regarding reinstatement of Public Right of Way
- Growing of trees (pleaching)
- Overhanging gutter (Civil matter)

The following table (table 2) reflects the number of cases closed per annum, that have been closed as the development was not a breach of planning, or the complaint was not planning related.

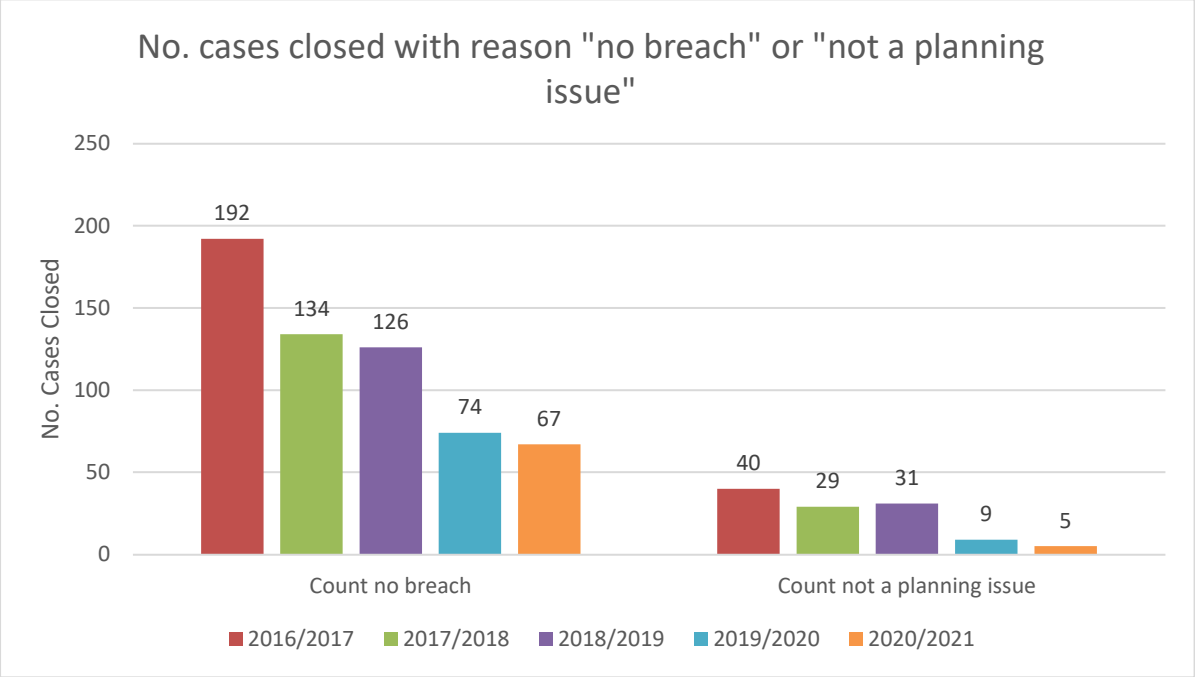


Table 2 - No. of cases closed per annum with reason "no breach" or "not a planning issue"

Table 2 indicates that there has been a reduction in the number of complaints submitted which, upon investigation, are found to not be a breach of planning (67 during 2020/21 compared to 192 in 2016/17).

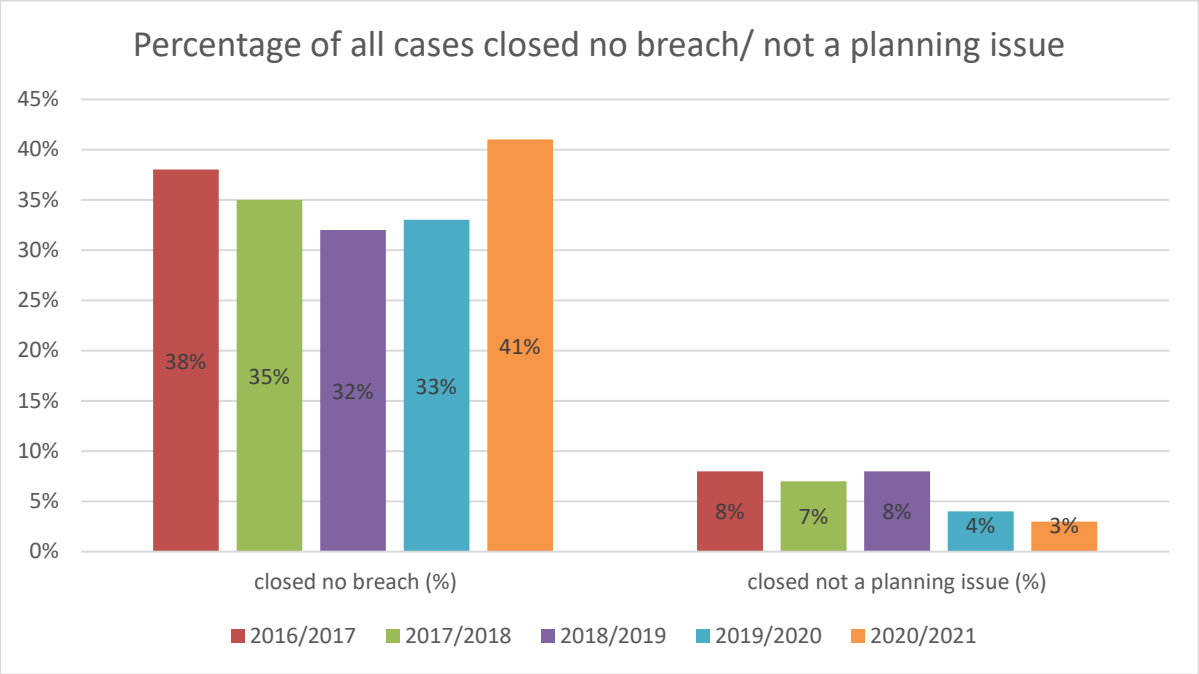


Table 3- Percentage of cases closed by reason "No breach" or "not a planning issue"

However, when comparing this number as a percentage of all cases closed, as seen in table 3 (above), it does appear that the introduction of the enforcement plan has not resulted in any significant changes in terms of the overall percentage of cases being investigated and closed where there is no planning breach following investigation. This could mean that the enforcement plan has also resulted in a reduction in enforcement complaints being submitted relating to actual breaches of planning.

Positively, as seen in table 2 and 3, there has been a consistent decline in the number of cases closed which have not been a planning issue, falling from 8% prior to the introduction of the plan, to 3% of cases in 2020/2021. This demonstrates that the introduction of the enforcement plan and enforcement complaint form has had a positive outcome in reducing the number of frivolous complaints.

The tables above demonstrates that the proportion of cases closed as a result of 'no breach of planning' remains consistent, despite numbers of enforcement complaints dropping overall. When a valid enforcement complaint is received it will be categorised into a "type" of enforcement, this enables the enforcement service to better understand the number and types of development which are investigated, it is of note that the

category “enforcement” includes developments which do not easily fall into a category (such as erection of stables or development on land with no identifiable use) . Table 4, below, shows the greatest number of enforcement complaints which are closed as a result of “no breach” remains highest in respect of those related to domestic properties.

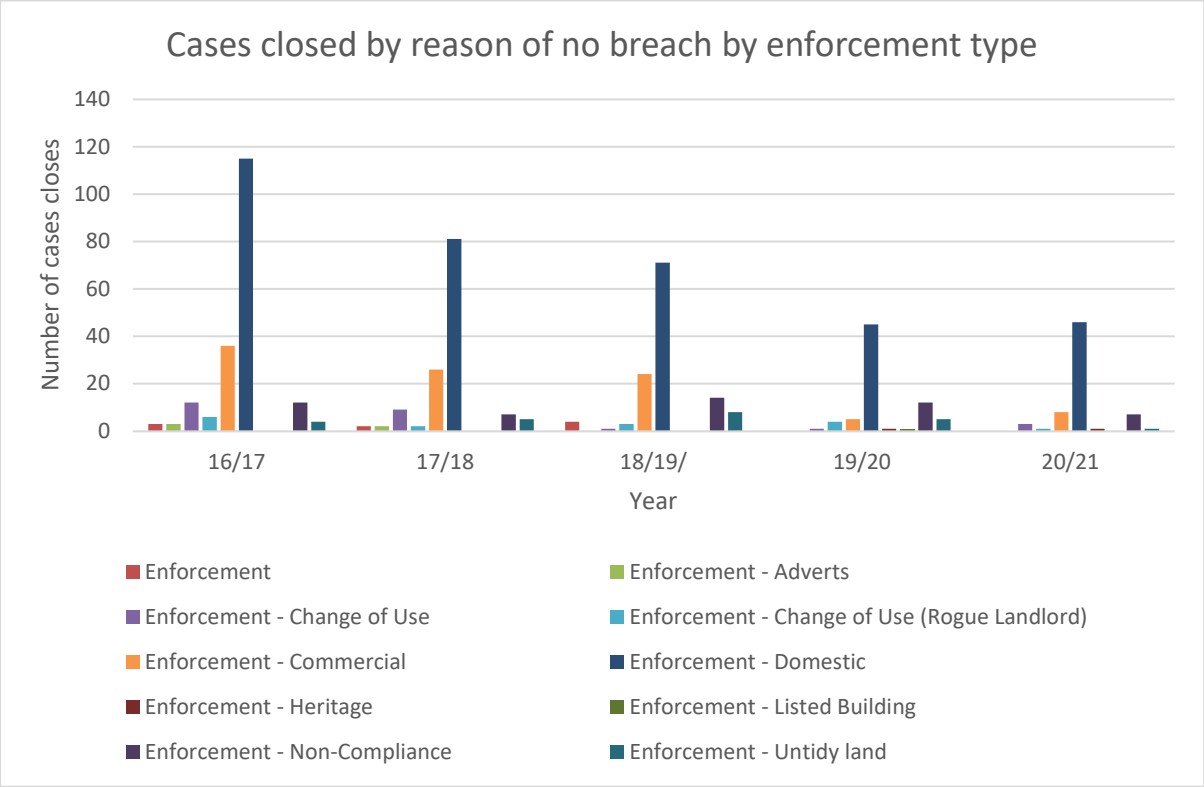


Table 4 - cases closed for reason of "no breach" by enforcement type

These numbers are likely due to the extent of Permitted Development rights afforded to dwellings through the Town and Country Planning (General Permitted Development) Order 2015. As such it is inevitable that the number of cases closed as a result of the development not being in breach of planning will remain highest in respect of domestic properties. Noting the uplift in investigations concluding in a “no breach” during 2020/21, this may be linked with increased Permitted Development rights afforded to homeowners, alongside the change in lifestyles and home working arising from the Covid-19 pandemic which could have potentially led to homeowners extending homes.

The enforcement complaint form does already direct members of the public to details of permitted development rights in order to assist members of the public in understanding whether the breach of planning may relate to something which has the benefit of Permitted Development before an enforcement complaint is submitted. Furthermore, efforts were also made to facilitate officers undertaking desk-based assessments

avoiding unnecessary site visits, which, where there is no breach of planning, or the complaint relates to non-planning matters are a use of resource that could be directed to higher priority cases, as such there is a requirement for enforcement complaints to be submitted with photographs.

Currently, domestic extensions are a priority 2, and as such the intention is to visit sites within 10 days of receipt of a valid complaint. However, on the basis of the above evidence it is considered that given the high numbers of cases closed where no breach of planning has occurred, alterations and extensions to domestic properties should be moved to Priority 3, which requires a site visit to be conducted within 15 days of receipt of a valid complaint.

Given the number of complaints investigated that resolve in no breach being identified it is also considered that the current timescale of 28 days for an initial update to be provided to a complainant with a further update at 56 days is unnecessarily burdensome. As such it is considered that the requirement for officers to update complainant after 28 days will be omitted, and instead officers will update complainants once a decision as to what action will be taken has been determined.

Furthermore, the enforcement complaint form will be updated to include specific reference to key aspects of the General Permitted Development Order, in order to assist officers with determining whether the works will likely have been constructed in accordance with the GPDO.

The suggested changes will ensure that officers are better resourced to respond to and investigate complaints where there is a greater certainty that a breach of planning has occurred and potentially greater harm arising as a result.

