PLANNING APPLICATION NUMBER: P22/0727

Type of approval sought		Full Planning Permission	
Ward		Brockmoor and Pensnett Ward	
Agent		Mr S. Dudley, SJD Architects & Developments Ltd	
Case Officer		James Mead	
Location:	WOOD & MOORE BUILDERS MERCHANTS, WALLOWS ROAD, BROCKMOOR, BRIERLEY HILL, DY5 1HQ		
Proposal	DEMOLITION OF EXISTING BUILDERS MERCHANTS YARD AND ERECTION OF 30 NO. DWELLINGS WITH ASSOCIATED WORKS		
Recommendation Summary:	APPROVE SU	JBJECT TO CONDITIONS	

SITE & SURROUNDINGS

- 1. The site is currently occupied by Wood & Moore Ltd, a builder's merchant, who currently utilise the site for the storage of building materials across the external areas, and within buildings that remain on the site.
- 2. The application site is currently accessed off Wallows Road. Opposite the entrance to the site is a large retail warehouse (Wickes), with a 'Locally Listed' Public House (The Blue Brick) situated to the Eastern corner of the site. The building at the entrance is a former public house, in poor condition that is now used as an office for the business along with storage and sale of goods.
- 3. The site is triangular in shape, relatively flat and predominantly hard standing with areas of scrubland and self-seeded vegetation to the long narrow extension to the South-West, parallel to the railway cutting present along the South-Eastern boundary which provides access to the Round Oak Steel Terminal which is solely for freight. Beyond this, are some commercial uses including Brierley Hill Fire Station.
- 4. Adjoining the North Western boundary of the site are the rear gardens of properties fronting onto Planet Road. A small area of low quality, unsupervised green space is

currently accessed from Planet Road is located within the centre of the application site.

- 5. The surrounding area is mixed residential, retail and commercial in character. The site is approximately 0.78 hectares and is located within close proximity of Brierley Hill Town Centre.
- 6. The site is located within Regeneration Corridor 11a (Dudley Town Centre to Brierley Hill) as set out within the Dudley Borough Development Strategy.

PROPOSAL

- 7. The application proposes the demolition of the existing buildings on the site and the erection of 30no. dwellings and associated works. All new dwellings would be two storeys, as would the two blocks of flats. The applicant proposed a 100% affordable housing scheme.
- 8. The accommodation mix is as follows;
 - 8no x 1 bed flats
 - 15 x 2 bed houses
 - 7 x 3 bed houses
- 9. Plots 1 26 would take the form of a new cul-de-sac with vehicular and pedestrian access and egress from Wallows Road, providing perimeter block development with properties on Planet Road; frontage properties facing Wallows Road and flatted development and housing set around the turning head. There would be a new private vehicular access off Planet Road serving three new dwellings and one new dwelling fronting Planet Road.
- 10. Internally, each dwelling would be provided with living room/dining room; kitchen and WC on the ground floor, with 2 or 3 bedrooms and bathroom at first floor. All eight flats would have open plan lounge/dining area with one bedroom and bathroom. All houses would be provided with 2 or 3 off street parking spaces and

private gardens to the rear. The flats would be provided with some communal green space and at least one car parking space

- 11. The proposed dwellings would be finished in facing brickwork with areas of render with tile roofs, with an eclectic mix of materials.
- 12. Site area is 0.78 hectares, density 44 dwellings/hectare.

HISTORY

13. Planning history for this site relates predominately to the use of the site as a builder's yard. With permission for the use dating back to the 1950's. The most recent application is as follows.

APPLICATION	PROPOSAL	DECISION	DATE
D46/4745	Demodition of three cuthouildings	Approved	00/02/2017
P16/1745	Demolition of three outbuildings	Approved	08/02/2017
	and partial demolition of	with	
	workshop and erection of new	conditions	
	storage building to link to		
	existing storage building.		

PUBLIC CONSULTATION

- 14. Letters of notification were sent to thirty adjacent and nearby occupiers; a site notice was posted and an advertisement was placed in the Express and Star Newspaper with the final dates for comments being 5th July 2022.
- 15. Councillor Judy Foster (Brockmoor and Pensnett) objects to the proposal stating;

"In support of my constituents, I wish to place on record my objection to the above planning application. Whilst in principle I support the supply of additional affordable housing in the borough, I consider there are serious problems with this particular application which will have a significant impact on the quality of life of existing residents, especially those who live in Planet Road.

