

# PLANNING APPLICATION NUMBER:P07/1120/E1

Type of approval sought	Full Planning Permission
Ward	Amblecote
Applicant	Rawlings, Smith, McCarron
Location:	<b>140, THORNS ROAD, BRIERLEY HILL, DY5 2JU</b>
Proposal	<b>EXTENSION OF TIME OF PREVIOUSLY APPROVED APPLICATION P07/1120 FOR 'ERECTION OF 3 NO. 2 BEDROOM TOWN HOUSES AND 6 NO. 1 BEDROOM APARTMENTS.</b>
Recommendation Summary:	<b>APPROVE SUBJECT TO A 106 AGREEMENT</b>

## INTRODUCTION

This application was deferred from the Development Control Committee Meeting on the 13<sup>th</sup> December so that consideration could be given to a petition of objection that had been received.

This report has been updated to include that petition and any other information contained within the pre-committee note.

## SITE AND SURROUNDINGS

1. The application site is a vacant site located at the corner of Thorns Road and Brandon Road, a small side road consisting of 1960's houses and a modern development of detached houses. The site was formerly occupied by a dormer bungalow. The wider area is characterised by housing which varies in age and type. The site is bounded by the gardens of properties on Thorns Rd and Brandon Way to the north and west respectively.

## PROPOSAL

2. Planning permission was given on appeal in 2008 to demolish the existing bungalow at the site and to erect a three storey building with frontages to both Thorns Road and Brandon Way providing 6no.1-bedroom apartments, and 3no. 3-bedroom townhouses to be located adjacent no.2 Brandon Way. This is an application to extend the time for the implementation of that permission, no amendments or alterations to the scheme are being sought.
3. The approved plans showed a four-space parking area to the front of the site accessed directly off Thorns Road and two further parking spaces to the rear accessed from Brandon Way. Three cycle spaces and a 143 sq.metre amenity area were also to be provided. The proposed houses each had 10m long rear gardens and one off-street parking space.

## HISTORY

4.

APPLICATION	PROPOSAL	DECISION	DATE
P07/1120	Erection of 3no. 2-Bed Town Houses and 6no. 1-Bed Apartments	Refused	August 2007

5. The application was refused by Development Control Committee for the following reasons:
  1. The proposal, by reason of its density and scale, constitutes an inappropriate form of development which would have an adverse effect on the character of the surrounding area.
  2. The proposal fails to provide sufficient off-street parking, with the potential for vehicles to park on Brandon Way or Thorns Road to the detriment of highway safety.

6. A subsequent appeal was allowed in January 2008.

## **PUBLIC CONSULTATION**

7. A petition of objection has been received, signed by the occupants of 15 properties on Brandon Way and 4 properties on Thorns Road. Their objection is based on the grounds of density and parking.

## **OTHER CONSULTATION**

8. Group Engineer Development: Refusal of the previous application was recommended, however the inspector at appeal decided that the site was in a sustainable location and even though there was a shortfall of parking from the councils maximum standards people who lived there would not necessarily require a car.

The Inspector in his decision did not consider paragraph 51 of PPS3, which requires that local authorities take account of the expected levels of car ownership in residential developments. At the time of the previous application the Council had no evidence of what the expected levels might be.

Since then the Council has undertaken surveys and now has a substantial evidence base to determine the level of car ownership. The findings of the surveys indicate there is no relationship between car ownership rates and the location in terms of sustainability i.e. near a town centre or major public transport hub or route. This evidence is contrary to the inspectors view.

A point to note is that the inspector made his decision referring to 2 bed dwellings for the houses and 1 bed apartments, the houses clearly have the potential to be 3 bedrooms with the upper floor room labelled as a study room. The drawings for the one bedroom apartments show a lounge with a dining room. It is possible that the dining room could be used as a second bedroom.

The council's new evidence base can determine expected parking levels based on habitable rooms which looks at the size of the dwelling and the number of people that are likely to live there rather than bedroom definition. Using this new evidence we would expect 6 cars for the houses and 9 cars for the apartments. With the inclusion of visitors this will rise to a total parking requirement of 18 vehicles.

The development provides for 7 accessible spaces as the parking provision fronting Thorns Road can only practically provide for 2 spaces. This will result in up to 11 vehicles being parked on the highway. Thorns Road is a 40 mph road and Brandon Way is very narrow, both are unsuitable for on street parking. Given that parking could occur at the junction it is considered that the development will result in inconvenience to residents and also produce a road safety hazard.

In conclusion, the Highway Authority has provided new evidence to counter the original inspectors decision. The objection to the development is maintained as it will be detrimental to road safety, contrary to Policies DD4 and DD6 of the UDP.

