

PLANNING APPLICATION NUMBER: P07/2141

Type of approval sought	Outline Planning Permission
Ward	ST THOMASS
Applicant	Burson Land
Location:	STRUGGLING MAN INN PH, PROSPECT ROW, DUDLEY, DUDLEY, WEST MIDLANDS, DY2 8SQ
Proposal	REDEVELOPMENT OF SITE TO PROVIDE 23 RESIDENTIAL DWELLINGS IN THE FORM OF HOUSES AND APARTMENTS (OUTLINE) (ACCESS, LAYOUT AND SCALE TO BE CONSIDERED)
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

1. The application site is the Struggling Man P.H., located 750m south of Dudley Town Centre. The site comprises parking to the front and a decking area, the public house itself and its land to the rear. To the south of the site is an allotment site that is separated from the application site boundary by a public right of way that is overgrown and runs from Prospect Row to Tetnall Street. To the west of the site is the public right of way running down to Tetnall Street and the Dudley Southern By-Pass, some 60m away from the rear of the application site. Adjoining the north of the site are two storey semi detached residential flats and to the east (opposite the site) are residential properties in Paradise and Buffery Park.

2. Prospect Row itself runs uphill until Spring Gardens, where the road levels out, and the neighbouring residential flats at nos. 36 and 37 Prospect Row are at a higher level than the adjoining application site. At the rear the site is screened by shrubbery and trees from the flats to the north, allotments to the south and the Southern By-Pass to the west.

PROPOSAL

3. The application seeks outline approval for residential development on this existing public house site with access, layout and scale to be considered, all other matters are reserved. The layout plan shows 7 no. 2 bedroom terraced style properties on the frontage with Prospect Row, in a line of 3 and 4 respectively. Between the two sets of properties there is an access road that would serve the 16 no. apartments (12 no. 2 bed + 4 no. 1 bed) to the rear. The apartment block would be 'side on' to Prospect Row i.e. its rear elevation would face the allotments to the south and the apartment block is proposed to be 2 and 3 storey in height.
4. The application is accompanied by a Design & Access Statement, Bat and Badger Surveys.

HISTORY

5. There is no relevant planning history on the application site. There is however a recent planning appeal outline approval for a residential development comprising 24 apartments and 21 houses at Redhill Works, 200 Prospect Row 70 metres north of the current application site. The appeal was allowed 20 February 2008 (app no. P07/0260).

PUBLIC CONSULTATION

6. One letter of objection has been received raising concerns about number of dwellings to car parking and the closure of a public house.

OTHER CONSULTATION

7. Head of Public Protection and Trading Standards – no adverse comments subject to conditions relating to contaminated land and the submission of a scheme for protecting the proposed dwellings from noise from the Dudley Southern By-Pass.

8. Nature Conservation – no adverse comments subject to conditions relating to protected species found on site, outside lighting, ecological landscape plans, breeding birds, trench covering, working protocols and age of survey information.
9. Group Engineer (Development) – The provision of a single parking space for the block of 4 no. 2 bedroom houses fronting Prospect Row would not be acceptable. The highways authority requires 2 parking spaces per house and an average of 1.5 parking spaces per apartment. This parking level takes into account a reduction for the accessibility assessment. The Group Engineer (Development) recommends that the application be refused.

RELEVANT PLANNING POLICY

10. Dudley Unitary Development Plan

- S2 Creating a More Sustainable Borough
- S8 Housing
- DD1 Urban Design
- DD4 Development in Residential Areas
- DD5 Development in Industrial Areas
- DD6 Access and Transport Infrastructure
- DD7 Planning Obligations
- DD8 Provision of Open Space, Sport and Recreation Facilities
- AM14 Parking

- H1 New Housing Development
- H3 Housing Assessment Criteria
- H5 Affordable Housing
- H6 Housing Density
- EP7 Noise Pollution
- UR9 Contaminated Land

11. Supplementary Planning Document

New Housing Development – A Guide to Establishing Urban Context
Parking Standards and Travel Plans
Open Space, Sport and Recreation Provision
Affordable Housing
Planning Obligations

12. Supplementary Planning Guidance

Planning Guidance Note No. 3 – New Housing Development
Planning Guidance Note No. 13 – Transport

13. National Planning Guidance

Planning Policy Statement 1 – Delivering Sustainable Development
Planning Policy Statement 3 – Housing
Planning Policy Statement 23 – Planning and Pollution Control

ASSESSMENT

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

- Principle
- Density
- Layout
- Scale
- Residential Amenity
- Access & Highway Implications
- Planning Obligations

Principle

15. 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 characterised by residential dwellings, an allotment and the park opposite the site. Given this, it is considered that the principle of residential development could be supported by Policy H3 of the adopted UDP (2005).