COUNCILLOR ENQUIRIES:

The Enforcement Plan has sought to encourage a consistent and clear complaints process regarding alleged breaches of planning from the public. There will likely be many instances where Councillors become involved in enforcement cases. However, a review of cases indicates that during 2019/2020 there were 20 complaints submitted and in 2020/2021 there were 22 cases submitted which were based solely on a complaint from

an elected member. In 100% of these cases there was no formal Enforcement Complaint form submitted.

As explained above, the use of the enforcement complaint form is a tool to assist officers in undertaking a desk assessment prior to a site visit to determine whether a breach of planning has occurred. The enforcement complaint form, also assists the Local Planning Authority is being able to demonstrate harm and public interest should matters ever escalate to prosecution.

In respect of consistency, fairness and to assist the efficiency investigations elected members should also endeavour to submit a formal complaint form when raising an enforcement issue. It is proposed efforts are made to inform/remind members of this process and how to access and complete the form. This would also assist with understanding of the process when they are advising or directing constituents to the Enforcement Complaint Form. It would also assist with Councillors own commitments and pressures as they will not be required to keep constituents updated on enforcement matters as the enforcement team will be able to contact complainants directly for updates.

Impact of the pandemic on enforcement:

The enforcement team have faced a notable challenge since the start of 2020 in light of the pandemic. Due to government restrictions the enforcement team were faced with greater challenges in accessing sites to conduct investigations. Ensuring that officers and the public were safe during the unprecedented times was of upmost priority for the council. National guidance has also been issued to enforcement local planning authorities to have regard for changing business practices during the pandemic and have issued a variety of temporary exemptions from planning consent over this period.

Phase 1 performance:

When a planning enforcement enquiry is received, the case officer carries out an initial 'Phase 1' investigation. This is to establish whether or not a breach is occurring and if so, to establish the most appropriate means of addressing the issue. Once this initial investigation is concluded, where necessary the case officer escalates the case to 'Phase 2' whilst more formal action is progressed. For example, where the initial investigation identifies a breach and the landowner is invited to submit a retrospective planning application for consideration, once the application is received the initial enforcement

investigation is concluded, and the case therefore progresses to 'Phase 2' status while the application is considered and determined.

- **In 2019/2020 308 enforcement complaints were logged.**
- **In 2020/2021 296 enforcement complaints were logged.**

Below is a breakdown of the outcomes of Phase 1 investigations during 2019/2020.
Cases resolved and closed at Phase 1 Stage:

Reason for Closure	Cases closed 2019/2020	Cases closed 2020/2021
Breach Ceased	41	19
No Breach	77	54
Not a Planning issue	9	8
Not expedient to take Action	37	16
Resolved by Negotiation	6	3
Planning application granted	3	3

Phase 1 investigations completed and progressed to Phase 2 for further action.

Reason for Closure	Cases Closed 2019/2020	Cases Closed 2020/2021
Informal compliance period set	1	0
Notice served	12	7
Planning application submitted	49	43
Legal Instructed*	0	1

*This applies to cases where there is an immediate offence, or where court intervention is required (e.g Planning Injunction).

Enforcement Fee Income

Retrospective planning applications are subject to the same application fees as conventional applications. Therefore, the submission of retrospective applications

following investigation by Enforcement Officers results in additional funds coming into the Council which would not otherwise be obtained. During the 2019-2020 financial year, retrospective planning applications attracted **£7,498,** and during 2020/2021 **£4,678** in application fees, which have contributed to the overall Planning budget.

Furthermore, when an enforcement notice appeal is made to the Planning Inspectorate, a fee may be required if a Ground (a) appeal is made. When a notice is appealed there are 7 potential grounds that this appeal can be made, Ground (a) appeals are where it is considered by the appellant that planning permission should be granted for what is alleged in the notice (or that the condition or limitation referred to in the enforcement notice should be removed). In 2019/20 4 appeals under Ground A were made generating an income of £2160, whilst in 2020/21 £924 was received from Ground 'a' appeals. The enforcement service therefore continues to generate income.

Service of enforcement notices

The Council's current Enforcement Plan sets out that when an investigation establishes that a planning breach is taking place, Enforcement officers will aim to resolve the issue by a number of means (e.g through submission of an application or through informal negotiation), and formal enforcement action will only be taken as a last resort. This action must be proportionate to the scale of the scale of the breach and the harm caused. In 2019/2020, it was necessary to serve formal enforcement notices on **24** occasions, details of which are set out below:

Enforcement Notice..... 17
Breach of Condition Notice..... 2
Listed Building Enforcement Notice..... 1
Section 215 (Tidy up) Notice..... 4

In 2020/2021, the enforcement team ceased the service of formal enforcement notices when the pandemic commenced. This was as a result of Government restrictions, meaning that any formal action taken would unlikely have been able to be resolved, or in seeking to comply with the notice. Other Government Legislation may have been breached, and as such formal action was not warranted. This approach was taken until the first National Lockdown had ceased and as such no notices were until July 2020.

Following this, it was necessary to serve formal enforcement notices on **7** occasions, details of which are set out below:

Enforcement Notice.....5
Section 215 (Tidy up) Notice.....1
Tree Replacement Notice……1

This is a significant drop in the number of cases that have resulted in formal action being taken. However, in light of government restrictions, the Planning Service have had to ensure that the interests and health and safety of all interested parties (including those affected by a breach of planning) were prioritised. Reflective of this, in the 6 months since April 2021 formal action has already matched the year 2019/2020 as government restrictions have eased.

Furthermore, Government figures indicate that there has been a reduction in the number of notices served nationally, with 1,000 less enforcement notices being served in 2020/2021 than in 2019/20. Furthermore, across England during 2020/21 the lowest amount of Breach of Condition Notices were served since records began.

Formal action is an important element of the Planning Service and ensures that trust in the Council's Planning Service is maintained. Further work is required to improve the Council's policies in taking formal action, including the period of time and opportunities afforded prior to taking formal action. This will not only give greater clarity to complainant, but those individuals who have undertaken a breach in order to ensure that any required actions are undertaken expeditiously.

As such the following additional guidance is proposed for inclusion within the Enforcement Plan:

- Where a breach is identified and would likely be acceptable with conditions a planning application will be invited. If an application is not submitted within a reasonable timeframe then formal action will be considered.
- Where a breach is identified but could be mitigated with alterations these will first be negotiated informally. If these works to resolve or mitigate the breach are not undertaken within a reasonable period then formal action will be considered.

Prosecution proceedings

Wherever possible, the enforcement team ensures that all enforcement notices are complied with. However, where a notice is not complied with within the given time period, the Authority has the power, when it is in the public interest, to pursue prosecution proceedings. In 2019/2020, **1** prosecution was brought in respect of the breach of a Section 215 Notice, this resulted in the defendant being found Guilty and fined **£200** ordered to pay costs of **£655** and a victim surcharge of **£30**. Whilst no prosecutions were taken forward during 2020/2021, the Council did seek **1** Court Injunction related to unauthorised works in proximity of protected trees, in this case the Courts Granted the Planning Injunction and the defendant was required to pay the Council's costs of the claim in the sum of **£3,439**. Where prosecution proceedings are successful, the enforcement team continues to seek compliance with the notice and where necessary pursues repeat prosecutions.

Further policies are considered appropriate to influence the process for the Local Planning Authority in determining whether Prosecution is necessary and expedient. The following additional guidance in respect of prosecution proceedings will therefore be included within the enforcement plan:

<u>Does the LPA have sufficient evidence?</u>

- Is there sufficient evidence to provide a realistic prospect of conviction on each charge?
- Consider what the defence case may be and how it is likely to affect the prospects of conviction.
- Can the evidence be used in court?
    - Could the evidence be excluded by the court?
    - Is the evidence reliable?
    - Is the identification of the defendant reliable?
    - Are the witnesses reliable and credible?

<u>Is prosecution in the public interest?</u>

Examples of public interest may be:

- Conviction likely to result in a significant sentence
- The offence was pre-meditated

- Prosecution would have a significant positive impact on maintaining community confidence in planning
- There are grounds for believing that the offence is likely to continue or be repeated
- There are previous relevant previous convictions or simple cautions
- The offence was committed in order to facilitate more serious offending
- Advantage was taken of a vulnerable victim

Common public interest factors tending against prosecution:

- The court is likely to impose a nominal penalty
- The seriousness and consequences of the offence can be dealt with by a simple caution
- Offence was committed as a result of a genuine mistake or misunderstanding (balanced against seriousness)
- Loss/harm is minor and result of single incident
- Defendant has put right the loss or harm
- Long delay between offence and report/trial (with exceptions)
- Prosecution will be likely to have serious consequences on a victims health
- Defendant suffering from significant mental or physical ill health (balanced against seriousness and risk of offence being repeated)

Summary and Conclusions

Enforcement of planning control remains a high priority for Dudley MBC and underpins the integrity of the planning system within the Borough. The Council envisages that the new, streamlined methods of working adopted under the Enforcement Plan will enable the Planning Enforcement Team to continue to carry out this important work more efficiently in future. The performance statistics reported above relating to 2019/2020 and 2020/2021 are considered to indicate the high level of service provided to residents over the past year.

A number of minor changes to the Enforcement Plan are required in order to assist the Planning Enforcement team in targeting resources towards resolving the highest priority enforcement complaints, where the greatest harm is arising as a result of breaches of planning. The amendments to the plan are summarised as follows:

- Enforcement complaints related to domestic properties to be moved from priority 2 to priority 3 cases.
- Remove requirement for officers to provide updates to complainants after 28 days and 56 days, and instead officers to update complainants as soon as action agreed.
- Additional guidance to be included related to the steps that will be taken prior to formal action being taken.
- Additional guidance as to how the Local Planning Authority will determine whether prosecution action is expedient.

Going forward, the team will continue to work on positive and proactive enforcement based activities. For example, more project-based regeneration work, using Section 215 notices, direct action and enforced sale proceedings to bring long-term problem sites back into a positive use, and the pursuit of further POCA claims to recover funds illegally appropriated by rogue landlords and other landowners. This will enable the service to continue to make its contribution to achieving the vision set out in the Council Plan and improving the Borough for its residents.

Planning Enforcement Plan

September 2017
(reviewed November 2021)

Dudley
Metropolitan Borough Council

Section 1 The purpose of planning enforcement

The council's planning enforcement function is a vital part of the development management process and ensures that where development is undertaken without planning permission, action is taken to minimise or remove any harm which is being caused.

The council is committed to ensuring that all valid **and** registered enquiries relating to an alleged breach of planning control are duly investigated and the appropriate action taken. These actions range from taking no action if there is no breach which can be dealt with under planning powers, through to formal enforcement action and prosecution proceedings if necessary.

Every year the council receives a large number of enquiries relating to alleged breaches of planning control. The council appreciates that local people play a vital role in reporting suspected planning breaches which require further investigation, in order to help protect residents and businesses within the community from the sometimes harmful effects of unauthorised development.

The aims of the enforcement plan:

- **To set out the council's commitment to enforcing planning control in the borough and its policies for achieving this**
- **To be clear on the complaints process as well as explaining what falls in and out of the council's planning enforcement powers**
- **To explain how the planning enforcement process works and to set out what residents can expect if they submit a planning enforcement complaint to the council**
- **To explain what you should do if you are the subject of an enforcement complaint**

The legal basis for the planning enforcement policy

Planning legislation empowers the council to control and manage development and use of land and buildings in the public interest. These powers are set out in the Town and Country Planning Act 1990 (as amended), which defines what can be considered as 'development' and sets out the processes for enforcing against unauthorised development. The Act defines a breach of planning control as:

"the carrying out of a development without the required planning permission, or failing to comply with any condition or limitation subject to which planning permission has been granted."

The Act is supported by the National Planning Policy Framework, adopted by Government in 2012, which provides guidance to Local Authorities in terms of how they should manage breaches of planning control and when enforcement action should be taken. Paragraph 207 of the Framework states the following:

"Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so."

Section 2 What can the planning enforcement team investigate under its powers?

Residents often report issues to the council which, although they relate to buildings or land, are not always covered under planning enforcement powers. Below is a guide to the complaints which can, and cannot, be investigated by planning enforcement. Where appropriate, the guide also includes contact details for the relevant council department which may be able to assist if the issue is not planning related.

