

PLANNING APPLICATION NUMBER:P11/0265

Type of approval sought	Full Planning Permission
Ward	ST THOMASS
Applicant	Mr Paul Bassi, REI PLC
Location:	FREEBODIES TAVERN PH, ST JOHNS ROAD, DUDLEY, DY2 7JT
Proposal	DEMOLITION OF EXISTING PUBLIC HOUSE AND ERECTION OF 9 NO. DWELLINGS WITH ASSOCIATED PARKING (RESUBMISSION OF WITHDRAWN APPLICATION P10/1094)
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

1. The application site comprises 'The Freebodies Inn', car park and beer garden area. The site area measures 0.17 hectare and the public house is closed and boarded up. The small outside grassed area fronting St Johns Road is overgrown, wooden fencing has been removed leaving only concrete posts and the site is generally uncared for and in poor visual condition.
2. The public house itself is sited at the corner of St Johns Road and Highview Street. Adjoining the site to the west are residential bungalows and there is residential housing to the south of the site. To the south east, on the opposite side of Highview Street is a row of shops/ tenants association/hot food takeaway and further residential housing, with a church hall to the east. To the north of the site, on the opposite side of St Johns Road, is St Johns Church a Grade II listed building set in its own grounds. There is a Public Right of Way that separates the boundary of the application site from the bungalows in Oliver Close and St Johns Rd.

PROPOSAL

3. The public house would be demolished, the site cleared and the proposal is for the erection of 6no. 2 bed houses and 3no. 3 bed houses. The 6.no 2 bed houses

would comprise 2 sets of 3no. houses each and would front Highview Street. The remaining 3no. 3 bed plots would be 1no. detached and a pair of semis that would front onto and have pedestrian access off Price Street. The corner plots (plot 1) at the junction with St Johns Rd and Highview Street and plot 7 would be dual fronted to allow for an active frontage along St Johns Rd and Price Street respectively.

4. The application is accompanied by design and access statement, a heritage statement and a bat survey.

HISTORY

5.

APPLICATION No.	PROPOSAL	DECISION	DATE
P10/1094	Demolition of Public House and the residential redevelopment of the site comprising 10. no 2 bed dwellings.	Withdrawn	02.03.11

PUBLIC CONSULTATION

6. The application was advertised by way of site notice, press notice and neighbour notification. Public consultation time expired 28 March 2011. No objections have been received.

OTHER CONSULTATION

7. Group Engineer (Development) – The Group Engineer Development has significant concerns regarding the application. The rear of the proposed properties runs adjacent a narrow dog-legged public footpath. Supplementary Planning Guidance, Design for Community Safety specifically highlights the need not to build with the back gardens arranged as in the application. Paths should be wide, well lit and open to natural surveillance.

The adjoining properties are also occupied by elderly residents. It is my understanding that the Police Crime Reduction Officer also has concerns regarding the proposal.

The principle of the development having the back of properties adjacent the existing Public Right of Way is unacceptable to the Highway Authority. The development should either provide surveillance of the Public Right of Way from the proposed dwellings or extinguish the Public Right of Way under Sec. 257 of the Town & Country Planning Act 1990.

Given the current layout and potential crime and community safety issues the Group Engineer for Development recommends the application be refused.

8. Head of Environmental Health and Trading Standards – no objections.
9. Crime Prevention Design Advisor – ‘I object to this application on the grounds that the developer plans to retain the existing PRow’.

RELEVANT PLANNING POLICY

Regional Planning Guidance

10. The High Court Decision on 10th November 2010 in respect of the challenge by Cala Homes (South) Ltd (2010 EWHC 2866) quashed the Government’s decision on 6th July 2010 to revoke the Regional Strategies. As a consequence the West Midlands Regional Spatial Strategy forms an ongoing part of the development plan.
11. The Chief Planner at the Department for Communities and Local Government wrote to all local authorities setting out that the Secretary of State expected them, and the Planning Inspectorate, to have regard to his letter of 27th May 2010, announcing his intention to abolish the Regional Strategies, as a material consideration in planning decisions.

12. However as the Regional Strategy still forms part of the development plan until it is abolished the following policies are considered relevant to the material consideration of this planning application:

- QE3 Creating a high quality built environment for all.

Black Country Joint Core Strategy

- DEL1 Infrastructure Provision
- TRAN2 Managing Transport Impacts of New Development
- TRAN5 Influencing the Demand for Travel and Travel Choices
- CSP1 The Growth Network
- CSP2 Outside the Growth Network
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility

13. Dudley Unitary Development Plan

DD1 Urban Design

DD4 Development in Residential Areas

14 Supplementary Planning Document

Historic Environment

New Housing Development – A Guide to Establishing Urban Context

Parking Standards and Travel Plans

Planning Obligations

Design for Community Safety

15. Supplementary Planning Guidance

Planning Guidance Note 3 – New Housing Development

Planning Guidance Note 12 – The 45 Degree Code

16. National Planning Guidance

Planning Policy Statement 1 – Delivering Sustainable Development

Planning Policy Statement 3 – Housing

Planning Policy Guidance 15 – Planning and the Historic Environment

ASSESSMENT

17. The key issues for consideration in this application are as follows:

- Principle
- Density
- Layout/Residential Amenity
- Design
- Access & Parking
- Planning Obligations

Principle

18. The Black Country Core Strategy was adopted on 3rd February 2011 and sets out the strategy for future development in the sub-region to 2026. The site is located outside the growth network and therefore Policy CSP2 is applicable to this residential proposal. The policy states that “by 2026, the areas outside the Strategic Centres and Regeneration Corridors will provide....a mix of good quality residential areas where people choose to live.” The proposal would be located within an established residential area, which incorporates a range of dwelling types and therefore the development would be compatible with existing uses, in line with CSP2.