16. Density

The proposed scheme of 23 no. dwellings (7 no. houses and 16 no. apartments) would result in development at a density of 76dph. The properties in the locality are characterised by a wide mix of property types from flats to detached/semi detached with long gardens to terraced properties with very small gardens. The variety in house types and in particularly garden sizes ensures that the density in the local area ranges from 25dph to 152dph. As such the density of the development would be in accordance with the varied local context of the area and in compliance with Policy H6 of the adopted UDP (2005).

Layout

17. The proposed scheme involves 7 no. 2 storey terraced style dwellings fronting Prospect Row comprising 1 no. block of 3 dwellings and 1 no. block of 4 dwellings with minimum 10m long rear gardens and off street parking spaces at the front of the dwellings. The apartment block is proposed at the rear of the site and would overlook the public right of way and the allotment site to the south and the proposed parking area to the north. The apartment block would also be partially obscured from view by existing shrubbery and trees that are located adjacent to north, south and west boundaries of the application site.

18. It is considered that the layout of the proposed scheme would promote an active frontage along Prospect Row and provide a mix of accommodation to provide for varying household needs. The design and external appearance of the proposed scheme would of course be extremely important and would be dealt with at the Reserved Matters stage.

Scale

19. On the Prospect Row frontage the proposed 2 storey terraced houses would reflect the 2 storey nature of the adjacent flats and the housing in the locality. The proposed apartments would comprise of a 2 storey and 3 storey block and the siting of the block at the rear of the site, overlooking the allotments and partially obscured by existing shrubbery and trees would not adversely impact upon the locality.

Residential Amenity

20. There is adjoining open space to the west, a right of way and allotments to the south, a park to the east and to the north there are 4 no. residential flats in a 2 storey block. Due to a change in levels along Prospect Row these 4 no. flats (nos. 36-39 Prospect Row) are sited at a higher level than the application site and there is also a substantial shrub/tree coverage on the boundary with the proposed scheme. There is also a minimum 25 m separation distance between the nearest point of the proposed apartment block and the existing flat at no's 36 and 37 Prospect Row. It is therefore considered that the proposed development would not have a detrimental impact on the amenity the occupiers of the adjoining properties can reasonably expect to continue to enjoy.

Access & Highway Implications

21. There are 24 no. parking spaces for the 16 no. apartments, an average of 1.5 parking spaces per apartment and this parking provision is considered to be acceptable. The Council's maximum standard requires 2 parking spaces per house. At present the row of 3 no. houses have 2 no. spaces each and the row of 4 no. houses have 1 no. space each respectively. It is however considered that the sites location 700m from

Dudley Town Centre, close to the town centre bus facilities and public transport routes to the town centre, ensures the site is within an accessible location on the edge of Dudley Town Centre. As such the provision of 1 no. parking space per dwelling (for this block of 4) is on balance acceptable given the sustainable location of the site within walking distance of the town centre and very close to local bus routes serving the town centre.

Planning Obligations

22. In accordance with Policy DD7 and DD8 of the Adopted Dudley Unitary Development Plan and in accordance with adopted SPD 'Detailed Guidance on Open Space, Sport and Recreation Provision' (2005) the proposal attracts a requirement for a commuted sum to be paid towards the provision and enhancement of public open space and play areas in the locality. This would be dealt with by a Section 106 legal agreement. The contribution for this development based on the Council's formula would be £30,681.87.
23. In accordance with Policy H5 of the UDP and the adopted SPD 'Affordable Housing' due to the number of dwellings proposed there is a need to provide 30% of the total number of dwellings for the site as affordable housing.
24. In respect of the affordable housing provision the applicants have asserted that this scheme is at the margin of profitability at the projected sales revenues and construction costs, and that they are unable to make a proposal for the provision of any affordable housing.
25. The Council has evaluated all costs submitted and the applicant has responded to all requests for additional information with supporting evidence, to the Council's satisfaction. As such, in this case, it is considered that an affordable housing overage clause be incorporated into the S106 agreement for an additional on or off site affordable housing contribution based on the project achieving certain financial targets such as sales prices or construction costs, which are ascertained when the project is completed.