Planning enforcement issues

- Works to **listed buildings**
- **Demolition** of buildings in a **Conservation Area** (and some buildings in other locations)
- Works to trees subject of a **Tree Preservation Order (TPO) or in a conservation area**
- **Building** without consent (i.e. extensions, outbuildings, fences, walls)
- **Change of use** of buildings or land
- **Advertisements** and signage
- **Non-compliance with conditions** attached to planning permissions
- **Not building in accordance with the approved plans** of planning permissions
- **Untidy land** where it affects the amenity of the area
- **Engineering operations**, such as raising of ground levels or earth bunds
- **Deliberate concealment** of unauthorised building works or changes of use

Non-planning enforcement issues

- **Internal works** to a non-listed building
- **Obstruction of a highway** or public right of way (these matters are dealt with by the police - dial 101)
- **Temporary structures/fencing** associated with building works
- **Parking caravans** on residential driveways or within the curtilage of domestic properties as long as they are incidental to the enjoyment of the property
- Running a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity
- Boundary disputes, land ownership disputes or trespass issues (these must be raised with the people involved or failing that, through a solicitor)
- Covenants imposed on **property deeds** (these must be raised with the people involved or failing that through a solicitor)
- Any development or works that are **exempt from planning** controls under the Town and Country Planning (General Permitted Development) Order 2015 or by any Local Development Orders. Check this here:

  www.planningportal.co.uk/info/200125/do_you_need_permission

  www.dudley.gov.uk/resident/planning/planning-services/local-development-order/

- **Advertisements which do not require advertising consent** under the Town and Country Planning (Control of Advertisements, England) Regulations 2007. A booklet providing guidance on this can be found here:

  https://www.gov.uk/government/publications/outdoor-advertisements-and-signs-a-guide-for-advertisers
- **Dangerous structures or other health and safety issues** (these must be raised with the council's dangerous structures team on 0300 555 2345)
- Activity at a neighbouring site which the complainant feels could **devalue their property**
- **Unsociable working hours** or practices on building sites (e.g. noise or dust from building work)
- Issues relating to **party walls**. A booklet providing guidance on party wall matters can be found here:

  www.gov.uk/guidance/party-wall-etc-act-1996-guidance

Section 3 How can residents report a planning enforcement issue to the council?

Once you have checked to make sure there is a planning breach, in order for the planning enforcement team to investigate your complaint you will need to submit a planning enforcement enquiry form. This is necessary in order for us to obtain a full picture of the situation and avoid allocating resources to enquiries which cannot be taken further.

You can obtain an enquiry form by:

- Visiting **www.dudley.gov.uk/resident/planning/planning-services/planning-enforcement-/**
- Emailing **planning.enforcement@dudley.gov.uk**
- Calling **01384 814136**
- Writing to Planning Enforcement, Council House, Priory Road, Dudley, West Midlands DY1 1HF
- Asking for a form in person at 4 Ednam Road, Dudley, West Midlands DY1 1HL

Submit the completed enquiry form online, via email, in writing or in person using the details above.

PLEASE NOTE: Enquiries received without a completed enquiry form will be deemed invalid and will not be investigated.

All complainants are required to provide their full name and a postal address. Anonymous complaints and those made by telephone will not be investigated. This is to ensure that public resources are not spent unnecessarily investigating hoax or malicious complaints. It is also important that, should legal action become necessary in relation to a complaint, the council can state in court that the matter was reported by a local resident. All details provided by a complainant will always remain totally confidential, unless the information is required for use as evidence in court. If this does happen, the council will make all reasonable efforts to check with you before disclosing any information.

We may also need to contact you prior to any site inspection being carried out to look into your complaint, for the team to seek further information or clarification from you regarding the details of the alleged breach. This is because some development, particularly that which is carried out at domestic properties, is exempt from planning control as it qualifies as 'permitted development', meaning that planning permission is not required. It may therefore be the case that the development in question does not need permission and therefore cannot be enforced against. You are strongly advised, prior to submitting any enquiry, to check using the web links in Section 2, whether the particular development or activity which is causing you concern is exempt from planning permission.

PLEASE NOTE: the council will not investigate enquiries relating to matters which are outside of the remit of the planning system or where the development or activity qualifies as 'permitted development' and does not require planning permission.

Section 4 What happens when a valid complaint is received?

Upon receiving a valid complaint, the planning enforcement team will log the details and begin investigating as quickly as possible. Once the complaint has been confirmed as valid and has been logged, an acknowledgment letter will be sent out immediately. All registered complainants' details are kept confidential. The council will not disclose complainants' personal or contact details or any other information that could help identify the person who registered the enquiry, and will do everything possible to protect the anonymity of anyone who submits an enquiry, notwithstanding the advice in Section 3. This information will be held in full accordance with the provisions of the Data Protection Act 1998 and in accordance with the Freedom of Information Act 2000.

How we deal with different cases

The council understands that all issues raised with the planning enforcement team are very important to the person who has reported them, and that planning matters can cause major concern and often distress. As the council receives a large number of planning enforcement enquiries every year and has limited resources for investigating them the planning enforcement team has a system of prioritising complaints to make sure that the most serious or potentially dangerous issues are investigated most urgently.

Once a case has been assigned to a planning enforcement officer they will carry out an initial desk top assessment in order to establish the facts of the enquiry and to determine whether or not a site inspection will be necessary.

PLEASE NOTE: The council does not automatically visit every site which is the subject of an enforcement enquiry. A visit will be made only if it is necessary to further investigate the matter and establish the facts.

Priority system for planning enforcement investigations

Priority 1 (most urgent)

- Unauthorised works to listed buildings
- Unauthorised demolition of buildings in Conservation Areas
- Unauthorised felling of or works to trees protected by a Tree Preservation Order

  (If an inspection is necessary, these sites will be visited on the day of receipt of a valid complaint if possible, or within one working day if not)

Priority 2

- Unauthorised development which could cause immediate serious harm to surrounding residents, businesses or members of the public (e.g. unauthorised changes of use resulting in noise or health or other pollution issues)
- Unauthorised development where prompt intervention by the council would reduce or prevent further harm being caused (e.g. unauthorised erection or conversion of buildings or serious breaches of planning conditions which are fundamental to the development)
- Minor unauthorised development and deviations from approved plans which are causing some harm to residents (e.g. extensions built larger than approved or with windows and doors in places different to shown on plans)

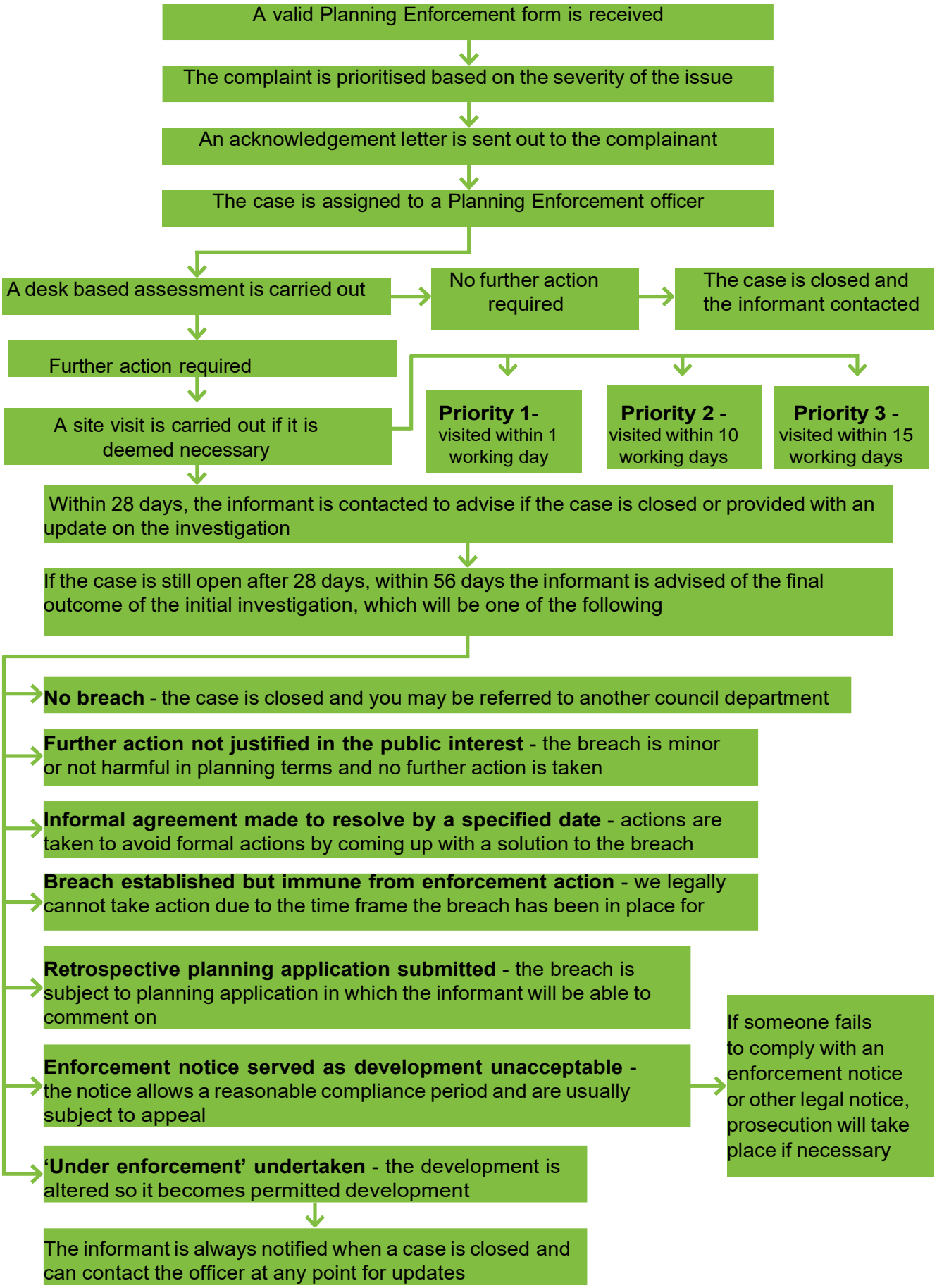
  (If an inspection is necessary, these sites will be visited within 10 working days of receipt of valid complaint)

Priority 3

- Minor alterations which are not causing immediate harm but which may require permission, e.g. fencing, walls, advertisements, untidy sites
- Unauthorised development relating to existing residential dwellings, including extensions and alterations.
- Where buildings/structures are complete

  (If an inspection is necessary, these sites will be visited within 15 working days of receipt of valid complaint)

Section 5 If a site visit is necessary, what happens after it has been carried out?



Once a site visit has been carried out to investigate an enquiry, the case officer will take the appropriate action to progress the matter. The case officer will be available throughout the investigation to respond to queries and phone calls and, as a minimum, will provide written responses to the complainant at certain points in the investigation (listed below).

It is important to note that, with the exception of works to listed buildings, works to protected trees, and the display of some advertisements, breaching planning control is not, in itself, an offence. The process of dealing with planning enforcement issues therefore requires time and, where appropriate, negotiation with the persons responsible. Formal action is taken as a last resort once all other attempts to resolve the issues have failed.

Following assessment and once appropriate course of action has been determined - a full response advising either that the case is closed and the reasons for this decision, or an update on the investigation up to that point and what is likely to happen with the case next. For example we may allow the defendant time to resolve the breach, allowthe defendant time to submit an application, allow the defendant time to implement an agreedcompromise or allow time for a formal enforcement notice to be served.

Upon closure, or progression to formal action - a further letter or email advising that the case has been closed or moved to the next stage for further formal action.