19. The application site comprises a public house and its respective land and the site does not have any specific designation within the adopted UDP (2005). The site adjoins residential properties and the immediate locality is predominately characterised by residential dwellings, a small number of local shops and a church.

Being proposed on previously developed land (pdl) the proposal would accord with the objectives of local and national planning policy. Policy HOU1 – Delivering Sustainable Housing Growth requires that ‘at least’ 95% of new housing (gross) be built on pdl, in line with the priority given the development of pdl in PPS3: Housing. Policy HOU2 sets out criteria that new housing needs to be informed in terms of providing a range of accommodation, being accessible, achieving high quality design and minimising amenity impacts. In line with the New Housing Development SPD, the development would need to be in keeping with the surrounding residential area. The SPD seeks to assess the relationship between density, intensity and type of residential development including building height. This is considered in Table 1 of the guidance which sets out the context and characteristics for a range of different locations. The site is located within an edge of centre area, in line with the New Housing Development SPD. The proposed terraced dwellings are therefore characteristic of the surrounding residential area.

Density

20. The proposed scheme of 9 no. dwellings would result in a development at a density of 58 dwellings per hectare. The properties in the locality are characterised by a wide mix of property types from flats to detached/semi detached with long gardens to high density flatted/town house developments in the estate directly south of the application site. The variety in house types, garden sizes and in particular flatted developments results in the housing density of the immediate locality ranging from 53 dph to 320 dph. As such the density of the development would be in accordance with the varied local context of the area and in compliance with Policy H5 of the adopted UDP (2005).

Layout/Residential Amenity

21. The scheme proposes two rows of 3no. 2 bed houses along the Highview Street frontage and 1no 3bed detached and a pair of 3 bed semis on the Price Street frontage. Garden depths range from 8m up to 12m and 8 out of the 9 nine

properties would each have 2no. off street parking spaces and plot 3 would have 1no. off street parking space.

22. Plots 1 and 7 would have dual aspect elevations to add interest, address the street scene and to act as surveillance for adjoining parking areas and the street as a whole.
23. Plots 1 to 6 would be separated from the side elevation of the nearest bungalow at the rear, no. 76 St Johns Road, by garden depths ranging from 8 up to 11m and the 2.5m wide PRow. Given the untidy nature of the site and the poor visual appearance of the vacant and boarded up public house, it is considered that the redevelopment of the site with the proposed housing scheme would not adversely impact upon residential amenity, in accordance with policy DD4.

Design

24. The proposed development would be of traditionally styled brick built dwellings that would not look out of place, or adversely impact upon the character of the area. It is considered that the proposed scheme would improve the visual appearance of the site and the locality as a whole in compliance with UDP Policies DD1 and DD4.

Highways

25. Significant concerns have been raised by the Group Engineer (Development) regarding the existing PRow that adjoins the western boundary of the site. In particular that the rear gardens should not adjoin the PRow and that the development should either provide surveillance of the PRow from the proposed dwellings or extinguish the PRow under Sec. 257 of the Town & Country Planning Act 1990.
26. The issue of the PRow was considered during the assessment of the previous withdrawn application (P10/1094), with revised plans being submitted which indicated the PRow extinguished and integrated into the rear gardens of the proposed houses. However the cost, uncertainty and time element to the applicant for purchasing the land from the Council and in

having to pursue an uncertain process to extinguish the PRow, meant that the applicant concluded that they were not willing to integrate the PRow into the application site. This conclusion is not considered to be unreasonable. As such the previous application was withdrawn and this new application was submitted that has removed the PRow land from the proposed scheme and removed one dwelling in order to integrate car parking with dwellings. With regard to surveillance, plots 1 to 6 would back onto the PRow and first floor rear habitable rooms would overlook the route. The fencing on the west side of the PRow that borders the communal gardens of the bungalows is half boarded, thereby a sense of openness along the PRow is maintained and by virtue of the current layout an element of overlooking of the PRow is effected.

- 27 It is considered subject to a revised plan repositioning the footway crossing away from the St Johns Road/Price Street junction and a condition relating to the provision of the off street parking prior to first occupation of the dwellings the scheme would achieve a satisfactory layout in accordance with policy DD4 of the adopted UDP(2005).

Planning Obligations

28. Black Country Core Strategy 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. 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.

