

# PLANNING APPLICATION NUMBER:P07/1889

Type of approval sought	Full Planning Permission
Ward	
Applicant	Balanced Life Homes Ltd
Location:	<b>LAND ADJACENT TO AND INCLUDING, OSPREY FABRICATIONS LTD &amp;, CHRIS STURGES PLANT HIRE LTD, LYDE GREEN, HALESOWEN, WEST MIDLANDS</b>
Proposal	<b>RESIDENTIAL DEVELOPMENT OF 18 NO. 1 AND 2 BEDROOM APARTMENTS AND 20 NO.2 AND 3 BEDROOM HOUSES. (RESUBMISSION OF WITHDRAWN APPLICATION P07/0753).</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

## SITE AND SURROUNDINGS

- 1 The site is 0.77 hectares in size and lies on the northern side of Lyde Green, where the road splits with an island of development in the middle which includes the Vine Inn. To the rear of the site (north) is the River Stour, with an industrial area beyond (that side of the river falls within the jurisdiction of Sandwell MBC). To the east of the site, and at the front of it, is Lyde Green café, a two storey property residential in style, with housing further to the east along Lyde Green on both sides. To the west of the site, there are also residential properties, as well as on the central area adjacent to the Inn.
- 2 The site itself comprises several parts. To the west is a vacant area of land enclosed by tall conifers with residential properties beyond, and 2m high fencing to the other boundaries. In the centre of the site is the Osprey fabrications building, set back from the road frontage with car parking area and 2m high palisade fencing along the frontage. At the rear of this building is a van hire and sales business, operating from mobile buildings. In the eastern part of the site is the now vacated Sturges plant hire site, which is hard surfaced and enclosed by 2m high palisade fencing, with various low buildings and mobile buildings on the site. This site has

road frontage, with the boundary also wrapping around behind the Lyde Green café at the eastern end.

- 3 The site is in a predominantly residential area, with some small scale commercial uses. The site falls steeply to the north, from Lyde Green down to the river, which lies in a wooded cutting (up to 18 metres levels difference).

## PROPOSAL

- 4 This is a full application for the demolition of the existing industrial premises and the erection of 38 dwellings, comprising 9 no. 2 bed houses, 11 no. 3 bed houses and 16 no. 2 bed apartments and 2 no. 1 bed apartments. 11 of those dwellings are proposed as affordable housing units (29 % of the total), comprising 4 no. 2 bed and 2 no. 1 bed apartments, 3 no. 2 bed houses and 2 no. 3 bed houses.
- 5 The apartments are shown in a single block in the eastern part of the site. That block comprises a 3 ½ storey central section, with the two halves of that section angled at 45 degrees from each other, and 2 ½ storey wings. The roof style is shown as a mansard. Glass fronted stairwells, canopies above entrance points, roof windows and Juliet balconies also feature. There is a communal parking area alongside that block, with 27 associated parking spaces. There are 3 no. 2 bed terraced houses proposed in the eastern part of the site, with tandem spaces set out parallel to the front building line of those dwellings.
- 6 A row of 6 no. terraced houses is proposed fronting onto Lyde Green in the western part of the site, alongside which 3 no. terraced houses are shown sited perpendicular to that highway fronting a proposed access road. At the rear of the site, eight houses are shown split into two blocks, with rear gardens backing onto the boundary of the site with the sloping land in the River Stour cutting.
- 7 The steep, planted belt adjacent the River Stour currently fenced off and is proposed to remain as such, and not be included in the redevelopment of the site.

However, the applicants have indicated that they are willing to enhance that area for nature conservation purposes.

- 8 The proposed access into the site is shown in approximately the same position as an existing access point into the Sturges Plant Hire site. A short cul-de-sac is shown coming into the centre of the site with communal parking areas and driveways to the 3 bed dwellings at the rear of the site. Parking for the 6 no. 2 bed terraced houses fronting Lyde Green is shown in a bay off the highway, with further spaces in the communal parking area at the rear.
- 9 The application is supported by a design and access statement, a protected species survey, an affordable housing statement, a flood risk statement, information on invasive plant species, a travel plan statement and information seeking to justify the loss of the existing employment use for an alternative use.
- 10 Amended plans have been submitted to address issues relating to access and parking and design (particularly in relation to the design of the apartment block) along with further information seeking to justify the loss of employment land. The changes to the layout have also resulted in the loss of a mature tree near to the western boundary of the site. The local community have been re-consulted on the amended plans.