These are as follows:

- Loss of green space to the rear of houses 11-16 Planet Road. Potential loss
 of established trees and natural habitats through the relocation of green
 space which is currently used regularly by local people and which is currently
 in a safer and more central location than the proposed location of the new
 green space.
- Vehicular and pedestrian access from the proposed development to Planet Road leading to additional traffic which will create additional noise and traffic movements in an already narrow street.
- Parking there is already limited parking due to many households in Planet
 Road not having their own off-road parking and so relying on on-street
 parking. The new development appears to have insufficient parking when
 potential numbers of cars per household and their visitors are taken into
 consideration, thereby potentially pushing the problem into Planet Road.
- Proximity of new buildings to existing homes in Planet Road and loss of privacy.

I am aware that you have already received representations from residents in the form of a letter and petition. I would be prepared to speak at Planning Committee should this application now go before it. I would also be strongly advising Planning Committee members to visit the site before coming to a final decision"

- 16. In addition to the above, 10 individual letters of objection and a petition containing 24 signatures mainly from residents on Planet Road were received, objecting to the application on the following grounds.
 - The development would result in more on street parking on Planet Road.
 - It would stop emergency vehicles from accessing Planet Road.
 - It will increase footfall to the area.
 - There is not enough parking in the area.

- Will increase noise in the area.
- Dwellings would be overbearing and over dominate surrounding properties.
- Not in keeping with the surrounding area.
- There will be an increase in overlooking.
- Loss of open space.

OTHER CONSULTATION

17. Head of Environmental Safety and Health.

No objection subject to safeguarding conditions with respect to noise and air quality.

18. Head of Planning (Highway Engineer):

Concerns have been raised with regards to some plots having remote parking; footpath and road widths; tracking of larger vehicles and parking for existing houses. Revised plans have been submitted to take on board many of the recommendations of the Highways Officer.

19. <u>Land Contamination</u>:

No adverse comments, safeguarding conditions are recommended.

20. LLFA

No comments received. Details of an appropriate sustainable drainage scheme are required and can be conditioned.

21. Strategic Housing

We are happy with the proposed tenure and property type/size mix.

22. Network Rail

After initial concerns were raised, Network Rail raise no objection to the application.

23. West Midlands Police

No objection raised.

24. Severn Trent

No objection subject to appropriate drainage conditions

25. Education

No education contribution sought for this development.

26. Black Country & West Birmingham Clinical Commissioning Group

A contribution towards local healthcare infrastructure is requested.

RELEVANT PLANNING POLICY

27. National Planning Guidance

- National Planning Policy Framework (2021)
- Technical Guidance to the National Planning Policy Framework (2012)
- Planning Practice Guidance (2014)
- Community Infrastructure Levy Regulations (as amended) (2014)

28. Black Country Core Strategy (2011)

- DEL1 Infrastructure Provision
- DEL 2 Managing the balance between employment land and housing
- CSP1 The Growth Network
- CSP4 Place Making
- HOU1 Delivering Sustainable Housing Growth
- HOU2 Housing Density, Type and Accessibility
- HOU3 Delivering Affordable Housing
- TRAN2 Managing Transport Impacts of New Development
- ENV1 Nature Conservation
- ENV2 Historic Character and Local Distinctiveness
- ENV3 Design Quality
- ENV5 Flood Risk, Sustainable Drainage and Urban Heat Islands
- ENV7 Renewable Energy
- ENV 8 Air Quality

29. <u>Dudley Borough Development Strategy (2017)</u>

- S1 Presumption in favour of Sustainable Development
- S5 Minimising Flood Risk and Sustainable Drainage Systems
- S6 Urban Design
- L1 Housing Development, extensions and alterations to existing Dwellings
- L3 Provision of Affordable housing in New Developments
- L8 Protecting the Viability of Integrity of Industrial and Business Uses
- S19 Dudley Borough's Green Network
- S21 Nature Conservation Enhancement, Mitigation and Compensation
- S22 Mature Trees, Woodland and Ancient Woodland
- S17 Access and Impact of Development on the Transport Network
- Regeneration Corridor 11A

30. Supplementary Planning Guidance/Documents

- New Housing Development Supplementary Planning Document (2013)
- Parking Standards Supplementary Planning Document (2017)
- Planning Obligations SPD (2016)

ASSESSMENT

31. The main issues are

- Policy/Principle
- Design and Layout
- Neighbour and Occupier Amenity
- Noise and the Relationship with Adjoining Railway
- Access and Parking
- Nature Conservation/Trees
- Land Contamination
- Flood Risk and Drainage
- Renewable Energy
- Planning Obligations

