

PLANNING APPLICATION NUMBER:P05/2393

Type of approval sought	Outline Planning Permission
Ward	Castle & Priory
Applicant	Richborough Estate
Location:	LAND ADJACENT TO PARKINSON HOUSE, JEWS LANE, DUDLEY
Proposal	RESIDENTIAL DEVELOPMENT (OUTLINE) (SITING, DESIGN, EXTERNAL APPEARANCE AND LANDSCAPING RESERVED FOR SUBSEQUENT APPROVAL)
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

ADDITIONAL OBSERVATIONS FOLLOWING 16TH JANUARY COMMITTEE

The pertinent points of Thomas Lister report are:-

1. The site is unsuitable for office development.
2. In terms of supply of land Thomas Lister has extensively researched availability in the area and the majority of employment sites identified within the UDP are currently available for industrial/commercial development. Numerous other sites have been identified as being available also.
3. Demand for employment land has been tested through extensive marketing of the application site by Donaldsons Birmingham office for Class B1, B2 and B8 uses. The marketing has been in the national and local press and liaison with local agents and the BC1 over a 22 month period (now 31 months at January 2006). None of the enquiries received has resulted in any serious interest. The marketing exercise and further analysis of employment demand undertaken by Thomas Lister concludes that there is little or no prospect in the foreseeable future of there being an employment requirement at Jews Lane. Furthermore Thomas Lister have identified through studying historical

take up data that there is a long-term trend of declining demand for industrial property.

4. Notwithstanding the above, Thomas Lister have analysed capital and rental values of recent transactions in the market place and have concluded that a rent of £4.50/ft² and a capital yields of between 9-9.5% would be appropriate as a basis for running appraisals. It is cautioned however that within the employment base of Dudley being predominantly small and medium sized enterprises, the majority of which are within the manufacturing sector, that the covenant strength of these companies are likely to be relatively weak and an investment yield of 9.9.5% is considered to be optimistic.
5. The abnormal site conditions associated with an industrial scheme 6,500 sqm unit (70,000 sqft) are £1,826,000. This was established following a ground investigation being undertaken and specialist quotes being obtained where possible, e.g. extensive drilling and grouting old mine workings. By increasing the size of the development 9,300 sqm (100,000 sqft) this means there are inadequate servicing and parking areas. There is also a corresponding increase in the abnormal costs by £450,000 which is not covered by any increase in value.
6. There is no public sector funding assistance available in Gornal such as gap funding which could seek to bridge the disparity between cost and value arising on the scheme and thus make the project viable. It is not within Dudley's identified Core Employment Area, which has informed South Black Country Regeneration Zone's strategy for future funding priorities.
7. Based on the above factors a development appraisal was produced and a 70,000 sqft industrial unit, rented at £4.50 sqft and sold at a capital yield of 9%, produces a **loss** of circa £3.35m. This assumes that there is a demand for such a development, which the marketing evidence demonstrates, does not exist. Even if the rent was increased

to £5 sqft and achieved a capital investment yield of 8.5% (both which are unrealistically optimistic) there would still be a shortfall of £2.9 m.

However, so far as Point 5 is concerned, the Contaminated Land Manager was not involved in the assessment in respect of contamination. From the historical information he has on this site, he considers that there are no special issues with respect to contamination on this site which would involve abnormal costs to remediate. It is much the same as surrounding land, which was previously used for open-cast mining.

SITE AND SURROUNDINGS

1. The site comprises 3.14 hectares of vacant land on the south-east side of Jews Lane. It is accessed from a short section of road serving Parkinson House and University House, the offices and training centre for Computeach. The land was formerly used for Class B2 purposes but has been vacant for over 20 years.
2. That part of the site immediately beyond the end of the road is relatively flat but the northern part is quite steeply sloping. At the top of the bank is the Dormston Trading Estate which is set much higher. The area immediately to the north of the access road serving Computeach contains a car park and groups of trees and shrubs. Beyond the end of the road, the site is largely devoid of vegetation.
3. The southern boundary of the site is marked by the public footpath linking Burton Road and Deepdale Lane, to the south of which is a modern housing development along Richborough Drive and the Sovereign Works Industrial Estate accessed off Deepdale Lane.
4. The eastern boundary adjoins an area of mounded open space which was purposely created as a buffer between the new housing estates to the

south and the Dormston Trading Estate when the Dibdale area was reclaimed following centuries of coal mining.