Possible outcomes of the investigation

- **No breach** - The investigation reveals that no breach of planning control has occurred
- **Further action not justified in the public interest** - The investigation reveals that there is a planning breach but that, in the council's judgment, it is minor in nature or is not harmful in planning terms
- **Informal agreement made with the landowner to resolve the matter by a specified date** - Planning legislation requires the council, where possible, to negotiate resolutions to planning breaches, thus avoiding formal action. If the investigation does reveal a planning breach, the council will seek, where possible, to negotiate with the responsible parties and agree an informal solution. This could mean, for example, allowing a landowner a set time period to tidy a piece of land, or to cease an unauthorised use. If these works to resolve or mitigate the breach are not undertaken within the requested period then formal action will be considered.
- **Breach established but now immune from enforcement action** - The investigation reveals that a planning breach has occurred, but that it has been occurring continuously for so long that it has now become immune from enforcement action. The complainant will receive confirmation of this, in writing, including an explanation of the legal circumstances relating to this type of planning breach. In cases relating to residential development or structures this period is normally four years. In other cases such as changes of use, advertisements and breaches of planning conditions, it is normally two years
- **Retrospective planning application submitted** - Where the investigation reveals that a planning breach has taken place, the landowner is entitled, should they wish, to submit a retrospective planning application seeking consent to retain the structure or continue the use. This means that the development will be subject to the planning application process and assessed against planning policies, taking into consideration the views of local residents. The planning team will advise the complainant of this in writing and provide the relevant details so that the complainant can submit any comments they may have regarding the development for

consideration during the application (the contents of the enforcement investigation file will not be carried over to that of the planning application as this is a public document). If the unauthoriseddevelopment is deemed unacceptable, the council will not automatically invite a retrospective application, but will act to cease the unauthorised development within a reasonable timeframe. If a retrospective application is not received within the requested period then formal action through will be considered

- **Enforcement Notice served because development deemed to be unacceptable** - In cases where the investigation reveals that a planning breach has occurred, and where the council is of the view that the development is clearly not acceptable and that harm can be demonstrated, it will if necessary serve a Planning Enforcement Notice on the responsible parties. In serving a notice the council is again required to allow a reasonable compliance period, and notices are usually subject to an appeal process. There are various enforcement notices which the council is able to serve if negotiation is not possible. If an enforcement notice is served, the case officer will explain to the enquirer which type of notice is being served and how it works (the formal process for the service of notices can be viewed here **http://www.dudley.gov.uk/resident/planning/planning-services/planning-enforcement-/types-of-enforcement-notices/**
- **'Under-enforcement' undertaken** - In instances where unauthorised development has occurred which is unacceptable, but could be made acceptable by an alteration or a change in operation, the council is required by planning legislation to seek to 'under-enforce'. This means that the council may not require an unauthorised development to be reversed entirely, but may require it to be altered in a way which makes it acceptable. For example, in a case where a wall was built too high but would be acceptable if its height were to be reduced, the council would require that it was reduced to the appropriate height, rather than forcing the builder to take it down altogether. Where possible, the council will seek to negotiate, using under-enforcement, to reach a resolution to a planning breach which is fair and reasonable to all parties. If the council agrees to under-enforce a planning breach by negotiating with the person responsible, the enquirer will be informed of the agreed solution and the reasoning behind it

In all cases the complainant will receive confirmation, in writing, explaining the outcome of the investigation and the reasons why this is the case. If further action is to be taken in relation to the subject of the complaint, the next steps will also be explained in this letter. If the issue can be investigated by another service within the council, the complainant will be referred to them for further attention.

Prosecutions

It is not an offence to carry out development without planning permission. However, failing to comply with a Planning Enforcement Notice or other legal notice issued by the council is an offence for which those responsible can be prosecuted. In cases where the council has served an enforcement notice and the persons responsible fail to comply by the set deadline, they will have committed an offence for which, if the council deems it to be in the public interest, will proceed with prosecution. In deciding whether or not to prosecute a person for failing to comply with an enforcement notice, the council will be mindful of the likelihood of any prosecution being successful, and whether or not it represents a responsible use of public resources.

In determining whether prosecution action is appropriate the Local Planning Authority will have regard to the following:

Does the LPA have sufficient evidence?

- Is there sufficient evidence to provide a realistic prospect of conviction on each charge?
- Consider what the defence case may be and how it is likely to affect the prospects of conviction.
- Can the evidence be used in court?
    - Could the evidence be excluded by the court?
    - Is the evidence reliable?
    - Is the identification of the defendant reliable?
    - Are the witnesses reliable and credible?

Is prosecution in the public interest?

Examples of public interest may be:

- Conviction likely to result in a significant sentence
- The offence was pre-meditated
- Prosecution would have a significant positive impact on maintaining community confidence in planning
- There are grounds for believing that the offence is likely to continue or be repeated
- There are previous relevant previous convictions or simple cautions
- The offence was committed in order to facilitate more serious offending
- Advantage was taken of a vulnerable victim

Common public interest factors tending against prosecution:

- The court is likely to impose a nominal penalty
- The seriousness and consequences of the offence can be dealt with by a simple caution
- Offence was committed as a result of a genuine mistake or misunderstanding (balanced against seriousness)
- Loss/harm is minor and result of single incident
- Defendant has put right the loss or harm
- Long delay between offence and report/trial (with exceptions)
- Prosecution will be likely to have serious consequences on a victims health
- Defendant suffering from significant mental or physical ill health (balanced against seriousness and risk of offence being repeated)

Section 6 What should I do if someone makes a complaint against me?

The council recognises the anxiety that is caused by finding out that someone has complained about alleged development or activity on your property. It is therefore important to us to make sure that people or companies who are the subject of the planning enforcement complaints are treated fairly and given the opportunity as part of the investigation to explain the situation from their perspective.

If you have received a visit or a letter from an enforcement officer explaining that a complaint has been made against you:

DO make contact with the council at the earliest opportunity to discuss the complaint, whether this is by responding to a letter or holding a meeting with the enforcement officer at the site. In many cases a short meeting with the enforcement officer, or even a telephone conversation, can be sufficient to clear up whether or not a planning breach has occurred and whether or not enforcement action will be required. If you make contact with the planning enforcement team early on, they will be able to:

- **Confirm whether or not a planning breach has occurred** and whether or not further action will be necessary on your part in order to resolve the matter
- **Advise** you on the next steps in the investigation, whether that be:
  - Inviting you to submit a retrospective planning application seeking permission for the development/activity which has taken place
  - Negotiating a solution with you to address the problem in a way that is fair both to you and to the complainant. This could mean reducing the scale of development or activity, altering or reconfiguring it, or relocating it
  - Requesting that you reverse the unauthorised development or cease the unauthorised activity within a reasonable timeframe

Planning enforcement officers will always seek, where possible, to agree a negotiated solution to an issue rather than pursue formal action. It is therefore in your interests, should a complaint be made against you, to co-operate with the enforcement team and to make sure that the investigating officer is aware of your perspective and has the fullest possible information available to them. This will enable them to give you the clearest possible advice when handling the complaint in terms of what you need to do in order to avoid formal action and potentially prosecution. If a request is made to resolve or mitigate the breach, or for a retrospective application to be submitted the Local Planning Authority will provide a reasonable time scale to comply with this request. However, if the necessary actions are not undertaken then the Local Planning Authority will consider taking formal action to mitigate or resolve the breach.

DON'T ignore the issue and pretend that you aren't aware of the complaint. When the council receives a complaint from a member of the public it is obliged to carry out all necessary investigations to get to the bottom of it. The law provides the council with a series of tools in order to make sure this happens. This means that the matter will not 'go away' if you ignore the correspondence you have received regarding the complaint which has been made against you. If you do not engage with the council from the outset to address the matter, one of the following will be likely to happen:

- A **Planning Contravention Notice** will be issued requiring you to answer a series of questions

regarding the complaint. Failure to respond to such a notice and provide the requested information is an offence which you will be prosecuted for if necessary

- The council will use its **powers of entry** to access the site of the alleged planning issue and investigate further. Obstructing an officer who needs to gain access to investigate a complaint is also an offence
- You will be called to an **interview** under conditions set out in the Police and Criminal Evidence Act. The interview will be carried out **under caution**, meaning that your responses will be recorded and potentially used against you as evidence in court if prosecution proceedings are necessary
- If the council has reason to believe that development or activity is taking place which requires planning permission, it has the right to serve various types of **enforcement notices** upon you without further notice. Again, failure to comply with an enforcement notice is an offence. Any person prosecuted for failing to comply with a Planning Enforcement Notice faces an unlimited fine upon conviction, and is also liable for the full costs incurred by the council in bringing the matter to court. It is therefore in your interests, should a complaint be made about you, to engage with the council early on in order to avoid this

Section 7 What should I do if I am not satisfied with the way the case was managed?

If, having received the council's final response to your enforcement enquiry, you are dissatisfied with the way the investigation has been managed (rather than being unhappy with the outcome if it has been decided that no action can be taken), you should, in the first instance, raise these concerns with the relevant manager within the planning service. If, having done that, you are still dissatisfied with the team's handling of your enquiry; you may submit a complaint using the council's corporate procedure which is three stages.

Corporate complaints can be submitted by clicking **http://www.dudley.gov.uk/community/directorates/contact-us/compliments-comments-complaints/**, or by contacting Dudley Council Plus on **0300 555 2345**.

If, having received the council's final response to your complaint, you are still not satisfied with the outcome; you can refer the matter to the Local Government Ombudsman via **www.lgo.org.uk/make-a-complaint**

Please note The Ombudsman will not investigate any complaint until the complainant has first followed the council's own corporate complaints procedure and sought resolution directly with the council in the first instance.

Section 8 Review and monitoring of this plan

In formulating this plan the council recognises the need to make sure that it is reviewed periodically and updated as necessary to ensure that it remains fit for purpose in the future. The planning department will therefore undertake a review of the plan every two years and submit any proposed amendments or updates to Development Control Committee for consideration and endorsement on that basis. The first review of this plan will be carried out in early 2019, and will be reported to the Development Control Committee shortly afterwards.

It is also considered important that the Development Control Committee is kept informed of officers' ongoing activities and performance in respect of planning enforcement matters. In this regard, a quarterly monitoring report will be submitted to the committee for information, containing the following data:

- Number of planning enforcement enquiries received
- Number of valid enquiries investigated
- Number of enforcement notices served (including Section 215 'tidy up' notices)
- Number of prosecutions concluded
- Number of cases resolved
- Number of appeals determined

Finally, as and when appropriate officers submit to the Development Control Committee, individual reports relating to enforcement cases either where the view of the committee is sought regarding a proposed course of action, or where specific cases arise which are considered to be of wider interest to members, or where members have requested that the issue is reported to the committee.

4 Ednam Road, Dudley, West Midlands DY1 1HL
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Dudley
Metropolitan Borough Council

1. Basic details

Please note: All parts of this section **must** be completed in order for the enquiry to be registered as valid. Photographs must be attached. All details are kept confidential and are used to keep you up to date on the progress of the application.

A. Declaration

I can confirm that I have read the 'Dudley Planning Enforcement Plan' and checked that this is a valid planning enforcement complaint

Signature:

B. Your contact details

Name:

Address:

Postcode:

Our preferred method of communication is via email which **must** be provided where possible

Email:

Telephone:

Mobile:

C. Site of breach

Business name (if applicable):

Full address:

Postcode:

If the full address is not known you will need to attach a plan to show the exact location. This can be a 'Google map' with road names included for identification purposes.

D. Time

Please clarify when the building was erected or the activity commenced. If this is unknown please select when you first noticed the breach.

Less than 4 years	Between 4- 10 years	More than 10 years

E. Type of Complaint

Please tick any of the following which are relevant to the complaint. If your complaint does not appear on this list please refer to the 'Planning Enforcement Plan' which lists what can be investigated as an enforcement complaint

i. Adverts

Please go to section 2A & 2J

ii. Change of use

Please go to section 2B & 2J

iii. Commercial

Please go to section 2C & 2J

iv. House extensions

Please go to section 2D & 2J

v. Walls and Fencing

Please go to section 2E & 2J

vi. Heritage and listed buildings

Please go to section 2F & 2J

vii. Breach of planning conditions

Please go to section 2G & 2J

viii. Works on a protected tree

Please go to section 2H & 2J

ix. Untidy site

Please go to section 2I & 2J

x. Other (please specify)

Please note if your complaint is not listed and you have checked the enforcement plan to ensure that it is a valid complaint you will need to read each section and answer only those which are relevant

Please only answer questions in this section as directed to in section 1E.

A. Signage and advertisements

i. Is the sign attached to a building?

Yes No

ii. Is the sign illuminated?

Yes No

iii. Does the sign flash?

Yes No

iv. Is the sign new or a replacement of an existing sign?

New Replacement

v. Does the sign relate to a business or activity which takes place on the site or elsewhere?

On site Elsewhere

For more information on what is permitted development for adverts and signs please refer to the following links:

https://www.planningportal.co.uk/info/200130/common_projects/4/adverts_and_signs

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11499/326679.pdf

B. Change of use

i. What was the use of the site before the breach (most recent if the site was not in use)

ii. What is the current use

B. Change of use (continued)

iii. As part of the new use have there been any external changes to the building or site (e.g. doors, windows, flues, roller shutters or access arrangements)?