CONCLUSION

26. The proposed development would bring forward a new residential scheme on a previously developed site thereby supporting the creation of a sustainable form of development and helping to meet the strategic housing requirement for the delivery of housing within the plan period thereby complying with both national and local planning policy.
27. The principle of residential use and access, the layout and scale of the proposed apartments and housing are considered to be acceptable. All other matters are reserved for subsequent consideration. With careful design consideration the appearance of this site can be substantially improved, enhancing visual amenity and the street scene.

RECOMMENDATION

28. It is recommended that, subject to no representations raising new issues being received by 17th May 2008, the Director of the Urban Environment, in consultation with the Chair, be authorised to approve the application subject:-
 - a) the development not beginning until a scheme for the submission and approval of a planning obligation for a contribution of £30,681.87 to guarantee the provision, maintenance and enhancement of public open space and play provision has been submitted to and agreed by the Local Planning Authority;
 - b) the development not beginning until an updated financial appraisal has been submitted to and agreed in writing by the Local Planning Authority. The updated financial appraisal would enable the Council to undertake a new assessment of affordable housing provision for the site and the need for additional on or off site affordable housing contributions and to seek an average clause to accurately account for the true sales prices/construction costs when known.

- c) the following conditions, with delegated powers to the Director of the Urban Environment to make the necessary amendments to these as necessary.

REASON FOR APPROVAL

The proposed development would bring forward a new residential scheme on a previously developed site thereby supporting the creation of a sustainable form of development and helping to meet the strategic housing requirement for the delivery of housing within the plan period thereby complying with both national and local planning policy.

The principle of residential use and access, the layout and scale of the proposed apartments and housing are considered to be acceptable. All other matters are reserved for subsequent consideration. With careful design consideration the appearance of this site can be substantially improved, enhancing visual amenity and the street scene.

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 outline planning permission. For further details on the decision please see the application report.

INFORMATIVE

The development hereby permitted shall be built in accordance with drawing nos. BL/01B and 1:1250 location plan, unless otherwise agreed in writing by the Local Planning Authority.

Conditions and/or reasons:

1. Approval of the details of the appearance, buildings and the landscaping of the site (hereinafter called 'the reserved matters') shall be obtained from the Local Planning Authority before any development is begun.
2. Application for reserved matters approval must be made no later than the expiration of three years beginning with the date of the grant of outline permission; and the development to which the permission relates must begun no later than expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matters to be approved.
3. Prior to first occupation of a dwelling the turning head, means of access and parking areas will be provided in accordance with the approved details, drained, levelled, surfaced and marked out and will be retained for no other purpose and maintained for the life of the development.
4. Development shall not begin until details of the paving scheme for the parking areas have been submitted and approved in writing by the Local Planning Authority. Prior to first occupation the paved parking areas shall be completed, in accordance with the approved details, and maintained for the life of the development.
5. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed by the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of contaminants and permit the risk based assessment of the development site. Where the investigations identify the presence of contamination, development shall not begin until a scheme to protect the development from the effects of such contamination has been submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.
6. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed by the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of methane & carbon dioxide. Where the investigations identify the presence of methane and/or carbon dioxide the development shall not begin until a scheme to protect the development from the effects of such gases has been submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.
7. Development shall not begin until details of the type, texture and colour of the brickwork to be used in the construction of the external walls, and the roofing tiles have been submitted to and approved by the local planning authority. Such materials shall, unless otherwise agreed in writing by the local planning authority, closely match in type, texture and colour those of the existing building.
8. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development.