## HISTORY

- 11 A summary of the relevant planning history is set out in the table below:-

<b>APPLICATION No.</b>	<b>PROPOSAL</b>	<b>DECISION</b>	<b>DATE</b>
P07/0753	Residential development of 24 no. 3 bed dwellings	Withdrawn	07.06.07

- 12 The above application was withdrawn following notice that it was being recommended for refusal on the grounds relating to: lack of information to support the loss of employment land; it would not provide for a range of sizes and types of dwellings; possible unacceptable harm to nature conservation; impact on amenity; lack of an open space contribution; lack of a travel plan; lack of cycle parking; inadequate parking and access arrangements.

## **PUBLIC CONSULTATION**

- 13 Three letters of objection have been received. The issues raised in summary are:-
- Increase in traffic volumes;
  - Traffic congestion;
  - Concerns on housing type;
  - The amended plans show plots closer to the boundary with the rear of the dwellings fronting Wesley Avenue – this will cause overshadowing;
  - Objections to the loss of existing trees.

## **OTHER CONSULTATION**

- 14 Group Engineer (Development): raised concerns on the initially submitted scheme, particularly with regard to the parking layout (under provision in parking, inadequate bay widths) and road gradients – amended plans have been submitted, in part, to address those concerns – these are considered satisfactory subject to relatively minor revisions – e.g. to show pedestrian access from the parking spaces at the rear of Plots 25 to 30 to the dwellings they are associated with.
- 15 The Head of Public Protection: recommend conditions relating to contaminated land and that a noise survey be undertaken and mitigation measures prescribed.
- 16 Environment Agency: no objections (the site is sufficiently raised above the River Stour floodplain so that there is no significant flood risk).

- 17 Sandwell MBC: No objection received – the area on the opposite side of the River Stour is likely to remain in a business use, and opportunities should be taken to contribute towards the implementation of aspects of the River Stour Action Plan
- 18 Crime reduction officer: comments that the communal parking areas should have a different surface to the cul-de-sac stub to denote private space.

## RELEVANT PLANNING POLICY

- 19 Adopted Unitary Development Plan (2005)
- DD1 Urban design
  - DD4 Development in residential areas
  - DD6 Access and transport infrastructure
  - DD7 Planning obligations
  - DD8 Provision of open space, sport and recreation facilities
  - EE3 Existing employment uses
  - AM11 Cycling
  - AM14 Parking
  - H1 New housing development
  - H3 Housing assessment criteria
  - H4 Housing mix
  - H5 Affordable housing
  - H6 Housing density
  - NC5 Sites of local importance for nature conservation
  - SO2 Linear open space
- 20 Supplementary Planning Documents
- Parking and travel plans SPD
  - New housing SPD

## ASSESSMENT

- 21 The key issues in the determination of this application are:
- The principle of residential development on a former employment site;

- The density of the development;
- The design of the proposed development;
- The impact of the proposal on the nature conservation and habitats of the site and its surroundings;
- The impact of the proposal on highway safety and parking;
- Impact on amenity;
- Potential flood risk;
- Planning obligations required due to the nature of the proposal

### Principle

- 22 The site lies within a residential area, however it is currently and was last used for employment purposes. Therefore the proposal should be considered with regard to UDP Policy EE3, which seeks to protect the Borough's stock of employment land for the future. The onus is on the applicant to demonstrate that the site is no longer viable for employment uses.
- 23 To address this issue, the applicants have submitted the following information –  
 A nearby industrial site (between Bridge Street and Lyde Green) has been (unsuccessfully) marketed for 3 years – *this is designated as a Local employment Site within the UDP*;  
 Osprey are looking to reduce operational costs by moving to a smaller unit (in the Cradley/ Halesowen area);  
 Chris Sturges Plant Hire tried to sell the company as a going concern, but offers were not forthcoming due to losses made in the last years of trading;  
 The western part of the site (now vacant) was used for the storage of vehicles until 2003, when the occupiers relocated;  
 The River Stour forms a natural boundary between housing on the Dudley side and industry on the Sandwell side;  
 It is contended that the continuing use for employment use impacts adversely upon the residential amenity of the adjoining occupiers;  
 A Risk Improvement Programme has been submitted for the Osprey premises;  
 Access to the site for employment uses is far from satisfactory –  
 The western approach to the site narrows to a pinch-point with no footway;

The road serves dwellings at both ends;

There is an advisory road sign at either end stating that the road is unsuitable for vehicles over 6ft 6in in width – while another sign states that the road is unsuitable for heavy goods vehicles;

The site owners have written in stating the problem they have experienced with the access.