5. On the other side of Jews Lane are residential properties which also adjoin the mouth of the access road and University House.
6. The surrounding area is mixed in character with residential and heavy industrial uses close by.

PROPOSAL

7. This is an outline application for residential development of the land.

Means of access is to be considered now but all other matters (siting, design and appearance of the dwellings, and landscaping) are reserved for subsequent approval. An illustrative layout has been submitted showing 90 dwellings and an area of public open space.

HISTORY

8.

APPLICATION No.	PROPOSAL	DECISION
PO4/1708	Residential development (Outline) Withdrawn	The current application is a resubmission of this application which was withdrawn following negotiations with officers to enable the preparation, submission and considerations of additional supporting material.

PUBLIC CONSULTATION

9. The application has been publicised by site notice, newspaper advertisement and the individual notification of 38 residential properties in Jews Lane, Deepdale Lane and Richborough Drive.

In addition, the four nearest units on the Dormston Trading Estate, and Dudley Safes Limited on the Sovereign Industrial Estate were also notified.

10. One letter has been received from a resident of Jews Lane. Whilst welcoming residential development of the land, she is concerned about the number of dwellings shown on the illustrative layout plan and the apartments fronting Jews Lane which she considers would be out of keeping with surrounding properties, and would affect her light and outlook. Based upon an average of two cars per household, there could be up to 200 extra vehicles attempting to enter Jews Lane during the peak periods which would be difficult given current traffic levels. In addition, the road is fairly narrow and has no footway on the application site side of the road as far as the current access.
11. The objector also has concerns about the inclusion of an area of public open space and play area just behind the frontage flats on grounds of possible anti-social behaviour, safety and security.

OTHER CONSULTATION

12. The Head of Public Protection has serious concerns about using the land for residential purposes. The site is affected by noise from road traffic and the neighbouring industrial estates, to the extent that complaints from some future occupiers of the development are likely.

However, the application is only in outline and, if permission is granted, appropriate conditions must be attached to ensure that best possible mitigation is provided to safeguard future residents. These conditions are included in the Recommendation section at the end of the report.

13. The Head of Traffic & Road Safety initially raised an objection due to inadequate visibility splays at the junction of the access road with Jews Lane given the increased use of the junction that would result from the proposals. He was also concerned about traffic from the new development mixing with traffic generated by Computeach.

14. To address these concerns, the site boundary has been amended slightly to take in the existing access to Computeach's car park from the access road serving the Sovereign Works off Deepdale Lane. Under the revised proposals, access to the Computeach site would be gained via this route rather than along the existing access road that would serve the new development. This would reduce the number of vehicle movements using the Jews Lane junction to a level where the design capacity of the junction and the visibility splays would be satisfactory. On this basis, the HTRS raises no objection to this aspect of the proposals.

15. The HTRS is firmly of the opinion that the public footpath bordering the site should be realigned along part of its length to pass through the site. This would considerably improve the safety of the many pedestrians using this important and well-used footpath.

16. The Environment Agency and Severn Trent Water raise no objections subject to conditions.

RELEVANT PLANNING POLICY

17.EE2 Local Employment Areas

H3 Housing Assessment Criteria

H4 Housing Mix

H5 Affordable Housing

EP7 Noise Pollution

DD10 Nature Conservation and Development

NC1 Biodiversity

NC6 Wildlife Species

NC10 The Urban Forest

ASSESSMENT

18. The key issues in the determination of the proposals are:

- The principle of residential development of a designated employment site
- Noise
- Access

The Principle of Residential Development

19. The site is allocated for employment use in the adopted UDP (policy EE2). However, prior to submitting the application, the applicant had successfully demonstrated that material considerations exist whereby the Council can reasonably consider alternatives to industrial and employment use of the land. These material considerations are:

- Lack of market demand for industrial use of the site

- Lack of economic viability in retaining and developing the site for industrial employment use
- Abnormal costs associated with remediation of the land prior to development

20. Evidence submitted by the applicant with regard to the above was assessed by the Council's Strategic Valuation Surveyor, the Contaminated Lane Manager and the Building Control Manager and found to be satisfactory and conclusive. Additional evidence submitted with the current application has not altered this view.