9. All planting, seeding or turfing comprised in the details of landscaping hereby approved shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and any trees, hedgerows or plants contained in the approved planting scheme which within a period of 5 years from the completion of the development, die are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
10. Development shall not begin until details of the visibility splays to be provided at the junction between the proposed means of access and the highway have been submitted to and approved by the local planning authority and no building shall be occupied until the visibility splays have been provided in accordance with the approved details.
11. Landscape plans (including establishment and maintenance programme), taking into account appropriate improvements for nature conservation should be submitted and approved by the Council's Ecological Advisors before any work commences. All works must be carried out in accordance to the approved plans and programmes.
12. Any outside lighting should be close to the ground and directed downwards. It should be activated by a timed sensor with a low movement sensitivity, so as not to be triggered by wildlife. A plan detailing outside lighting will be submitted and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved plan.
13. The demolition of the buildings and clearance of trees and other vegetation should avoid the bird nesting season (February – August inclusive) unless a breeding bird assessment (with recommendations) is carried out by a trained ecologist within 7 days of the works commencing. This should be submitted in writing and approved by the Council before works begin. All works must be carried out in accordance to the approved assessment's recommendations.
14. Any trenches, including foundations, should be covered with boards and ramps placed in them overnight to limit their hazard to badgers. A protocol detailing this will be submitted to and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved protocol.
15. A plan detailing suitable replacement native trees, and their establishment programme, should be submitted and approved in writing by the Council before any works proceed. All works must be carried out in accordance to the approved plan and programme.
16. Development shall not begin until details of the boundary treatment have been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation the boundary treatment shall be completed, in accordance with the approved details, and maintained for the life of the development.
17. No works should commence, or continue, if the most recent protected species survey and assessment is over 12 months old. These surveys and assessments must be of, or above, the standard detailed within the Nature Conservation SPD. They must include the whole of the site and be carried out by an experienced and qualified ecological consultant and integrated into a site mitigation plan. All of these must be submitted to and approved in writing by the Council before any works commence (or continue). All works must be carried out in accordance to the approved plan.

18. Detailed working protocols, based on good practice such as the Pollution Prevention Guidelines PPG1 (general) by the Environment Agency, should be prepared and adhered to during all works. These should ensure no negative impacts could occur, such as contamination, light pollution or disturbance affects the adjacent habitat and/or protected species. The location of the temporary compound should be identified on the plan for plant and material storage during construction. These protocols must be submitted and approved in writing by the Council before any works commence. All works must be carried out in accordance to the approved protocols.
19. If protected species are found during any stage of the development all works must stop immediately and Natural England, the project's ecologist and the Council's Nature Conservation Officer must be contacted immediately. Works should not recommence until relevant licences have been obtained and written permission is granted by Natural England and the Council.
20. Tiles and other features where bats or birds could be present (see the report entitled Initial Bat Survey The Struggling Man Public House, Prospect Row by Middlemarch Environmental dated February 2008 for details) should be removed carefully by hand. If bats or nesting birds are found or suspected all works must stop immediately and Natural England, the project's ecologist and the Council's Nature Conservation Officer must be contacted at once. Works should not recommence until relevant licences have been obtained and written permission is granted by Natural England and the Council. All works must be carried out in accordance to any licences obtained.
21. The development shall not be begun until a scheme for the provision of off site public open space and play area improvements has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
22. The development shall not begin until an updated financial appraisal has been submitted to and agreed in writing by the Local Planning Authority. The financial appraisal would enable the Council to undertake a new assessment of affordable housing provision for the development, the need for additional on or off site affordable housing contributions in the form of an average clause to accurately account for true sales prices/construction costs when known. Any such contributions shall be made before the first dwelling is occupied.
23. Notwithstanding the provisions of the Town and Country Planning General Development Order 1988 (or any order revoking and re-enacting that order), no development referred to in Part 1 Classes A and B of Schedule 2 to that order shall be carried out.
24. The development shall not begin until a detailed plan at the scale of 1:100 that clearly shows the relationship of the delineation between the site boundary and the public right of way has been submitted to and approved in writing by the Local Planning Authority.
25. Development shall not begin until a scheme for protecting the proposed dwellings from noise from the Dudley Southern By-Pass has been submitted to and approved by the local planning authority, and all works which form part of the scheme shall be completed before any of the permitted dwellings is occupied.