- 24 It is considered that the applicants have submitted evidence from commercial agents and site occupants that demonstrates that a good quantity of alternative vacant industrial premises are available in the wider area, and thus that a lack of market demand exists for the application site. Given this, and that, significantly, access problems to the site have been evidenced, it is considered that, in applying UDP Policy EE3, there is significant justification for the release of this employment site to an alternative use.
- 25 Also in terms of principle and overall environmental impact, the proposal has been assessed under the Environmental Assessment Regulations – an EA is not considered necessary – a similar conclusion was arrived at with the withdrawn application – P07/0753.

#### Density

- 26 The density of the proposed development amounts to 49 dwellings per hectare. This is considered appropriate in this location in meeting the minimum encouraged threshold of 30 dwellings per hectare, while reflecting the density of the (terraced) housing around the site, with the site in a relatively sustainable location – close to bus stops and with Cradley Heath Town Centre nearby (the applicants state that it is a 5 minute walk away).

#### Design

- 27 There are positive aspects of the design of the proposed dwellings, particularly the manner in which the proposed dwellings in the south western part of the site have the effect of re-introducing an active frontage and streetscene there, while reflecting

the design of the existing terraced houses in the street, including the proposed front gardens enclosed by a low wall and railings.

- 28 Other aspects of the design are considered satisfactory, including the breaking up the communal parking areas with landscaping and the proposed use of grasscrete for a number of the car parking spaces.
- 29 The design of the apartment block has been an issue for negotiation. Previous versions of the scheme have shown this block on columns with parking underneath and at 4 storeys in height. Amendments have been undertaken, seeking to ensure that the massing of that block is reduced and that it assimilates in with the rest of the development without unduly impacting on the amenity of future occupiers.
- 30 These amendments show that block to have a 3 ½ storey central section and 2 ½ storey wings. Those wings are shown with a ridge height commensurate with that of the adjoining proposed terraced houses, and with other design lines carrying through from the proposed dwellings to the apartment block. It is therefore considered that the apartment block can now be viewed as satisfactorily assimilating in with the rest of the development.
- 31 The revised design of the apartment block, along with the rest of the scheme is now considered satisfactory and in compliance with UDP policies DD1 and DD4.

#### Nature Conservation

- 32 The site is designated within the River Stour Linear Open Space walkway network, with that part immediately adjoining the river, a designated Site of Local Importance for Nature Conservation.
- 33 The applicants have stated that they would be willing to undertake works in that part of the site to the north of the development area to the River Stour to enhance its nature conservation value, while addressing the possibility of providing a walkway through there. This is considered a positive aspect of the scheme, and along with the other proposed landscaping across the site. That landscaping will also help



compensate for the loss of the mature (black poplar) tree in the north west corner of the site, which, in any case, would be likely to overshadow the gardens of the proposed dwellings, potentially leading to its future pruning or removal.

- 34 The submitted bat survey revealed no evidence of any tree, building or other structure currently being used, or used in the past, as a bat roosting location. In addition, no evidence of any significant foraging by bats was observed. Notwithstanding this, it is considered that the enhancement of the River Stour corridor provides the opportunity for protected species habitat creation.

35 Highway safety and parking

The scheme has been revised to address the initial concerns of the Group Engineer with regard to parking provision, with the spaces in front of plots 31 to 34 at the rear of the site adjusted so as to more closely relate to the dwellings they are intended to serve. In addition: pull – in spaces off Lyde Green are shown in front of plots 25 to 30 (to help provide sufficient parking space numbers); a set of tandem spaces at the rear of proposed plot 22 has been relocated to the rear communal parking area (to allow that dwelling to have more amenity space); the grasscrete treatment of parking spaces in front of proposed plots 35 to 38 and the communal parking area being broken up by planting ensures the provision of sufficient parking within the scheme while not making it appear over dominant.

- 36 The proposed access is in a similar location to an existing access. Cycle storage areas are shown within the stairwells of the apartment block. It is recommended that the parking area be revised to address the Group Engineer's comments with regard to, in particular, pedestrian access from the parking spaces to the plots they are associated with.

- 37 Given the above, it is considered that there will be no impact on highway safety arising, with the removal of heavy goods vehicles from this relatively narrow stretch of highway benefiting the local environment.

38 Amenity Issues

There is considered to be sufficient separation distance of 4 metres between the existing dwelling to the west of the site and the nearest proposed plot so as not to unduly impinge on the amenity of the occupier of that dwelling.