21. Accordingly, it is accepted that industrial land use of the site cannot reasonably be achieved and, therefore, that alternative land uses such as residential should be considered.

Noise

22. Your officers have had lengthy discussions with the applicant company and their agents because of the noise issue and this is why an indicative layout was requested. The applicant has accepted that the site is affected by noise from the adjoining industrial uses and road traffic and has suggested mitigation measures including noise barriers in three locations.

23. The indicative layout is not acceptable to the Head of Public Protection. However, the substantial barriers proposed along the public footpath, Dormston Trading Estate and Computeach boundaries would appear to provide adequate protection to ground floor rooms. Concerns still remain with respect to upper floors although this could be addressed through orientating habitable rooms away from the noise sources.

24. In addition to the three boundaries to be treated with noise barriers, the boundary with Jews Lane also exhibits levels of traffic noise which would place this part of the site in Noise Exposure Category C of PPG24 Planning and Noise. Within this category, the guidance state that planning permission for residential use should not normally be granted. However, several such sites along main roads have been granted permission with the dwellings treated to ensure noise levels internally are acceptable.

Access

25. Following a site meeting, the HTRS considers that the provision of future access to Computeach's main car park from their existing 'rear' access off the industrial estate access road would be satisfactory. Markings would be required to ensure the safety of users of the Burton Road, Deepdale Lane footpath which crosses this access. The HTRS would also not object to the development site being served by the existing short cul-de-sac road off Jews Lane.

26. So far as the public footpath is concerned, the illustrative layout has been amended to accommodate the path along a line which the HTRS considers acceptable. The footpath poses some difficulties for maintaining an unbroken noise barrier along the sites southern boundary but this would not appear to be an insurmountable problem.

27. The HTRS would like to see the current path removed once the alternative has been constructed but, at this stage, it is not certain that the applicant company controls the land over which the existing path runs.

Other Considerations

28. There are other factors which require some consideration at outline stage not least because of the need to establish the criteria for the Section 106 Agreement.

29. The illustrative layout puts forward a good mix of dwellings ranging from 1 bedroom apartments to 4 bedroom houses and would meet the requirements of policy H4. The density of development would be just under 30 dph and would, therefore, accord with the 30-50 dph range recommended in PPG3 Housing.
30. The site capacity exceeds the threshold at which affordable housing units would be required. This would normally be 30% of the total but because of the high costs of remediation and the noise barriers (one of which has necessitated the applicant company purchasing additional land), the Strategic Housing Officer has been requested to consider a lower figure as, otherwise, the development would not be viable.
31. The development is also large enough to generate the need for an area of open space and children's play area. On the illustrative layout, the applicant has shown an area where the overflow car parks and wooded area are at present. However, the area is not supported by the Head of Green Care because of its difficult levels and insufficient buffer distance to the proposed dwellings for the play area.
32. The adjoining mounded area by the sites eastern boundary has been suggested as an alternative but is also considered to be less than ideal. Accordingly, it is recommended that a commuted payment be sought to be put towards the development of a facility somewhere in the vicinity if a suitable site can be found. It should be noted, however, that it is a large area of public open space on the new Dibdale estates within 400 metres of the site.
33. The site has no nature conservation designation within the UDP but it does support semi-natural habitat – woodland and grassland – with potential for wildlife. Ideally, the woodland and grassland areas should be retained and managed as informal open space. Such areas would include the area shown for public open space and the steep bank up to the Dormston Trading Estate.