Yes No

If yes, please describe the changes.

For more information on use classes and what are permitted change of uses please refer to the following links:

https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use

https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use/2

http://www.dudley.gov.uk/resident/planning/planning-services/local-development-order/

C. Commercial

i. Where on the building is the breach?

ii. Does the breach relate to a planning application

Yes No

iii. If yes please provide the planning application number

D. House Extentions

i. Is the development attached to the main dwelling (e.g. extension) or detached (e.g. outbuilding)?

Attached Detached

ii. Where is the development in relation to the main dwelling?

Front Back Side Garden

iii. What type of property is the dwelling?

Detached Semi-detached Terrace Flat

iv. In the case of single storey rear extensions, how far does the extension project:

More than 3m More than 4m

For more information on what is permitted development for householder development please see the following links:

https://www.planningportal.co.uk/info/200130/common_projects/17/extensions

https://www.planningportal.co.uk/info/200130/common_projects/43/outbuildings

https://www.planningportal.co.uk/info/200130/common_projects/36/loft_conversion

E. Walls and Fencing

i. How tall is the wall/fencing?

metres

ii. What is the wall/fencing made out of?

iii. How far is the wall/fencing from the nearest highway and/or pavement?

Less than 2m More than 2m

iv. Is the wall/fencing new or a replacement?

New Replacement

E. Walls and Fencing (continued)

For more information on what is permitted development for walls and fencing please see the following link:

https://www.planningportal.co.uk/info/200130/common_projects/20/fences_gates_and_garden_walls

F. Heritage Sites

i. What development has taken place on the site?

ii. What heritage status does the building or site have (please note this question must be answered to validate the application)

For more information on heritage sites and to find out the heritage status please see the following links:

http://www.dudley.gov.uk/resident/planning/historic-environment/

http://www.dudley.gov.uk/resident/planning/planning-policy/local-plan/devstrat/

G. Breach of Planning conditions

(please note answers to both of these are required in order to validate the application).

i. Please provide the reference number for the planning permission the breach is in relation to

ii. Please provide the number(s) of the condition(s) being breached

You can search for a planning application reference number via the following link. You will find the decision notice in the documents section which will show the conditions.
http://www.dudley.gov.uk/resident/planning/planning-services/search-for-a-planning-application/

H. Works on a protected tree

i. Describe nature of works undertaken:

ii. Where is the tree located within the property?

Front Back Street

iii. When were the works undertaken?

iv. Who instructed the works (if known)?

I. Untidy site

v. Is the site publicly visible (i.e. can it be seen from the street)?

Yes No

vi. Is the site a building site or is building due to commence on it?

Yes No

vii. Is there planning permission on the site (within the last three years)?

Yes No

v. If yes please provide the application reference

vi. Please provide details of what is making the site untidy (e.g. fly tipping, overgrown, poorly maintained buildings)

J. Further information

i. Please explain how the development has affected you (e.g. blocking light, noise, disturbance)

ii. Please provide any additional information which you feel is relevant or will help the council investigate your complaint (e.g. dimensions of a structure, information on land levels, details of opening hours, name of person responsible)

Email a copy of this form together with any supporting photos to development.control@dudley.gov.uk
Your complaint will not be validated without them.

Dudley
Metropolitan Borough Council

Agenda Item No. 8

Development Control Committee – 17th November 2021

Report of the Director of Regeneration and Enterprise

Planning Services Fees 2022

Purpose

1. To consider the proposals within the report with regard to the setting of the Council's Building Regulation Fee Scales to take effect from 1st January 2022, non-statutory Development Management Charges, and the intention to continue to use the Consumer Prices Index (CPI) for Planning Obligations in accordance with Council Policy. Following adoption of the Community Infrastructure Levy (CIL) Charging Schedule during 2015/16, regulations require any CIL charges to be index linked to the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors. The report also includes fees for the Local Development Order (LDO) and charges for Pre-Application advice to customers.

Recommendations

2. It is recommended that Development Control Committee: -

- Endorse the inflationary increase of 2% of the existing Building Control Fee Schedule as outlined in Appendix B.
- Note the continued use of Consumer Price Index in Planning Obligations costings as outlined in Appendix C, and in accordance with the adopted Supplementary Planning Document (SPD) "Planning Obligations".
- Note the use for CIL charges following adoption of the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors.
- To approve proposed fees for the Local Development Order (LDO) as outlined in Appendix D
- To approve new proposed/amended fees for Pre-Application charges as outlined in Appendix E

- Endorse the fee schedule for Development Management Non-Statutory Charges as outlined in Appendix F.

Background

3. In line with council policy all non-statutory fees and charges are updated annually.

4. Building Control

Building Control exists to ensure the health and safety of users of buildings, to promote energy efficiency and water conservation, and to ensure reasonable access and facilities for all.

Under the provisions of the Building Act 1984, it is the duty of local authorities to enforce the regulations through determining applications and site inspections.

Since 1985 legislation has been in place to enable the service to be provided by the private sector in competition with local authorities. Local authority fee scales, therefore, need to be competitive with those of the private sector.

The Building (Local Authority Charges) Regulations 2010 came into force on 1 April 2010 and, following a transitional period, Dudley MBC Building Control introduced fees under this legislation on 1 October 2010.

The key principle of the Regulations remains the need to fix charges, by way of a scheme, to fully recover the costs associated with the relevant Building Control functions. The Regulations place a greater emphasis on the need to relate these charges to the costs of carrying out the building control function on a building project and highlight the principle of 'User Pays'. The regime is more flexible, and these flexibilities are intended to make the scheme fairer and proportionate to the actual costs incurred.

Under the 2010 Regulations, Local Authorities are required to set their charges by relating the "hourly rate" of their Building Control staff to the time spent carrying out the chargeable functions associated with a building project. The hourly rate is a single rate based on the average cost of providing the chargeable elements of the building control service and has been developed in line with guidance produced by CIPFA and the LABC (Local Authority Building Control) model scheme. This allows for standard charges to be applied for various categories of works or for bespoke quotations to be provided to clients. Bespoke quotations are provided for the larger, more complex projects and where works consist of more than one standard category.

Following reviews of the existing fee scheme it is proposed to increase the fees in line with Council Policy of approximately 2% to cover inflationary pressures. This increase is the maximum amount to retain a competitive fee structure.

The existing fee levels are shown in Appendix A. The revised Charging Scheme, including the proposed fee scale, is shown in Appendix B and, in accordance with The

Building (Local Authority Charges) Regulations 2010, will be published at least seven days before the implementation date.

Planning Obligations

The use of planning obligations to secure financial developer contributions towards the delivery of local infrastructure is a key and well-established element of the planning system and is required on certain planning applications depending on the scale and nature of development.

There is a need to index link planning obligations as a failure to do so would result over time in insufficient contributions being secured and the use of inflationary indices for planning obligations is an established principle which is set out in the Planning Obligations SPD (approved in September 2011) and is supported by the Department of Community and Local Government (DCLG) publication entitled *'Planning Obligations: Practice Guidance'* (2006).

The index used is Consumer Price Index (CPI), and the current rate is 1.7%. (The rate was 0.5% in 2015/16). The 2017/2019 financial year costs are set out in the amended Supplementary Planning Document, which is included as Appendix C to this report.

Community Infrastructure Levy (CIL)

CIL is a levy, adopted in 2015/16, that allows Local Authorities to charge on new developments. The money can be used to support development by funding infrastructure that the Council, local community, and neighbourhoods want.

There is a need to index link CIL contributions to keep the levy responsive to market conditions; as a failure to do so would result, over time, in insufficient contributions being secured. The requirement to apply an index of inflation is set out within regulation 40 of the CIL Regulations 2010 (as amended). This regulation requires CIL contributions to be index linked using the national All-In Tender Price Index of construction costs published by the Building Cost Information Service (BCIS) of the Royal Institute of Chartered Surveyors.

Local Development Order (LDOs)

The Council adopted a Local Development Order (LDO) for Household Extensions in 2017. If homeowners choose to take advantage of the LDO there is a process for gaining a letter of determination which has a set fee of half the fee currently charged for a household application. There is also a fee to make a minor amendment to the development following the issue of the letter of determination to cover the administration costs of the process.

Continue to charge existing fees for the LDO as outlined in Appendix D.

Pre-Application

The pre-application process is where advice is provided on informal development proposals, which are submitted to the planning service. Councils can charge for this service and whilst it is not a statutory function this is now common practice in most councils. It is proposed that we will continue to charge, for some pre-application advice but amend the fee schedule to include additional application types (new residential and telecoms) and remove the fee for household extensions.

The fees have been calculated by reviewing the charging schedules for the other West Midland Combined Authority areas and providing a comparable charging framework.

HER fees were subject to a separate report of 16th September 2019, where it was agreed to introduce a charge in line with neighbouring authorities. These fees are still comparable, so no increase is proposed.

It is also proposed to introduce a charge for meetings associated with pre-application submissions with the planning case officer. This will be at the discretion of the planning officer, as required/necessary, and could be virtual, in person or on site.

The new fee schedule is outlined in Appendix E and includes an exceptions list and will not be introduced until 1st April 2022.This will allow time to publicise the proposed changes.

Trees

The submission of formal applications for works to protected trees is free as determined nationally. This will remain unchanged, but we have charged for pre-application advice which is provided by the Tree service should it be sought. This is split between less than 10 trees and between 11+ trees. This distinction is made as a recognition between the times it takes to provide such advice. It is proposed to increase this fee (as outlined in Appendix E) to reflect the level of professional advice offered as part of this service. The charge also includes a site visit.

The authority will also continue to charge for copies of Tree Preservation Orders, this fee has increased by 2%.

Historic Environment

As with trees the submission of applications for Listed Building consent or Conservation Area consent is free as determined nationally. This will again remain unchanged, but we will continue to charge for pre-application advice which is provided by the Historic Environment Officer should it be sought.

Development Management Non-Statutory Fees

Development Management carry out several non-statutory functions including providing copies of decision notices and supply of Tree Preservation Orders, to members of the

public. Whilst non-essential it is generally considered that they add value to the service by enhancing the statutory function provided.

When setting fees for the non-statutory services the increase is reflective of the supporting administration and technical costs and in line with inflationary increases. See Appendix F for non-statutory Development Management fees.

Finance

5. The proposal is considered to accord to the provisions of the Building (Local Authority Charges) Regulations 2010 and has been designed to maximise income to the Council and meet increased budget income targets, without, as required, generating excess surplus.

   The underlying requirement of the new Regulations is that the fees charged are appropriate for the works undertaken in exercising chargeable Building Control functions. It is always difficult to accurately predict the building control income as this is subject to building activity and the overall economic situation. The current economic climate makes this prediction even more uncertain. However, the new regulations should ensure that income derived by the Authority from performing chargeable functions and providing chargeable advice will equate to the costs incurred in performing chargeable functions and providing chargeable advice.

   The Regulations require that an annual review of the charges is undertaken to ensure that this overriding objective is met.

   The Development Management fees included within this report are non-statutory and any charge is to cover administrative and technical costs of providing the service only.

   All monies received are receipted and banked in line with Council policy.

Law

6. Charges are made under the Building (Local Authority Charges) Regulations 2010, the controlling legislation being the Building Act 1984.

   The CIL Regulations 2010 (as amended) set out the requirements for the indexation of CIL charges.

Risk Management

7. There are no material risks to the Council resulting from the report.

Equality Impact

8. This report complies fully with the Council's Policy on equal opportunities

9. The Building (Local Authority Charges) Regulation 2010 specifically exempt from the requirement to charge a fee in connection with work solely for the purpose of securing

greater health, safety, welfare, or convenience of people with disabilities where the works are in connection with their permanent residence or to an existing building to which members of the public are admitted.

Human Resources/Organisational Development

10. There are no direct Human Resources or Organisational Development Implications.

Commercial/Procurement

11. All fees and charges are appropriate to the works undertaken and allow services to remain competitive within the marketplace.

Council Priorities

12. Having appropriate Planning and Building Control Fee's in place for both residential and commercial development supports the council's priority of *regenerating the borough* as well as helping to create a cleaner and greener place.