39 In relation to the existing dwellings in Wesley Avenue, the separation distance between those houses and the side elevation of the nearest plot (Plot 31) is approximately 24 metres. Notwithstanding that that plot is proposed on ground which is approximately 4 metres higher than the existing dwellings, that amount of separation and that there is scope for landscaping on the site in the intervening land, prevents any significant impact on amenity arising.

40 Given the proposed arrangement of the plots, there will also be no direct overlooking between the existing dwellings at the eastern end of the site 78, 76 et seq. and the nearest proposed plots (19 to 21).

41 In terms of the amenity of future occupiers, the proposed rear garden lengths range from 8.5 to 12.5 metres in length, which is considered adequate. While there is limited amenity space shown at the rear of the apartment block (a 5 metre strip), it is acknowledged that future occupiers of that block will overlook the vegetated River Stour corridor (proposed to be enhanced as part of this scheme) at the rear, and a landscaped parking area at the front.

42 The Head of Public Protection, while acknowledging that currently there are no ongoing significant activities of concern arising from the industrial uses on the other side of the river (in Sandwell MBC's area), has recommended a noise survey be undertaken and that this would inform the level and nature of noise mitigation required. A condition has been recommended to give effect to this – subject to such a requirement, it is considered that there would be no significant impact on the amenity of existing occupiers with sufficient amenity available for future occupiers.

43 Flooding and drainage

There are no objections in principle from the EA, who acknowledge that the site is sufficiently raised above the floodplain of the River Stour so that flood risk is not a significantly material issue.

44 In their comments on the withdrawn application (P07/0753), the EA referred to surface water being controlled through a sustainable drainage approach to surface water management. In their submission on the current application, the applicants have confirmed that they are proposing to incorporate sustainable drainage into the scheme by the use of SUDS – a combination of both water butts to rainwater pipes and soakaways within gardens. A condition is therefore recommended to require such measures (this is recommended condition 12, which refers to general EA requirements).

45 Contributions

The scale and nature of the development requires measures to provide for off site open space enhancement and affordable housing. (It should be noted that this application was submitted prior to the new Supplementary Planning Document on contributions coming into effect.)

46 In terms of open space enhancement a sum of £67,188.51 has been agreed. With regard to affordable housing units, 11 units (or 29%) are proposed to be allocated as such, comprising 5 houses and 6 flats. The applicants' have offered to provide such measures, which are consistent with the development plan requirements, specifically UDP policies DD7, DD8 and H5.

## CONCLUSION

47 There is sufficient information to enable the site to be released from an employment use to an alternative use. The layout of the site and the design of the apartment block have been revised so as to enable the development to be better assimilated within the existing townscape and the elements within the scheme being more responsive to each other. The revised layout has also enabled sufficient parking to

be provided. In addition, a satisfactory level of amenity for future occupiers can be achieved without unduly impacting on the amenity of existing residents, affordable housing is proposed and the proposal gives the scope to enhance the River Stour corridor both as an area of linear open space and also to enhance the nature conservation value of that area.

## **RECOMMENDATION**

- 48 It is recommended that the application be approved, subject to –
- a) The development not beginning until a scheme for the submission and approval of a Planning Obligation to guarantee the provision, maintenance and enhancement of off site public open space and play provision, and affordable housing, has been submitted to and approved in writing by the Local Planning Authority.
  - b) The following conditions, with delegated powers to the Director of the Urban Environment to make the necessary amendments to these as necessary.

### **Notes For Applicant**

A. The development hereby permitted shall be built in accordance with the approved plans numbered – (O.S.) Location plan, dml489.dxf, 630 10 Rev. E, 630 11 Rev. D, 630 12 Rev. B, 630 13 Rev. A, 630 14 Rev. A, 630 15 Rev. A, 630 18 Rev. B, 630 19 Rev. A, 630 20 Rev. C, 630 25, unless otherwise agreed in writing by the Local Planning Authority. This is subject to any approved amendments which might be either minor amendments agreed through correspondence, or an application to vary the consent, the conditions or a whole new application for the site or part of it.

### **Reason for approval**

There is sufficient information to enable the site to be released from an employment use to an alternative use. The layout of the site and the design of the apartment block have been revised so as to enable the development to be better assimilated within the existing townscape and the elements within the scheme being more responsive to each other. The revised layout has also enabled sufficient parking to

be provided. In addition, a satisfactory level of amenity for future occupiers can be achieved without unduly impacting on the amenity of existing residents, affordable housing is proposed and the proposal gives the scope to enhance the River Stour corridor both as an area of linear open space and also to enhance the nature conservation value of that area. There is therefore concurrence with the development plan, in particular UDP policies DD1, DD4 and H3, H5 and EE3.