34. So far as the one public objection received is concerned, the changes to the scheme agreed by the HTRS would address satisfactory the access and traffic matters, and the fact that the layout provided is purely illustrative and would be conditioned as such, would not result in it being binding in anyway in the event of outline permission being granted.

CONCLUSION

35. This 3.14 hectare site is allocated for employment use in the UDP. However, it has been vacant for over 20 years and there is no prospect of it being developed for this purpose. In such cases, it is government advice that councils consider alternative uses, particularly housing.

36. Because of its location between two industrial estates, there are concerns about the noise environment on the site. The applicant company have submitted a considerable amount of information in this regard. Whilst the Head of Public Protection still has some concerns, he has recommended certain conditions which should ensure that any subsequent reserved matters application fully takes account of the issue through detailed mitigation measures.

37. Satisfactory access can be provided to the existing premises of Computeach and the new development.

38. Only one objection has been received despite extensive publicity.

39. The development constitutes a departure from the Development Plan. Therefore, should the Committee resolve to grant permission, the application would have to be referred to the Secretary of State who may decide to call it in.

RECOMMENDATION

40. Reason for Approval

The development proposed has been assessed against and complies with the relevant policies in the adopted Unitary Development Plan and other material considerations.

41. It is recommended that subject to the application not being called in by the Secretary of State, the application is approved subject to:-

- a. the applicant company entering into a Section 106 Agreement for 1) a contribution to off-site public open space enhancement and the provision of a childrens play area 2) affordable housing in accordance with the Council's approved policy or as agreed by the Director of Urban Environment in the event of this affecting the financial viability of the development.
- b. The following conditions, with delegated powers to the Director of the Urban Environment to make amendments as necessary.
- c. In the event that the Section 106 has not been completed within 2 months of the reduction to grant permission, the application will be refused if appropriate.

And subject to such agreement being completed within two months and to the application not being called in by the Secretary of State, the application be approved subject to the following conditions:

Conditions and/or reasons:

1. Approval of the details of the siting, design and external appearance of the building(s), the means of access thereto and the landscaping of the site (hereafter 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 not later than the expiration of three years beginning with the date of the grant of outline planning permission; and the development to which the

permission relates must be begun not later than the 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 matter to be approved.

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 and drainage systems have been submitted to and approved by the local planning authority.
4. 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.
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 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.
6. Details to be submitted in accordance with condition one shall include the provision of a noise barrier along the boundary with the Sovereign Works Industrial Estate in accordance with RPS drawing No. 33042.RevA. The design details of the barrier shall be submitted to and approved in writing by the Local Planning Authority and all works which form part of the barrier shall be completed before the dwellings are occupied. Such barrier shall be maintained for the life of the development.
7. A wall or close-boarded fence shall be provided along the boundary with the Dormston trading estate before any of the dwellings are occupied. The wall/fence shall be 3.0 m high and shall have a minimum density of 10 kg/m². Such barrier shall be maintained for the life of the development.
8. Before any of the dwellings are occupied, a wall or a close-boarded fence shall be erected along the boundary with the car park to Parkinson House (Computeach). The wall/fence shall be 3.0 m high

and shall have a minimum density of 10 kg/m². Such barrier shall be maintained for the life of the development.

9. Development shall not begin until a scheme for protecting the proposed dwellings from noise from ***** 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.
10. All planting, seeding or turfing comprised in the details of landscaping approved in accordance with condition 1 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.
11. The illustrative layout shown on drawing No. 33042/1/Rev.F does not form part of the outline permission hereby granted.
12. This permission shall relate to the area edged in red on the plan entitled Red Line Site Plan: Revised December 2005.
13. The existing access to the car parks at University House and Parkinson House shall be closed and the new access from the industrial estate road provided in accordance with JMP Consulting drawing R063031-A/001 Rev A before any of the dwellings are occupied. At no time throughout the life of the development shall access to the said car parks be provided from the road serving the development hereby approved.
14. The development shall not begin until details of the improved vehicular access to the site including visibility splays and footway improvements to the site's frontage to Jews Lane have been submitted to and approved by the Local Planning Authority and the building shall not be occupied until that access has been constructed in accordance with the approved details.