Helen Martin
Director of Regeneration and Enterprise

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List of Background Papers

The Building (Local Authority Charges) Regulations 2010:
http://www.legislation.gov.uk/uksi/2010/404/contents/made

Current Dudley MBC Building Control Charges:
http://www.dudley.gov.uk/resident/planning/building-control/making-an-application/

CIPFA Local Authority Building Control Accounting Guidance
The Community Infrastructure Levy (CIL) Regulations 2010 (as amended):
http://www.legislation.gov.uk/ukdsi/2010/9780111492390/contents

Appendix A. Existing Building Control Fees for 2021

SCHEDULE 1

CHARGES FOR THE ERECTION OF, OR THE CONVERSION TO, NEW DWELLINGS OR FLATS WHERE INDIVIDUAL FLOOR AREA IS LESS THAN 300M^2

Number of Dwellings	Full Plans				Building Notice Charge	
	Plan Charge		Inspection Charge			
	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £
1	200.00	240.00	395.83	475.00	708.33	850.00
2	200.00	240.00	605.00	726.00	956.67	1148.00
3	200.00	240.00	888.33	1066.00	1291.67	1550.00
4	233.33	280.00	1130.00	1356.00	1625.00	1950.00
5	233.33	280.00	1330.00	1596.00	1870.00	2244.00
6	258.33	310.00	1543.33	1852.00	2145.83	2575.00
7	258.33	310.00	1733.33	2080.00	2375.83	2850.00
8	308.33	370.00	1895.00	2274.00	2629.17	3155.00
9	308.33	370.00	2138.33	2566.00	2920.00	3504.00
10	308.33	370.00	2341.67	2810.00	2161.94	3794.00

For applications in excess of 10 dwellings or flats, an individual fee will be calculated.

Note: An additional charge calculated by reference to Schedule 4 will be payable if the notifiable electrical work is not carried out by a Part P registered electrician or by a person qualified to complete a BS 7671 installation certificate.

SCHEDULE 2
CHARGES FOR CERTAIN WORKS IN CONNECTION WITH, OR TO, AN EXISTING DWELLING

TYPE OF WORK	FULL PLAN APPLICATION				BUILDING NOTICE CHARGE		REGULARISATION CHARGE
	PLAN CHARGE		INSPECTION CHARGE				
	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	Exempt from VAT £
i) Erection or extension of a non-exempt detached garage or car-port up to 100 m^2	111.67	134.00	132.50	159.00	282.50	339.00	400.00
ii) Erection or extension of a non-exempt attached garage or car port up to 100 m^2	132.50	159.00	155.83	187.00	330.00	396.00	477.00
iii) An extension of floor area	145.83	175.00	178.33	214.00	377.50	453.00	470.00

less than 10 m^2 10 m^2							
iv) An extension of floor area 10 m^2 - 40 m^2	189.17	227.00	283.33	340.00	488.33	586.00	618.00
v) An extension of floor area 40 m^2 -100 m^2	200.00	240.00	363.33	436.00	591.67	710.00	754.00
vi) Loft conversion of up to a maximum floor area of 50 m^2	215.83	259.00	268.33	322.00	508.33	610.00	630.00
vii) Conversion of an attached garage, or part, to a habitable use	110.83	133.00	170.00	204.00	310.83	373.00	390.00
viii) Window replacement up to 20	56.67	68.00	74.17	89.00	135.00	162.00	170.00

windows, thermal renovation up to £5000, space heating and hot water systems not installed under a self-certification scheme							
ix) Window replacement over 20 windows, thermal renovation over £5000	66.67	80.00	86.67	104.00	157.50	189.00	199.00
x) Other works in connection with an existing dwelling, up to a value of £2,000	134.17	161.00	86.67	104.00	242.50	291.00	363.00

£2,001 to £5,000	137.50	165.00	121.67	146.00	297.50	357.00	483.00
£5,001 to £25,000	159.17	191.00	216.67	260.00	484.17	581.00	584.00
£25,001 to £50,000	160.83	193.00	268.33	322.00	560.83	673.00	688.00
£50.001 to £75,000	188.33	226.00	395.00	474.00	643.33	772.00	785.00
£75,001 to£100,000	216.67	260.00	516.67	620.00	816.67	980.00	990.00

FOR BUILDING WORKS VALUED AT MORE THAN £100,000, OR WHERE THE WORK CONSISTS OF MORE THAN ONE OF THE ABOVE CATEGORIES, YOU SHOULD CONTACT THE BUILDING CONTROL OFFICE WITH REGARD TO AN INDIVIDUAL FEE EVALUATION.

Note: An additional charge calculated by reference to Schedule 4 will be payable if the notifiable electrical work is not carried out by a Part P registered electrician or by a person qualified to complete a BS 7671 installation certificate.

SCHEDULE 3

NON-DOMESTIC APPLICATIONS

VALUE OF WORKS	PLAN CHARGE		INSPECTION CHARGE		REGULARISATION CHARGE £ Exempt from VAT
	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	
0 to £5,000	208.33	250.00	Included in Plan Fee	Included in Plan Fee	331.00
£5,001 to £25,000	148.33	178.00	251.67	302.00	560.00
£25,001 to £50,000	322.50	387.00	322.50	387.00	944.00
£50,001 to £75,000	327.50	393.00	485.83	583.00	1100.00
£75,001 to £100,000	346.67	416.00	645.83	775.00	1405.00

NOTE:

FOR BUILDING WORKS VALUED AT MORE THAN £100,000 YOU SHOULD CONTACT THE BUILDING CONTROL OFFICE WITH REGARD TO AN INDIVIDUAL FEE EVALUATION.

SCHEDULE 4

PART P: ELECTRICAL SAFETY

The scale of charges relates to works carried out under the provisions of Part P to The Building Regulations 2010, being the design, installation, inspection and testing of relevant works related to electrical safety in domestic properties.

1. Relevant electrical works carried out by a competent electrician registered with an appropriate self-certification scheme and with notification of those works registered with the authority through the provisions of that scheme.

   No Fee

2. Relevant electrical works carried out in connection with the building of a new dwelling or the alteration or extension of an existing dwelling where those works are the subject of an application for Building Regulation approval. Works carried out by a competent electrician registered with an appropriate self-certification scheme and with notification of those works registered with the authority through the provisions of that scheme.

   Registration noted on Building Regulation File

   No Fee

3. Relevant electrical works carried out by a competent electrician not registered with an appropriate self-certification scheme but able to sign appropriate certification to demonstrate the compliance of the installation.

   Application to be made using a Building Notice with a full description of the works to be given. Appropriate certification to be provided by the electrician. The Authority will register the application but not issue a completion certificate but a letter confirming the registration and receipt of appropriate test certification.

   Fee £ 54.00 + VAT

4. Relevant electrical works carried out in connection with the building of a new dwelling or the alteration or extension of an existing dwelling where those works are the subject of an application for Building Regulation approval. Works carried out by a competent electrician not registered with an appropriate self-certification scheme but able to sign appropriate certification to demonstrate the compliance of the installation.

   Certification to be entered on the Building Regulation File

No additional fees required and completion certificate to be issued in normal manner.

With no certification for the electrical works on file then completion certificate will not be issued following completion inspection of the building works.

5. Relevant electrical works carried out by a non-qualified person.

   Applications are to be made using a Building Notice with a full description of the works given.
   Registration of application £ 54.00 +VAT

   No additional fee to be paid if independent certification provided from a competent electrician to validate compliance of the works.
   Acceptance certificate will be issued by the Authority.
   If inspection is required by the Authority to validate the works then additional charges as Appendix B will be levied.
   On satisfactory completion inspection acceptance certificate will be issued by the Authority.

6. Electrical works carried out in connection with the building of a new dwelling or the alteration or extension of an existing dwelling where those works are subject of an application for Building Regulation approval. Works carried out by a non-qualified person.

   Registration noted on Building Regulation file.
   No additional fee to be paid.
   No further fee to be paid if independent certification provided from a competent electrician to validate compliance of the electrical works.
   Completion certificate will be issued by the Authority in the normal manner.

   If inspection is required by the Authority to validate the electrical works then additional charges as appendix B will be levied.
   Completion certificate will be issued by the Authority in the normal manner.

APPENDIX A

Definition of Competent Person

An electrician registered with a recognised trade body such as NICEIC, ECA and NAPIT and can test the work and issue a design, installation, and test certificate under the provisions of BS7671.

APPENDIX B

Minor Works

Total	£148.00	+ VAT

Electrical Installation Certification (1-4 Circuits)

Total	£235.00	+ VAT

Electrical Installing Certificate (5-10 Circuits)

Total	£316.00	+ VAT

Electrical Installation Certificate (11-16 Circuits)

Total	£425.00	+ VAT

APPENDIX B
Proposed Building Control Charging Scheme 2022

SCHEME FOR THE RECOVERY OF BUILDING REGULATION CHARGES AND ASSOCIATED MATTERS FOR DUDLEY METROPOLITAN BOROUGH COUNCIL

To be read in conjunction with The Building (Local Authority Charges) Regulations 2010(As amended).
Date this scheme came into effect: 1ST January 2022.

SCHEME FOR THE RECOVERY OF BUILDING REGULATION CHARGES

Definitions

The following definitions apply to this charging scheme and should be read in conjunction with the other clauses and tables which constitute the charging scheme:

"Building"
Means any permanent or temporary building but not any other kind of structure or erection, and a reference to a building includes a reference to part of a building.

"Building Notice"
Means a notice given in accordance with regulation 12(2(a)) and 13 of the Building Regulations 2010 (as amended).

"Building work" means:

(a) the erection or extension of a building.
(b) the provision or extension of a controlled service or fitting in or in connection with a building.
(c) the material alteration of a building, or a controlled service or fitting.
(d) work required by building regulation 6 (requirements relating to material change of use).
(e) the insertion of insulating material into the cavity wall of a building.
(f) work involving the underpinning of a building.
(g) work required by Building Regulation 23 (requirements relating to thermal elements).
(h) work required by Building Regulation 22 (requirements relating to a change of energy status).
(i) work required by Building Regulation 28 (consequential improvements to energy performance).

"Chargeable function" means a function relating to the following:

(a) The passing or rejection of plans of proposed building work which has been deposited with the council in accordance with section 16 of the Building Act 1984 (as amended).

(b) The inspection of building work for which plans have been deposited with the council in accordance with the Building Regulations 2010 (as amended) and with section 16 of the Building Act 1984 (as amended).

(c) The consideration of a Building Notice which has been given to the council in accordance with the Building Regulations 2010 (as amended).

(d) The consideration of building work reverting to the council under the Building (Approved Inspectors etc.) Regulations 2010 (as amended).

(e) The consideration of a regularisation application submitted to the council under regulation 18 of the Building Regulations 2010 (as amended).

"Cost" does not include any professional fees paid to an architect, quantity surveyor or any other person.

"Dwelling" includes a dwelling-house and a flat.

"dwelling-house" does not include a flat or a building containing a flat.

"Flat" means a separate and self-contained premise constructed or adapted for use for residential purposes and forming part of a building from some other part of which it is divided horizontally.

"Floor area of a building or extension" is the total floor area of all the storeys which comprise that building. It is calculated by reference to the finished internal faces of the walls enclosing the area, or, if at any point there is no enclosing wall, by reference to the outermost edge of the floor.

"Relevant person" means:

(a) in relation to a plan charge, inspection charge, reversion charge or building notice charge, the person who carries out the building work or on whose behalf the building work is carried out.
(b) in relation to a regularisation charge, the owner of the building; and
(c) in relation to chargeable advice, any person requesting advice for which a charge may be made pursuant to the definition of "chargeable advice".

Principle of this Scheme

The set charges or method of establishing the charge have been established in this scheme for the functions prescribed in the Building (Local Authority Charges) Regulations 2010 (As amended) (referred to as the chargeable functions), namely:

- **A plan charge,** payable when plans of the building work are deposited with the Local Authority.
- **An inspection charge,** payable on demand after the authority carry out the first inspection in respect of which the charge is payable.

- **A building notice charge,** payable when the building notice is given to the authority.
- **A reversion charge,** payable for building work in relation to a building:-
    1. Which has been substantially completed before plans are first deposited with the Authority in accordance with Regulation 20(2)(a)(i) of the Approved Inspectors Regulations, or
    2. In respect of which plans for further building work have been deposited with the Authority in accordance with Regulation 20(3) of the Approved Inspectors Regulations, on the first occasion on which those plans are or have been deposited.
- **A regularisation charge,** payable at the time of the application to the Authority in accordance with Regulation 18 of the Building Regulations.
- **Chargeable advice,** local authorities can make a charge for giving advice in anticipation of the future exercise of their chargeable functions (i.e. before an application or notice is received for a particular case). This is payable after the first hour of advice, on demand after the authority has given notice required by Regulation 7(7) of the Building (Local Authority) Charges Regulations 2010 (As amended) (i.e., the charge has been confirmed in writing following an individual determination). This charge can be discounted from a subsequent application or notice received for the work in question.

