

## **PLANNING APPLICATION NUMBER:P05/2238**

Type of approval sought	Full Planning Permission
Ward	Belle Vale
Applicant	BJM Properties Ltd
Location:	<b>KINGFISHER WORKS, 35-39, DUDLEY ROAD, HALESOWEN, WEST MIDLANDS, B63 3LS</b>
Proposal	<b>DEMOLITION OF EXISTING WORKSHOPS AND ERECTION OF 3 NO 3 BEDROOM TOWN HOUSES AND 2 NO 2 BEDROOM APARTMENTS WITH ASSOCIATED PARKING (RESUBMISSION OF WITHDRAWN APPLICATION P04/0649)</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

### **SITE AND SURROUNDINGS**

- 1 This 830 sq.m application site is a collection of industrial buildings (with a former use involving tube fittings), with a 3 metre drop from the highway frontage to the vegetated banks of the River Stour at the rear of the site. The site also adjoins the Illey Brook, which runs along the site's southern boundary.
- 2 There is a building at the back of pavement line, with a gated access between that building and the adjoining dwelling, no. 39 Dudley Road. That access leads to an internal courtyard area within the site, enclosed by buildings at the rear and on the southern side, and blank gable and 2 metre high stepped wall to no.39.
- 3 The character of the area is mixed: there are terraced houses either side of the site, also at the back of pavement line, and an industrial estate on the opposite side of Dudley Road (the A459).

## PROPOSAL

- 4 The proposal is a full application for the erection of a terrace of 5 dwellings, comprising 3 houses, and 2 flats above an undercroft which leads through to a parking area at the rear (with 8 spaces shown.
- 5 The dwellings are shown as 2 ½ storey (with dormer windows in the front roof slope and skylights within the rear roof slope) with a mansard roof. The houses are shown with conservatories at the rear and 11 metre long rear gardens. A dwarf wall is shown at the front of the terrace. A retaining wall is shown at the top of the bank to the Illey Brook.
- 6 The applicants have submitted the following documents in support of the application:-
- A marketing assessment;
  - Flood risk assessment;
  - Ecological survey report;
  - Acoustic ventilation information.
- 7 This is a resubmission of a withdrawn application (P04/0649). That was withdrawn in order for the applicants to provide more information on nature conservation, vehicular access, and employment/marketability.

## HISTORY

8. A summary of the planning history is set out in the table below:-

<b>APPLICATION No.</b>	<b>PROPOSAL</b>	<b>DECISION</b>	<b>DATE</b>
PO4/0649	Erection of 5 terraced dwellings	withdrawn	14/02/05

## PUBLIC CONSULTATION

- 9 No representations received.

## OTHER CONSULTATION

- 10 Head of Traffic and Road Safety: subject to the maintenance of satisfactory egress and pedestrian visibility splays, and the provision of a footway crossing, there are no objections in principle.
- 11 Environmental Protection:  
ground contamination  
recommend conditions relating to ground contamination and contamination (soil gases).  
Noise and air quality  
Refusal is recommended due to high levels of traffic noise - the proposed dwellings lie within category D of the noise exposure categories, which determines that the proposal should normally be refused.  
However, should the overall recommendation be for approval, then a condition requiring noise protection measures to be agreed is recommended.  
With respect to air quality, although future occupiers may be exposed to elevated levels of nitrogen dioxide, there is insufficient evidence to recommend refusal.
- 12 English Nature: no objections, subject to the recommendations of the ecological report being implemented.
- 13 Environment Agency: no objections in principle, but recommend conditions on ground contamination, piling foundations, drainage, and an exclusion zone from the watercourse.

- 14 Severn Trent: no objection, subject to a condition requiring drainage details to be approved.

## RELEVANT PLANNING POLICY

- 15 The whole of the site is designated as Linear Open Space Walkway, the land to the west of the River Stour is also a Site of Importance for Nature Conservation.
- 16 The following UDP policies are relevant:-  
DD1- urban design  
DD4 – development in residential areas;  
DD6 - access and transport infrastructure;  
H6 – housing density  
S02 – Linear Open Space;  
S03 – enhancement of LOS;  
DD10 – nature conservation and development  
NC4 – Sites of Importance for Nature Conservation  
EE3 – Existing employment uses  
EP4 – development in floodplains

## ASSESSMENT

### Principle of the development

- 17 There is general planning policy encouragement for making the efficient use of land in the urban area for housing development.
- 18 In terms of housing density, the proposal would result in 62 dwellings per hectare. Given the form of the adjoining development (terraced dwellings), and the close proximity of the application site to the Town Centre, and on a bus route, providing for a sustainable location, the development of the site at that density, is supported.

- 19 In terms of the loss of the employment use, evidence has been supplied by the applicants. In summary, this argues the above site to lack economic viability in industrial employment land use terms.
- 20 That evidence has been assessed. It is considered there is no demand for the use of the site as currently exists, and that the site is not financially viable from an employment land perspective.
- 21 It is therefore considered that the stipulations of UDP Policy EE3 have been satisfied and therefore the principle of redevelopment of the site for an alternative use can be reasonably supported.