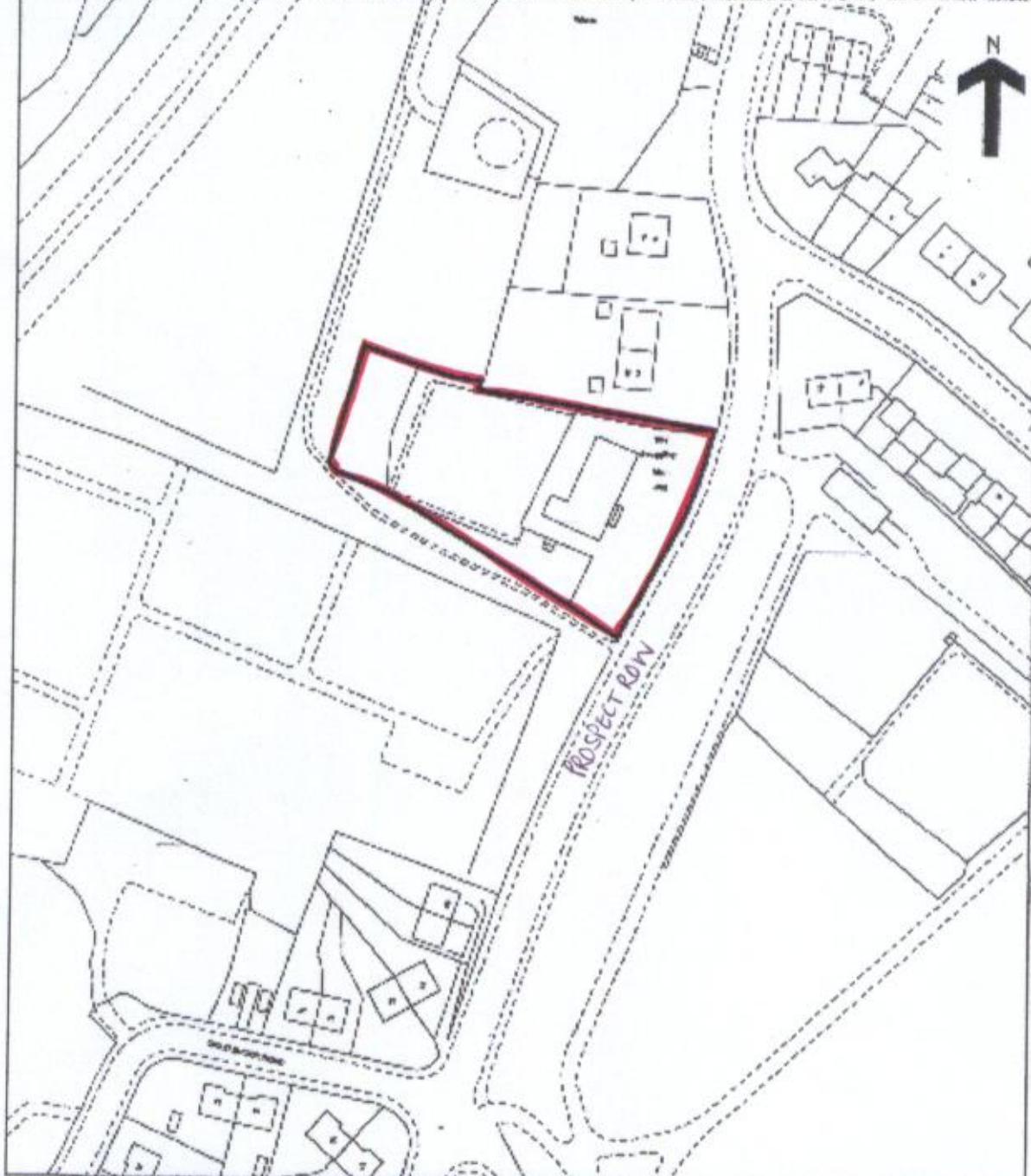
26. Prior to the commencement of the development hereby permitted, details of cycle (and Motorcycle) parking facilities to be provided at the apartments shall be submitted to, and approved in writing by, the Local Planning Authority. The cycle parking facilities so approved shall be provided prior to the use or occupation of any part of the development hereby permitted.

Land Registry
Official copy of
title plan

Title number **WM908541**
Ordnance Survey map reference **SO9489NE**
Scale **1:1250**
Administrative area **West Midlands: Dudley**



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