- The above charges are payable by the relevant person (see above for definition).

- Any charge which is payable to the authority may, in a particular case, and with the agreement of the authority, be paid by instalments of such amounts payable on such dates as may be specified by the authority. If the applicants and an authority are agreeable, an inspection charge can be fully or partly paid in advance with the plans charge.

- The charge for providing a chargeable function or chargeable advice is based on the principle of achieving full cost recovery. The charges will be calculated by using the Council Officers' average hourly rate stated in the charging scheme, multiplied by the time taken to carry out the functions/advice, taking the following factors into account, as applicable, in estimating the time required by officers to carry out the function/advice:-

1. The existing use of a building or the proposed use of the building after completion of the building work.

2. The different kinds of building work described in regulation 3(1)(a) to (i) of the Building Regulations:

3. The floor area of the building or extension.

4. The nature of the design of the building work and whether innovative or high risk construction techniques are to be used.

5. The estimated duration of the building work and the anticipated number of inspections to be carried out.

6. The estimated cost of the building work.

7. Whether a person who intends to carry out part of the building work is a person mentioned in regulation 12(6) or 20 of the Building Regulations (i.e. Related to competent person/self-certification schemes).

8. Whether in respect of the building work a notification will be made in accordance with regulation 41 of the Building Regulations (i.e. Where design details approved by Robust Details Ltd have been used).

9. Whether an application or Building Notice is in respect of two or more buildings or building works all of which are substantially the same as each other.

10. Whether an application or Building Notice is in respect of building work, which is substantially the same as building work in respect of which plans have previously been deposited or building works have been inspected by the same local authority.

11. Whether chargeable advice has been given on the project which is likely to result in less time being taken by a local authority to process the Building Regulation Application.

12. Whether it is necessary to engage and incur the costs of a consultant to provide specialist advice in relation to a particular aspect of the building work.

Principles of the scheme in respect of the erection of domestic buildings, garages, carports and extensions.

- Where the charge relates to the erection of a dwelling, the charge includes for the provision of a detached or attached domestic garage or carport providing that it is constructed at the same time as the dwelling.

- Where any building work comprises or includes the erection of more than one extension to a building, the total floor areas of all such extensions shall be aggregated to determine the relevant charge payable, providing that the building work for all aggregated extensions is carried out at the same time.

Exemption from charges

The Authority has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing dwelling that is, or is to be, occupied by a disabled person as a permanent residence; and where the whole of the building work in question is solely;-

a. For the purpose of providing means of access for the disabled person by way of entrance or exit to or from the dwelling or any part of it, or
b. For the purpose of providing accommodation or facilities designed to secure the greater health, safety, welfare or convenience of the disabled person.

The Council has not fixed by means of its scheme, nor intends to recover a charge for the purpose of providing accommodation or facilities, designed to secure the greater health, safety, welfare or convenience of a disabled person in relation to an existing dwelling, which is, or is to be, occupied by that disabled person as a permanent residence where such work consists of;-

a. the adaptation or extension of existing accommodation or an existing facility or the provision of alternative accommodation or an alternative facility where the existing accommodation or facility could not be used by the disabled person or could be used by the disabled person only with assistance; or

b. the provision of extension of a room which is or will be used solely; -
   (i) for the carrying out for the benefit of the disabled person of medical treatment which cannot reasonably be carried out in any other room in the dwelling, or

   (ii) for the storage of medical equipment for the use of a disabled person, or

   (iii) to provide sleeping accommodation for a carer where the disabled person requires 24-hour care.

The Council has not fixed by means of its scheme, nor intends to recover a charge in relation to an existing building to which members of the public are admitted (whether on payment or otherwise); and where the whole of the building work in question is solely;-

a. for the purpose of providing means of access for disabled persons by way of entrance or exit to or from the building or any part of it; or
b. for the provision of facilities designed to secure the greater health, safety, welfare of disabled persons.

Note: “disabled person” means a person who is within any of the descriptions of persons to whom Section 29(1) of the National Assistance Act 1948, as extended by virtue of Section 8(2) of the Mental Health Act 1959, applied, but disregarding the amendments made by paragraph 11 of Schedule 13 to the Children’s Act 1989. The words in section 8(2) of the Mental Health Act 1959 which extend the meaning of disabled person in section 29(1) of the National Assistance Act 1948, are prospectively repealed by the National Health Service and Community Care Act 1990, section 66(2), Schedule 10, as from a day to be appointed.

Information required to determine charges

If the authority requires additional information to enable it to determine the correct charge the authority can request the information under the provisions of Regulation 9 of the Building (Local Authority Charges) Regulations 2010.

The standard information required for all applications is detailed on the Authority’s Building Regulation Application Forms. This includes the existing and proposed use of the building and a description of the building work.

Additional information may be required in relation to: -

- The floor area of the building or extension
- The estimated duration of the building work and the anticipated number of inspections to be carried out
- The use of “competent persons” or Robust Details Ltd.
- Any accreditation held by the builder or other member of the design team.
- The nature of the design of the building work and whether innovative or high risk construction techniques are to be used.
- The estimated cost of the building work. If this is used as one of the factors in establishing a charge the “estimate” is required to be such a reasonable amount as would be charged by a person in business to carry out such building work (excluding the amount of any value added tax that may be chargeable).

Establishing the charge

The authority has established standard charges using the principles contained within The Building (Local Authority Charges) Regulation 2010 (As amended). Standard charges are detailed in the following tables. In the tables below any reference to number of storeys includes each basement level as one storey and floor areas are cumulative.

If the building work that you are undertaking is not listed as a standard charge, it will be individually determined in accordance with the principles and relevant factors contained within The Building (Local Authority Charges) Regulations 2010 (As amended). If the authority considers it necessary to engage and incur the costs of a consultant to provide specialist advice or services in relation to a particular aspect of building work, those costs shall also be included in setting the charge.

When the charge is individually determined the authority shall calculate the charge in the same way a standard charge was set by using the average hourly rate of officers’ time, multiplied by the estimated time taken to carry out their building regulation functions in relation to that particular piece of building work and taking into account the applicable factors listed in regulation 7(5) of the charges regulations.

Individually determined charges will be confirmed in writing specifying the amount of the charge and the factors that have been taken into account in determining the charge.

The building regulations charges for the following types of building work will be individually determined and the authority will state which factors in regulation 7(5) of the charges regulations it has taken into account in establishing a standard or individually determine charge.

Examples of individually determined building projects

- A reversion charge, i.e. where an Approved Inspector has been involved with a project but cannot progress it to a satisfactory state of completion.

- A Regularisation Charge where the relevant work does not have a standard Regularisation Charge already allocated to that type of work.

- When the building work is in relation to more than one building, with the exception of sites of multiple dwellings or flats.

- When building work consists of alterations to any building where the estimated cost exceeds £100,000.

- When the work consists of a domestic garage with a floor area over 100m2.

- When the work consists of the erection of or conversion of an existing building to provide in excess of 10 individual dwellings.

- When the work consists of the erection or conversion of a building into dwellings where the floor area of each dwelling exceeds 300m2.

- Any other work where the estimated cost of work exceeds £100,000.

- Where more than one standard charge applies to the building work, the authority will establish the charge by individually determining it. Note: the individually determined charge for the combined works will not be less than the highest published charge for any of the individual categories of works from the published fee table.

Other matter relating to calculation of charges

- In calculating these charges, refunds or supplementary charges, an officer hourly rate of £55.00 per hour has been used.

- Any charge payable to the authority shall be paid with an amount equal to any value added tax payable in respect of that charge.

- Charges are not payable for the first hour when calculating an advice charge.

Reductions

Reduced charges can be made in the following circumstances: -

a. The authority will reduce the building regulation charge by the cost of any pre-consultation advice that has been given for a project, if it has been paid for by the same architect/client.

b. Where in accordance with Regulation 7(5)(i) of the charges regulations, one application or Building Notice is in respect of two or more buildings or building works all of which are substantially the same as each other a 10% reduction in the standard charge will be made.

c. Where in accordance with Regulation 7(5)(j) of the charges regulations an application or Building Notice is in respect of work which is substantially the same as building work in respect of which plans have previously been deposited and approved or building work in respect of which plans have previously been deposited and approved and inspected by this authority a 10% reduction in the plan charge will be made.

Refunds and supplementary charges

In the circumstances when the basis on which the charge has been set or determined has changed, the authority may refund or request a supplementary charge and provide a written statement setting out the basis of the refund/supplementary charge and also state how this has been calculated. In the calculations of refunds/supplementary charges no account shall be taken of the first hour of an officer's time.

Non-Payment of a Charge

Regulation 8(2) of the Building (Local Authority Charges) Regulations 2010 identify that plans are not treated as being deposited for the purpose of Section 16 of the Building Act or Building Notices are not considered as valid unless the Council has received the correct fee. Relevant time scales do not start until the agreed payment has been made. The debt recovery team of the Council will pursue any non-payment of a charge.

Complaints about Charges

Complaints regarding the level of charges should initially be referred to the relevant officer who you are dealing with. The Council has a comprehensive complaints handling procedure. If you are not satisfied with the initial response to your complaint you may pursue the matter through the Council's Complaints procedure. Details can be found on the Councils' website www.dudley.gov.uk

Transitional Provisions

The Council's scheme for the recovery of charges, dated April 2010 continues to apply in relation to building work, for which plans were first deposited, or a Building Notice was given, or a regularisation application was made between April 2010 and 30th September 2010. The new scheme is operable for applications and Building Notices received on and after 1st October 2010.

STANDARD CHARGES

These standard charges have been set by Dudley Metropolitan Borough Council on the basis that the building work does not consist of, or include, innovative or high risk construction techniques and the duration of the building work from commencement to completion does not exceed 12 months.

The charges have also been set on the basis that the design and building work is to be carried out by a person or company who is competent to carry out the design work and building work that they are undertaking. If they are not, the work may incur supplementary charges.

The fees assume that any electrical works undertaken are done so by a suitably qualified person or organisation accredited with a relevant 'Competent Persons Scheme'. If not, then an additional fee will be payable.

If you have paid for chargeable advice in the form of pre-application consultations for the project a reduction will be made in the standard charge that is now payable.

Building Notice Charge

The use of the "Building Notice" procedure does involve the Building Control Officer spending more time on site visits and assessing works as they progress. It is for this reason that a project using the Building Notice procedure will incur a higher charge above those that are required for a project using the "Full Plans" procedure.

Reversion Charges

These charges will be individually determined.

Regularisation Charges

The charge is listed in the following tables. Where no charge is listed, an individual charge will be determined, based on the works in question

SCHEDULE 1

CHARGES FOR THE ERECTION OF, OR THE CONVERSION TO, NEW DWELLINGS OR FLATS WHERE INDIVIDUAL FLOOR AREA IS LESS THAN 300M^2

Number of Dwellings	Full Plans				Building Notice Charge	
	Plan Charge		Inspection Charge			
	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £
1	204.17	245.00	404.17	485.00	722.50	867.00
2	204.17	245.00	618.33	742.00	975.00	1170.00
3	204.17	245.00	907.50	1089.00	1317.50	1581.00
4	238.33	286.00	1150.00	1380.00	1660.00	1992.00
5	238.33	286.00	1354.17	1625.00	1900.00	2280.00
6	263.33	316.00	1580.00	1896.00	2190.00	2628.00
7	263.33	316.00	1779.17	2135.00	2426.67	2912.00
8	312.50	375.00	1933.33	2320.00	2686.67	3224.00
9	312.50	375.00	2175.00	2610.00	2985.00	3582.00
10	312.50	375.00	2391.67	2870.00	3225.00	3870.00

For applications in excess of 10 dwellings or flats, an individual fee will be calculated.

Note: An additional charge calculated by reference to Schedule 4 will be payable if the notifiable electrical work is not carried out by a Part P registered electrician or by a person qualified to complete a BS 7671 installation certificate.