Financial Material Considerations

Policy/Principle

- 32. The National Planning Policy Framework (NPPF) seeks to ensure the provision of sustainable development, of good quality, in appropriate locations and sets out principles for developing sustainable communities. It promotes high quality design and a good standard of amenity for all existing and future occupants of land and buildings. It encourages the effective use of land by utilising brownfield sites and focusing development in locations that are sustainable and can make the fullest use of public transport, walking and cycling. The NPPF also seeks to boost housing supply and supports the delivery of a wide choice of high-quality homes, with a mix of housing (particularly in terms of type/tenure) to create sustainable, inclusive and mixed communities.
- 33. The Black Country Core Strategy adopted in 2011 sets out The Vision, Sustainability Principles and The Spatial Objectives for future development in the Black Country to 2026. One of the Spatial Objectives of the Strategy is to help to deliver sustainable communities on redundant land, that make the most of opportunities such as public transport, are well served by residential services and green infrastructure, have good walking, cycling and public transport links to retained employment areas and centres, are set in high quality natural and built environments and are well integrated with surrounding areas.
- 34. The Black Country Core Strategy (BCCS), Policy HOU1: 'Delivering Sustainable Housing Growth' also requires at least 63,000 net new homes up to 2026.
- 35. Policy L1 of the Dudley Borough Development Strategy states that new development will be supported on previously developed land and on sites in sustainable locations, close to public transport facilities and links. Housing development will be permitted, provided that the design of the development is of an appropriate form, siting, scale, and mass; that it would not cause unacceptable harm to the amenities of the occupiers of neighbouring dwellings; that it would

provide an appropriate level of amenity for future occupiers of the development and that the development would provide adequate access, parking and provision for the manoeuvring of vehicles, with no detrimental impact on highway safety and free flow of traffic.

- 36. This builder's merchants yard as current arguably represents a non-conforming use located adjacent to residential development and a public house. The proposal for housing can be supported in principle (in planning policy terms) given that, residential development of the site would accord with the NPPF's core planning principles, as well as targets set within the Local Plan. To add further weight to the principle of residential in this location, BCCS Policy CSP1(The Growth Network) directs major housing development to identified Regeneration Corridors. This site lies within Regeneration Corridor 11A (Dudley Town Centre to Brierley Hill), the strategy for which in terms of new housing is to create high quality residential communities in order to improve the environment of the area and attract and retain a thriving local population. This is reflected in the sites identification within the Strategic Housing Land Availability Assessment (SHLAA) as a site with residential potential (Ref 389).
- 37. The loss of the existing industrial employment use is factored into the assessment through the provisions of BCCS Policy DEL2 (Managing the balance between employment land and housing). This is given that builders' merchants are listed as an appropriate industrial employment use (within Local Employment Areas) and there is no local plan residential allocation attaching to the site, other than through the SHLAA (evidence base).
- 38. However, on this matter, the sale of the site is due to the owner retiring and due to the fact that the business is no longer viable, noting that a Wickes Builders Merchant is located directly opposite the site off Wallows Road. In addition, this represents a non-conforming use at this locality, especially as it is backed onto by existing residential properties fronting onto Planet Road.

39. The principle of redeveloping this site for residential purposes would be a positive step in line with national and local policy. It would comprise the redevelopment of a previously developed brownfield site within the Growth Network for residential development. The proposed development would deliver homes through the effective re-use of this site. It would allow for the provision of new dwellings to meet part of the housing needs of the borough.

Design and Layout

- 40. Chapter 12 of the NPPF focuses on good design as a key element of sustainable development. Paragraph 126 states "Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities"
- 41. Policy HOU2 of the Core Strategy states that the density and type of new housing provided on each site will be informed by, amongst other things, the need to achieve high quality design and minimise amenity impacts. All developments will aim to achieve a minimum net density of 35 dwellings per hectare.
- 42. Policy S6 (Urban Design) of the Dudley Borough Development Plan identifies that new development should be designed in accordance with good urban design principles. In addition, 'The New Housing Development' SPD encourages good quality accommodation in attractive environments. It contains a series of urban design principles and refers to minimum design and amenity guidance. Particular emphasis is given to assessing context and responding positively to local character.
- 43. The density of the proposed development at 44 dwellings per hectare and the twostorey scale of the proposed houses would be appropriate to the existing form and
 pattern of development in the wider area which is varied in terms of house type. The
 siting of the houses to the front would enhance the existing street scene along
 Wallows Road and the development would form a small residential estate with its
 own distinct character around a new cul-de-sac forming perimeter block
 development with streets surrounding. The dwellings would be of an appropriate

scale and design taking into account the constraints of the site. All dwellings would be brick built with rendered areas with concrete interlocking roof tiles. This would help to assimilate the new development with the existing surrounding area and result in a design that would enable the creation of a good-quality residential environment that would sit comfortably within its surroundings. A condition requiring details of materials to be used is considered appropriate.