Should the development be approved it is recommended that the developer contribute £5000 to the implementation of a prohibition of waiting.

9. Head of Environmental Health: No objection subject to conditions relating to grounds gases and noise protection measures.

## RELEVANT PLANNING POLICY

10. Adopted UDP (2005)

Policy DD4 (Development in Residential Areas);

Policy DD7 (Planning Obligations)

11. Supplementary Planning Documents: Planning Obligations SPD.

## ASSESSMENT

12. The key issue is whether there have been any material change in circumstances since permission was originally granted in 2008 that would prevent an extension of time for the implementation of the development.
13. Policy DD4 advises that new development in residential areas will only be allowed where there would be no adverse effect on the character of the area or residential amenity, where the scale and intensity of the proposed development would be in keeping with the surrounding area, and where adequate provision for the parking and manouvering of vehicles is made.
14. In assessing the appeal against the refusal of the previous application (P07/1120) the Inspector considered that the development would be in accordance with Policy DD4 of the UDP which requires the character of the area to be maintained. The Inspector was also of the opinion that parking provision would be in accordance with the Council's parking standards and the provisions of Policy DD4 on parking. Given that there are no changes being proposed to the approved scheme it is considered that the proposal remains in compliance with the requirements of Policy DD4.
15. A condition was imposed by the Inspector requiring the submission of a scheme for the provision of off-site public open space and play area improvements, in accordance with Policy DD8 of the UDP (which requires that new developments should contribute to recreation facilities/open space in the wider area in line with the increase in users). The imposition of the condition was the only mechanism available to the Inspector to ensure that a Section 106 Agreement would be entered into in respect of a contribution to recreation/open space facilities.
16. Since the appeal decision the Council has adopted an SPD on Planning Obligations which was revised and adopted again in March 2009. The SPD constitutes a material consideration in applications for an extension of time and as such the Council can reassess the Section 106 Agreement in the light of the requirements of the adopted SPD currently in force.

17. Policy DD7 of the UDP requires applicants to enter into planning obligations in order to safeguard the local environment and/or compensate for additional burdens placed by the development on community facilities and infrastructure. In this case, in accordance with the provisions of Planning Obligations SPD, the following contributions are to be sought:

- Open Space, Sport and Recreation Contribution - £12712.94
- Library Contribution - £1722.51
- Transport Infrastructure Improvements Contribution - £2377.55
- Public Realm - £4306.77
- Nature Conservation Improvements - £416
- Management and Monitoring Costs - £1000

The total offsite contribution equates to £22,535.27. The applicant has agreed to pay the contribution.

## CONCLUSION

18. The proposed extension of time application would not have any detrimental impact on the character of the area, residential amenity or highway safety and would be of a scale and intensity which would be in keeping with the surrounding area. As such the proposal does not contravene Policy DD4 of the UDP.

## RECOMMENDATION

19. It is recommended that the application be approved subject to:

- a) The development not commencing until a scheme for the submission and approval of a planning obligation to guarantee contributions towards open space, sport and recreation improvements, library improvements, transport infrastructure improvements, public realm improvements, nature conservation improvements and a management and monitoring charge totalling £22,535.77, has been submitted to and agreed in writing by the Local Planning Authority.

- b) The Scheme shall include the method, timing and arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary

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. Development shall not commence until an arrangement for the provision of transport infrastructure improvements, library improvements, open space and play area improvements, public realm improvements, nature conservation improvements and management and monitoring costs 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.
3. Prior to the commencement of development details of the existing and proposed levels of the site (including finished floor levels), which should be related to those of adjoining land and highways, shall be submitted to and approved in writing by the local planning authority. The development shall proceed in accordance with the approved levels.
4. Prior to the occupation of the dwellings hereby approved, the parking and turning areas shown on the approved plan shall be provided and thereafter maintained for these purposes for the lifetime of the development.
5. An investigation of ground gases and vapours must be completed in accordance with the following requirements:

a: Risk assessment

No development shall begin until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.

b: Submission of remediation scheme

Where the approved risk assessment identifies ground gases or vapours posing unacceptable risks, no development shall begin until a detailed scheme to protect the development from the effects of such contamination has been submitted to and approved by the local planning authority.

c: Implementation of approved remediation scheme

Unless otherwise agreed in writing with the LPA, the approved scheme shall be implemented and a verification report submitted to and approved by the LPA, before the development (or relevant phase of the development) is first occupied/brought into use.

6. No development shall commence until a scheme for protecting the dwellings on plots 4-9 from road traffic noise has been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed as approved before any dwellings on these plots are occupied.





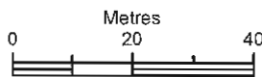
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