SCHEDULE 2

CHARGES FOR CERTAIN WORKS IN CONNECTION WITH OR TO AN EXISTING DWELLING

TYPE OF WORK	FULL PLAN APPLICATION				BUILDING NOTICE (1)		REGULARISATION CERTIFICATE
	PLAN FEE		INSPECTION FEE				
	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	Exempt from VAT £
i) Erection or extension of a non-exempt detached garage or car-port up to 100 m^2	114.17	137.00	135.00	162.00	288.33	346.00	408.00
ii) Erection or extension of a non-exempt attached garage or car port up to 100 m^2	135.00	162.00	159.17	191.00	336.67	404.00	487.00
iii) An extension of floor area less than 10 m^2	149.17	179.00	181.67	218.00	385.00	462.00	479.00
iv) An extension of floor area 10 m^2 - 40 m^2	193.33	232.00	289.17	347.00	498.33	598.00	630.00
v) An extension of floor area 40 m^2 -100 m^2	204.17	245.00	370.83	445.00	604.17	725.00	770.00
vi) Loft conversion of up to a maximum floor area of 50 m^2	220.83	265.00	273.33	328.00	519.17	623.00	645.00
vii) Conversion of an attached garage, or part, to a residential use	115.00	138.00	173.33	208.00	316.67	380.00	400.00

viii) Window replacement up to 20 windows, thermal renovation up to £5000, space heating and hot water system not installed under a self-certification scheme	57.50	69.00	76.67	92.00	138.33	166.00	175.00
ix) Window replacement of 20 windows or over, thermal renovation over £5000	68.33	82.00	88.33	106.00	160.83	193.00	205.00
x) Other works in connection with an existing dwelling, up to a value of £2,000	137.50	165.00	88.33	106.00	247.50	297.00	370.00
£2,001 to £5,000	140.83	169.00	124.17	149.00	303.33	364.00	493.00
£5,001 to £25,000	162.50	195.00	220.83	265.00	494.17	593.00	596.00
£25,001 to £50,000	164.17	197.00	274.17	329.00	572.50	687.00	702.00
£50.001 to £75,000	191.67	230.00	403.33	484.00	656.67	788.00	800.00
£75,001 to£100,000	221.67	266.00	527.50	633.00	833.33	1000.00	1020.00
Site inspection of existing foundations etc. in connection with future works. Note: should a			69.17	83.00			

subsequent application be received for the substantive works, this fee will be credited against the appropriate inspection fee (or building notice fee) for the scheme							

Where the proposed work involves more than one category, the applicable fee will be determined individually. Please contact Building Control for a quotation.
Note: An additional charge calculated by reference to Schedule 4 will be payable if the notifiable electrical work is not carried out by a Part P registered electrician or by a person qualified to complete a BS 7671 installation certificate.

SCHEDULE 3

NON-DOMESTIC APPLICATIONS

VALUE OF WORKS	PLAN FEE		INSPECTION FEE		REGULARISATION CERTIFICATE £
	Exc VAT £	Inc VAT £	Exc VAT £	Inc VAT £	
0 to £5,000	212.50	255.00	Included in Plan Fee	Included in Plan Fee	338.00
£5,001 to £25,000	151.67	182.00	258.33	310.00	570.00
£25,001 to £50,000	329.17	395.00	329.17	395.00	963.00
£50,001 to £75,000	333.33	400.00	495.00	594.00	1120.00
£75,001 to £100,000	354.17	425.00	658.33	790.00	1430.00

NOTE:

FOR BUILDING WORKS VALUED AT MORE THAN £100,000 YOU SHOULD CONTACT THE BUILDING CONTROL OFFICE WITH REGARD TO AN INDIVIDUAL FEE EVALUATION.

(1) BUILDING NOTICE AND PUBLIC SEWERS

Where a Building Notice Application is deposited and it is subsequently found to be affected by a Public Sewer as shown on the Maps of Sewers prepared by Severn Trent Water Limited (and therefore Regulation H4 of the Building Regulations applies), the building notice will be converted into a Full Plans Application, as required by Regulation 12(5).

As no plans will have been prepared for assessment, and legislation requires that a decision is made on a Full Plans Application, the Application will be rejected but an application for a Build Over Agreement will need to be made to Severn Trent and copies of their decision submitted to Dudley MBC Building Control. Assuming this agreement is provided, then the Building Regulation Application in these circumstances will still be treated as if a Building Notice had been deposited.

In this instance the fee payable will be the Building Notice Fee

SCHEDULE 4

PART P: ELECTRICAL SAFETY

The scale of charges relates to works carried out under the provisions of Part P to The Building Regulations 2010, being the design, installation, inspection and testing of relevant works related to electrical safety in domestic properties.

1. Relevant electrical works carried out by a competent electrician registered with an appropriate self-certification scheme and with notification of those works registered with the authority through the provisions of that scheme.

   No Fee

2. Relevant electrical works carried out in connection with the building of a new dwelling or the alteration or extension of an existing dwelling where those works are the subject of an application for Building Regulation approval. Works carried out by a competent electrician registered with an appropriate self-certification scheme and with notification of those works registered with the authority through the provisions of that scheme.

   Registration and certificate noted on Building Regulation File

   No Fee

3. Relevant electrical works carried out by a competent electrician not registered with an appropriate self-certification scheme but able to sign appropriate certification to demonstrate the compliance of the installation.

   Application to be made using a Building Notice with a full description of the works to be given. Appropriate certification to be provided by the electrician. The Authority will register the application but not issue a completion certificate but a letter confirming the registration and receipt of appropriate test certification.

   Fee £ 55.00 + VAT

4. Relevant electrical works carried out in connection with the building of a new dwelling or the alteration or extension of an existing dwelling where those works are the subject of an application for Building Regulation approval. Works carried out by a competent electrician not registered with an appropriate self-certification scheme but able to sign appropriate certification to demonstrate the compliance of the installation.

   Certification to be entered on the Building Regulation File
   No additional fees required and completion certificate to be issued in normal manner.

With no certification for the electrical works on file then completion certificate will not be issued following completion inspection of the building works.

5. Relevant electrical works carried out by a non-qualified person.

   Applications are to be made using a Building Notice with a full description of the works given.
   Registration of application £ 55.00 +VAT

   No additional fee to be paid if independent certification provided from a competent electrician to validate compliance of the works.
   Acceptance certificate will be issued by the Authority.
   If inspection is required by the Authority to validate the works then additional charges as Appendix B will be levied.
   On satisfactory completion inspection acceptance certificate will be issued by the Authority.

6. Electrical works carried out in connection with the building of a new dwelling or the alteration or extension of an existing dwelling where those works are subject of an application for Building Regulation approval. Works carried out by a non-qualified person.

   Registration noted on Building Regulation file.
   No additional fee to be paid.
   No further fee to be paid if independent certification provided from a competent electrician to validate compliance of the electrical works.
   Completion certificate will be issued by the Authority in the normal manner.

   If inspection is required by the Authority to validate the electrical works then additional charges as appendix B will be levied.
   Completion certificate will be issued by the Authority in the normal manner.

SCHEDULE 4, APPENDIX A

Definition of Competent Person

An electrician registered with a recognised trade body such as NICEIC, ECA and NAPIT and is able to test the work and issue a design, installation and test certificate under the provisions of BS7671.

SCHEDULE 4, APPENDIX B

Minor Works

Total	£152.00 + VAT

Electrical Installation Certification (1-4 Circuits)

Total	£240.00 + VAT

Electrical Installing Certificate (5-10 Circuits)

Total	£322.00 + VAT

Electrical Installation Certificate (11-16 Circuits)

Total	£435.00 + VAT

APPENDIX C

Current Costings and Planning Obligations*

Type of Obligation	**Current Costings applicable to planning applications submitted after 1st January 2022**
Affordable Housing	25% on-site obligation on all sites proposing 15 dwellings or more
Education	Calculated on a site by site basis: £11,616 per nursery/primary school place, £17,503.65 per secondary school place and £18,983 per post 16
Highway Infrastructure Works	Calculated on a site by site basis – usually non-financial
Air Quality Improvements	£35.92 per additional traffic-based trip
Nature Conservation	Calculated on a site by site basis – usually non-financial
Open Space, Sport and Recreation	On sites 80 dwellings or more where onsite provision cannot be accommodated: £1,147.71 per flat and £2,064.24 per house
Environmental Safety and Health	Calculated on a site by site basis
Historic Environment	Calculated on a site by site basis

* Current Costings Table to be updated annually on 1st January in line with CPI, subject to Council approval.

APPENDIX D

Local Development Order (LDO) Fees 2021

LDO Request	2020	2021	Increase
Application and Letter of Determination	103.00	103.00	No increase
Minor Amendment to Approved LDO Application	48.00	48.00	No increase

APPENDIX E

Pre-Applications Fees 2021

Application Types **** As defined by Central government***	**Householder**	**Advertisements**		**Change of Use**	**Listed Buildings and Conservation Areas**	**Trees**		
Fee	£51.50	£33	£115.50	£115.50	£60	£30	£60	Negotiable
Details	N/A	Business advertisements	Other advertisements (i.e. hoardings, totem signs etc.)	N/A	N/A	Less than 10 trees	Between 10 and 20 trees	More than 20 trees

There will be an exemption for applications submitted by/or in partnership with Dudley MBC

Application Type – As defined by Central Government	*Proposed Fee*	*Change from previous charging schedule*	*Comments*
Householder	*£0*	*-£51.50*	*Free for residents (one go per development) A fee of £51.50 will be charged for repeat enquiries for the same proposal.*
Change of use	*£115.50*	*No change*	
Advertisements- *Signage* *Hoardings*	 *£33* *£115.50*	*No change*	
Listed Building/Conservation Area	*£60*	*No change*	

Trees- *10 or less* *11+*	 *£100* *£200*	 *+£70* *+£140*	*This fee includes a site visit by the planning services arbiculturalist*
Telecoms	*£84*	*+£84*	
New Residential Development – *In principle only advise* *1-3 units* *4-9 units* *10-49 units* *50-99 units* *100-299 units* *300+ units*	 *£100* *£100* *£200* *£500* *£950* *£1500* *£3000*	 *+£100* *+£100* *+£200* *+£500* *+£950* *+£1500* *+£3000*	*This includes change of use to residential as well as new builds and includes all types of new residential units including flats.*
Meeting with the case officer – *Virtual* *In person (Council offices)* *On site*	 *£50 per hour* *£100 per hour* *£200 per hour*	 *+£50 per hour* *+£100 per hour* *+£200 per hour*	*These meetings will be at the discretion of the case office on an as required/necessary basis. They are not compulsory.*

There will be exceptions for fees with regards to the following:

- *Applications submitted by or in partnership with Dudley MBC*
- *Developments in relation to charities (for the purpose of the charity function)*
- *Disabled occupiers (no repeat householder fee)*
- *The scheme has been subject to grant funding*

APPENDIX F
Non-Statutory Fees and Charges Review–Development Management from 1st January 2022

Fee Description	Increase	2021 (Prices Inclusive of VAT	2022 (Prices Inclusive of VAT
Photocopy/printing of Planning or Building Control application documentation (Falling within Councils retention period of 15 years) Copies of documentation falling within the retention period are available free of charge from the council's website. We cannot guarantee availability of documents falling outside of the retention period.	2%	£20.90 per document	£21.30 per document
Photocopy/printing of Planning or Building Control application documentation (Falling within or outside of Councils retention period of 15 years)	2%	£34.00 per document	£34.70 per document
General photocopy/printing of documentation for business customers	No increase	£1.10per A4 Sheet £1.60 per A3 Sheet A1/AO drawing Black and White £12.50 per copy A1/AO drawing colour price upon request	£1.10per A4 Sheet £1.60 per A3 Sheet A1/AO drawing Black and White £12.50 per copy A1/AO drawing colour price upon request
Copy of Tree Preservation Order	2%	£34.00 per order	£34.70 per order
Formal response to confirm Discharge of Conditions on an application site (applications within 10 years of decision date). Householder	2%	£39.50 per application	£40.30 per application

Other Developments		£135.15 per application	£137.85 per application
High Hedge Complaint	2%	£516.00	£526.30
Copy of a Planning Enforcement Notice	2%	£34.00 per order	£34.70 per notice
HER Searches (charges for the first-hour research)	2%	£98.00 per search	£100 per search