#### Nature Conservation

- 22 The Ecological Survey has revealed that no protected species use the site for breeding or resting, but the river edge habitat is important for bats, water vole and kingfisher.
- 23 It is recognised that the river banks are currently in a poor state (structurally weak with embedded rubbish and self set sycamores), and that the proposal provides an opportunity to enhance this habitat and environment.
- 24 Therefore, subject to measures to protect the river corridor and SINCR, including the stabilisation of the bank, and the implementation of an agreed ecological landscape plan, it is considered that not only will there be no undue impact on the nature conservation resource at this location, but that that resource may be enhanced. Conditions are recommended to give effect to this.

#### Highway considerations

- 25 I am mindful that there is an existing access here, and also of the views of the HTRS. Those views are that the proposal is acceptable in general, both in terms of the parking layout and access. This is subject to changes to the access. A pavement crossover is considered more

acceptable than a formal bell mouth junction as currently proposed. This is as dropped kerbs maintain a continuous footway for pedestrians and avoid the need for pedestrian crossings. I have therefore recommended a condition that this be agreed and provided.

#### Flood Risk

- 26 The Environment Agency recognise that this a previously developed site, and that there are existing factory buildings on it, which are directly on top of the Illey Brook bank. While the proposed dwellings are shown within the 8 metre stand-off zone of that watercourse, they consider that, as the proposal represents an improvement to the existing situation, the usual stand-off requirement may be relaxed. They recommend conditions, reflecting that flexibility. These are set out in this report.

#### Amenity of occupiers of adjoining dwellings

- 27 The adjoining property to the north (no. 39 Dudley Road) has a blank gable onto the site, and a 2 metre high boundary wall. The rear building line of that property is approximately 5 metres further back than that of the adjoining proposed dwellings. Given this, and the proposed removal of the industrial use from the site, I consider that the amenity of the occupier of that adjoining will property will be improved.
- 28 The separation distance of 15 metres to the nearest property to the south of the site (no. 35 Dudley Road), with the Illey Brook intervening, and that that property also has a blank gable to the site, leads me to conclude that there will be no impact on the amenity of the occupiers of that property.

#### Amenity of future occupiers

- 29 The HEP has recommended refusal in relation to noise form the highway affecting habitable rooms. That office originally came to the same view on the proposal for 23 dwellings at 63-67 Dudley Road

(P03/2393). However they then amended their position to support that proposal, subject to conditions.

- 30 Notwithstanding this, you refused that application on noise grounds (along with the proposal appearing incongruous within the local environment). Clearly, you have the opportunity to arrive at the same conclusion on the current application, given the similarities between the two developments: the residential redevelopment of industrial sites, with proposed dwellings at the back of pavement line along the same stretch of Dudley Road.
- 31 However, your officers consider, as with the other proposal, that the proposed plots will have a similar arrangement to that seen in the existing terraced houses adjoining the site, and that the level of noise may be significantly reduced by the implementation of noise insulation measures: e.g. whole house ventilation with acoustically attenuated vents, as proposed by the applicants.
- 32 Given this, the benefits to the local environment that it is considered that the scheme will deliver overall, and the need for the proposal to appear in keeping with the character/design of that environment, on balance, it is not considered reasonable to refuse the scheme on noise grounds.
- 33 However, be informed that if you accept such a conclusion, this may have ramifications for the appeal at the Berlyn works site: the grounds relating to noise impact may have to be set aside, and that appeal be debated only on the ground that that development will appear incongruous within the local environment.
- 34 Turning to other matters on amenity, I consider there to be sufficient external amenity space shown to be provided for future occupiers. This is given the proposed garden lengths of 11 metres for the houses, and while no such area is shown for the proposed flats, the outlook from the

rear of those plots will be over to the green space on the opposite bank of the River Stour.

35 The applicants have shown 4 windows on the side elevation to no. 39 Dudley Road, 3 of which are to habitable rooms. I have recommended that those windows be obscured glazed to prevent overlooking into those rooms.

36 I therefore consider that, subject to conditions, an acceptable level of amenity may be provided for future occupiers.

*Design/form of the development*

37 The proposed development, by having a similar forward building line, set back behind a dwarf wall, eaves and ridge line, and fenestration to the adjoining terrace, can be generally viewed as a continuation of that terrace. The undercroft to the parking area to the rear, rather than providing an open gap within the frontage for the access, strengthens that continuation and enclosure.

38 While, the dormer windows on the front elevation are not representative of the vernacular, they have a degree of symmetry and rhythm with the fenestration below, and given the overall compatibility of the proposed design, are not considered to have a significant impact on the overall integrity of the street frontage.

39 Windows to habitable rooms on the rear elevation, particularly from the proposed flats will also provide natural surveillance over the parking area, providing another beneficial feature.