28. In addition to applying Policy DEL1 and the SPD, in identifying the required planning obligations on this application the following three tests as set out in

the CIL Regulations (April 2010), in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:

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

In consideration of the above the required Planning Obligations on this application have been identified as follows and would need to be secured within a S106 Agreement:

- Libraries - £1722.51
 - Open Space, Sport & Recreation (Set up) - £9347.53
 - Open Space, Sport & Recreation (Maintenance) - £6991.48
 - Public Realm - £4306.77
 - Nature Conservation – £806.00
 - Management and Monitoring Charge - £1000.00
- Total offsite contribution contributes to £24174.29

The applicant has not yet agreed to the provisions of these financial provisions

CONCLUSION

29. The siting and the external appearance of the dwellings are considered to be acceptable. The proposed scheme has made full and efficient use of the land and the scheme conforms to the local context of the area. Neighbours amenity and street scene are not considered to be adversely affected and the scheme is in accordance with adopted Core Strategy and UDP Policy.

RECOMMENDATION

30. It is recommended that the application be approved subject to the following conditions:

- a) The applicant entering into a Section 106 Agreement for a contribution towards the provision, maintenance and enhancement of off site public open space and play provision, nature conservation, libraries, public realm and a management and monitoring charge totalling £24174.29.
- b) The completion of the Agreement by 26 April 2011 and, in the event of this not happening, the application being refused if appropriate.
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary.

REASON FOR APPROVAL

The siting and the external appearance of the proposed dwellings are considered to be acceptable. The proposed scheme has made full and efficient use of the land and the scheme conforms to the local context of the area. Neighbours amenity and street scene are not considered to be detrimentally affected and the scheme is in accordance with adopted UDP Policy.

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley Unitary Development Plan (2005) and to all other relevant material considerations.

The above is intended as a summary of the reasons for the grant of planning permission. For further details on the decision, please see the application report.

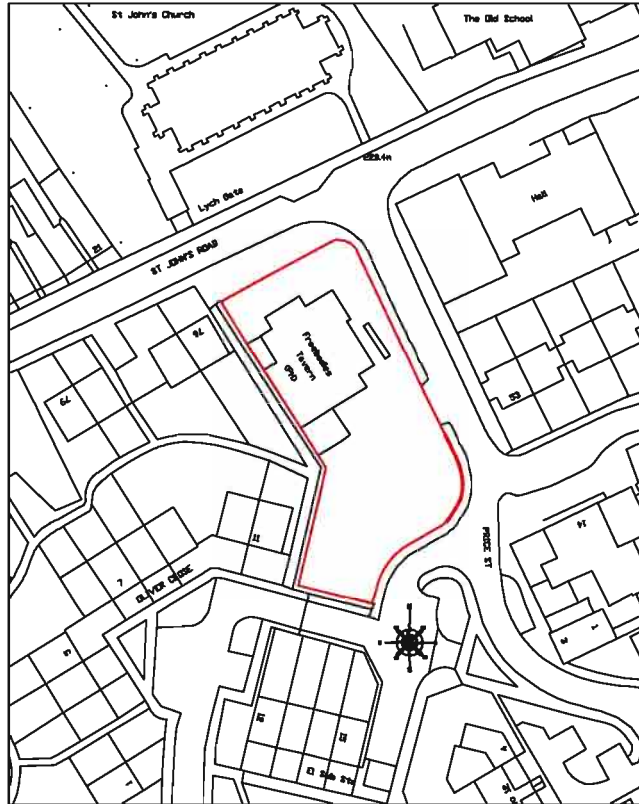
NOTE TO APPLICANT

The granting of planning permission does not confirm the structural integrity of the proposed development. Local Planning Authorities do not have a duty of care to individual landowners when granting applications for planning permission and are not

liable for loss caused to an adjoining landowner for permitting development. Sections 77 and 78 of the Building Act 1984, provides Local Authorities with powers to take action with respect to dangerous buildings/structures. Therefore, should the development raise concerns in the future with respect to its structural stability there are powers under separate legislation to planning that would enable the situation to be rectified.

Conditions and/or reasons:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Prior to the commencement of development, details of the landscaping scheme for the site shall be 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 initial occupation of the development.
3. Prior to the commencement of development, details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and thereafter retained for the lifetime of the development unless otherwise agreed in writing with the local planning authority.
4. Prior to first occupation of the dwelling, the means of access and parking areas will be provided in accordance with the approved details and graded, levelled, surfaced, drained and marked out. These areas will be maintained for no other purpose for the life of the development.
5. Prior to the commencement of development, details of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.
6. The development hereby permitted shall be carried out in accordance with the following approved plans: 1011/01, 1011/02 1011/03 and 1011/04.



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REV	DATE	DESCRIPTION	BY
Client			
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PROJECT	RESIDENTIAL DEVELOPMENT AT THE FREEDOM'S BUILDING, DUBLIN, D1E 7J1		
TITLE	Location Plan		
STATUS	P	P = PRELIMINARY T = TENDER C = CONSTRUCTION S = SKETCH	
DRN :	CB	CHKD :	AT DATE: 01/08/10 SCALE: 1/12500A4
JOB NO.	1011	DWG NO.	01
			REV