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.

#### 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. The development shall not be begun until arrangements for the submission and approval of a means to guarantee -
  - a) the financial payment of a total sum of £67,188.51, increased through index linking from the 1st April each subsequent year in accordance with the Council's policy, to the Council for the-
    - i) provision of off site public open space and play area improvements,
    - ii) managing and monitoring of the spend of those monies, and
    - iii) timing of the payment,
  - b) the provision of 11 affordable housing units,has been submitted to and agreed in writing with the Council.
3. Development shall not begin until details of plans and sections of the lines, widths, levels, gradients and form of construction of service/access roads, including surface treatment, and drainage systems have been submitted to and approved in writing by the Local Planning Authority.
4. 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.
5. Before any dwelling hereby approved is first occupied the parking area and access thereto shall be paved with a suitable impervious material, and drained.
6. Development shall not begin until details of the type, texture and colour of materials to be used in external elevations have been submitted to and approved by the Local

Planning Authority. The development shall be constructed using the approved materials.

7. No development shall commence until details of the proposed boundary treatments for the site have been submitted to and approved in writing by the Local Planning Authority, with the approved details installed prior to the first occupation of the approved housing on the site.
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 also contain details of specific materials to be utilised for hardscaping and differentiation of surface areas. Unless otherwise agreed in writing by the Local Planning Authority, the scheme shall include details of the landscape enhancement of the River Stour corridor, between the development area and the river course, specifically to -
  - i) enhance that area's nature conservation value, 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 of that area in the course of the development;
  - ii) the potential for the forging of a footpath link through that land, parallel with the river.

The approved landscaping scheme shall be implemented in accordance with a timetable to be agreed with the Local Planning Authority.

9. All planting, seeding or turving comprised in the details of landscaping approved in accordance with Condition 8 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. Prior to the commencement of development, a scheme for provision of bat roosting sites and bat foraging habitats shall be agreed in writing with the Local Planning Authority. The development shall be implemented in accordance with those details agreed.
11. Unless otherwise agreed in writing by the Local Planning Authority, no development is to take place until a scheme for the treatment of Japanese Knotweed and the prevention of its spread, has been approved in writing by the Local Planning Authority. The development must be implemented in accordance with the approved scheme, which in turn must be fully implemented prior to the first occupation of any of the residential units.
12. Unless otherwise agreed in writing, prior to the commencement of development, details shall be submitted to deal with the site investigation for contamination and remediation, flood risk mitigation and drainage as contained within Environment Agency letter reference UT/2007/1001373/01-L01.
13. Unless otherwise agreed in writing by the Local Planning Authority, prior to the commencement of development, details of any existing retaining walls to be retained and any proposed retaining walls to be constructed within and/or adjacent to the site, shall be submitted to, and approved in writing by, the Local Planning Authority. The dwellings shall not be occupied until existing retaining walls are made

good and/or new retaining walls are constructed in accordance with the approved details.

14. Prior to the commencement of the development hereby approved a scheme for public realm lighting shall be submitted to and approved in writing by the Local Planning Authority. The lighting shall be maintained in accordance with the approved scheme for the life of the development.
15. 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.
16. 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.
17. No development shall commence until a noise protection survey is carried out and submitted to the Local Planning Authority for approval. That survey shall also incorporate recommended measures to safeguard the future occupiers of the dwellings from noise from the existing factories on the opposite side of the river. Agreed measures shall be incorporated within the development site prior to occupation of any dwellings. All measures designed to attenuate noise shall be retained for the life of the development.
18. Notwithstanding the notation shown on the approved plans, no development shall commence until details of the treatment of the side elevation of Plot 22 onto Lyde Green has been submitted to and approved in writing by the Local Planning Authority. Plot 22 shall be constructed so as to incorporate that agreed treatment.
19. Notwithstanding the approved layout, no development shall commence until a revised parking layout for the site has been submitted to and approved in writing by the Local Planning Authority. That layout shall show revisions to include: pedestrian access between the car parking spaces at the rear of Plots 25 to 30 and the plots they are intended to serve; the provision of an additional (tandem) car parking space at the rear of Plot 24; the removal of the car parking space at the side of Plot 24; the extension of the western arm of the cul-de-sac hammerhead as far as the western side boundary of plot 35. The parking area shall be set out in accordance with these approved, revised details, subject to the provisions of conditions 3 and 5 attached to this permission and prior to the occupation of the dwellings.