40 Given the above, I consider the design of the proposed dwellings to be acceptable.

**RECOMMENDATION**

41 Approval is recommended, subject to the applicants entering into a Section 106 Obligation for the enhancement of children's play and open space provision in accordance with adopted Unitary Development Plan Policy and Subject to the following conditions.

42 **Reason for approval**

The Local Planning Authority consider that it has been sufficiently demonstrated that the site may be released as an employment site for an alternative use. The scheme also provides a sufficient level of amenity for future occupiers without unduly prejudicing that of existing residents. It is also considered that the proposal will give rise to an enhancement of the nature conservation interest at the locality. It is also of a satisfactory design. There is therefore concurrence with the development plan, in particular policies DD4, DD6, NC4 and EE3 of the adopted Unitary Development Plan.

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. None of the dwellings shall be occupied until works for the disposal of foul and surface water drainage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Local Planning Authority.
3. Soakaways shall only be used in areas on the site where they would not present a risk to groundwater.
4. Any facilities for the storage of oils, fuels or chemicals must be sited on impervious bases, and surrounded by impervious bund walls. The size of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should be at least equivalent to the capacity of the largest tank plus 10%. All filling points, vents, and sight glasses must be located within the bund. There must be no drain through the bund floor or walls.
5. All surface water drainage must be passed through a suitably sized oil interceptor prior to being discharged into any watercourse, surface water sewer, or soakaway system. Roof water should not be passed through the interceptor.

6. Development shall not begin until details of the existing and proposed levels of the site, which should be related to those of adjoining land and highways, have been submitted to and approved by the local planning authority.
7. Details of the proposed retaining walls, and other stabilisation works to the banks of the watercourses alongside the southern and eastern boundaries of the site shall be submitted to and approved by the Local Planning Authority before development is commenced and the development shall not be occupied until the retaining walls and boundaries of the site shall be submitted to and approved by the Local Planning Authority until the retaining walls and other stabilisation works have been constructed in accordance with the approved plans.
8. 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.
9. 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.
10. No development shall commence until the method for piling foundations has been submitted to and approved in writing by the Local Planning Authority. The piling shall thereafter be undertaken in accordance with those approved details.
11. Other than the approved siting of the plots and other approved works on the site, as shown on plan no. 02-510-121D, there shall be no new buildings, structures (including gates walls and fences) or raised ground levels within:
  - 8 metres of the top of any bank of watercourses and/or,
  - 8 metres of any side of an existing culverted watercourse, inside or alongside the boundary of the site, unless otherwise agreed in writing by the local Planning Authority.

12. Before any dwelling hereby approved is first occupied the parking area and access thereto shall be paved with a suitable hard impervious material, and drained.
13. Development shall not begin until details of the type, texture and colour of materials to be used in the external elevations have been submitted to and approved by the local planning authority.
14. No development shall commence until details of boundary treatment across the application site has been submitted to, and approved in writing by, the Local Planning Authority. The approved boundary treatment shall be installed before the first occupation of the approved dwellings.
15. 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. Unless otherwise agreed in writing by the Local Planning Authority, these details shall include measures to tidy up and enhance the landscaping and nature conservation value of the banks of the watercourses adjoining the site, including the provision of planting and water vole habitat creation.
16. All planting, seeding or turfing comprised in the details of landscaping approved in accordance with condition 15 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.
17. No construction, engineering works or level changing activity shall be carried out, and no materials deposited, outside the application site, without the prior written approval of the Local planning Authority.
18. Unless otherwise agreed in writing by the Local Planning Authority, no development shall commence until details of measures to eradicate Himalayan Balsam on the site have been submitted to and approved in writing by the Local Planning Authority, Such measures shall be implanted in accordance with an approved timetable to be agreed as part of those measures.
19. Before demolition works commence on the site, a Method Statement relating to the demolition of buildings on the site shall be submitted to the Local Planning Authority to include the timing of works, and contingency measures should bats or other protected species be found during these works. Demolition works shall be undertaken in accordance with these approved details. Reason: to protect the nature conservation interest on the site, in accordance with Policy DD10 of the UDP.
20. Development shall not begin until a scheme for protecting the proposed dwellings from noise from the highway has been submitted to and approved by the local planning authority. Unless otherwise agreed in

writing by the Local planning Authority the noise protection scheme shall include acoustic glazing and acoustic mechanical ventilation to all fenestration on the Dudley Road façade. All works which form part of this scheme. All works which form part of the scheme shall be completed before any of the permitted dwellings on those plots is occupied.

21. Notwithstanding the notation on the approved plans, and unless otherwise agreed in writing by the Local Planning Authority, the windows shown on the southern elevation shall have obscure glazing. Reason: to safeguard the amenity of the future occupiers, and thereby ensure compliance with Policy DD4 of the UDP.
22. Before development commences, details of the vehicular access and visibility splays shall be submitted to and agreed by the Local Planning Authority. Unless otherwise agreed in writing by the LPA such details shall show the access as a footway crossing. The approved details shall be implemented prior to the first occupation of the development hereby approved.
23. This permission relates to the following plans: drawing numbers 02-510-120B and 02-510-121D.