Neighbours and Occupier Amenity

- 44. The Council's New Housing SPD recommends a series of numerical standards to ensure existing and future occupier privacy and outlook. In this instance, the development, has been designed so that the front facing main habitable room windows of the proposed dwellings are orientated away from existing properties and meet the separation distances set out. Windows to the side elevation would either be obscurely glazed secondary windows, not serve habitable rooms, be set at appropriate distance or would not overlook due to proposed boundary treatment.
- 45. Garden lengths are all in excess of 11m, except for plots 10, 24, 25 & 27 which provide between 9m and 10.5m. However, there is in excess of 22m between rear facing elevations of the proposed dwellings and those existing on the Planet Road. These plots are set at angles and provide appropriate garden areas that are considered to be a characteristic form of development and is a result of the constraints of the site. This issue alone would not warrant the refusal of the application. However, it is recommended that given the shortfall the permitted development rights for the dwellings are removed. Further, and of merit, the gardens for all properties (bar plots 3, 4, & 6) provide the 65sqm of private garden space recommended within the New Housing SPD, with the shortfall of the abovementioned plots being just 5sqm. Furthermore, any overlooking between the new properties could be mitigated by boundary treatment at ground floor level. While the outlook from some existing, surrounding properties would change, it would be a residential outlook, that is common from many properties in the borough and it is not considered that this would be a sufficient reason to warrant refusal of the

- application, given the positive benefits of providing new homes of this type and tenure within the borough.
- 46. In addition, the properties would provide an internal layout of suitable size, with at least one good sized accessible double bedroom and a furniture layout shows that ample storage can be accommodated to meet the expected requirements.
- 47. Applying the 45-degree code, it is noted that the properties would not breach the code, to any neighbouring property. Therefore, it is not considered there would be any undue loss of light or outlook to any adjacent property.

Noise and the Relationship with Adjoining Railway

- 48. The NPPF 2021 states at paragraph 174 that "Planning policies and decisions should contribute to and enhance the natural and local environment by: ... e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of ... noise pollution ...". Further, paragraph 185 states that "Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should: a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts health and the quality of life ..." Also of relevance is DBDS Policy D5 - Noise Pollution that states that, "Dudley Council will not permit development for either noise-generating or for noise sensitive proposals where a juxtaposition of uses arise"
- 49. Submitted with the application is a Railway Noise Assessment, within which recommendations of appropriate noise mitigation measures have been made in order to achieve appropriate acoustic criteria in line with relevant British Standard guidelines, including specific glazing for properties closer to and with a line of sight

of the railway. The Council's Head of Environmental Health and Safety has reviewed this document and raises no objection subject to a condition to ensure the mitigation set out in the noise report is undertaken before the development is occupied.

50. As development is proposed within 10m of operational railway land, Network Rail have been consulted on this application. There were some initial concerns from Network Rail as construction works had not been agreed with them. The applicant has liaised directly with them and as a result Network Rail have removed their concerns noting that there is a 2m gap between the development and Network Rail boundary and that the development should continue to liaise with Network Rail Asset Protection.

Access and parking

- 51. Paragraph 111 of the NPPF identifies that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe"
- 52. Policy L1 also requires that development should provide adequate access and parking to ensure that there would be no detrimental impact on highway safety.
- 53. Access to the site is proposed principally from Wallows Road, with a secondary private drive access also proposed from Planet Road.
- 54. The applicant has provided amended plans to alleviate the concerns of the Council's Highways Engineer. Footways within the site are all 2m wide and information regarding gradients of the road and driveways have been provided; tracking diagrams have been provided to ensure appropriate vehicles can access and turn within the site. Matters relating to insufficient parking and remote parking in the main have been addressed, although the latter issue has been addressed by providing railings without gates which round corners to link to the remote parking

areas in order to reduce the likelihood of parking on the highway at bends and junctions where good forward visibility is required.

- Objectors' note the weight of existing on-street parking on Planet Road, a situation which is unfortunate. However, at the time when the surrounding area was developed there would have been lower levels of car ownership and therefore less parking demand. It is unlawful for the Local Planning Authority to require the applicant to make provisions to address the pre-existing parking problem. In addition, a request to provide parking to the existing properties of 17 and 18 Planet Road which would front onto the new private access drive serving plots 27, 29 and 30 is not considered reasonable as parking is already provided for these properties in a 17-space car park on the opposite side of Planet Road and as this would be private land, it is within the gist of the developer to deal with any vehicles parked on private land in an appropriate manner.
- 56. Furthermore, the Local Planning Authority cannot legally refuse this proposed development on the grounds of loss of existing, informal on-street car parking. Nor can it require that the applicant mitigates against that loss.
- 57. The Local Planning Authority can however require that the proposed scheme provides sufficient car parking for the potential occupiers of the new properties so as not to cause any additional harm to highway safety or significant increase in traffic.
- 58. All properties are provided with policy compliant parking, with all properties provided with two car parking spaces and the flats one space. Therefore, the proposals accord with the minimum standards as set out in the Car Parking Standard SPD.
- 59. It is not considered traffic and parking demand associated with a residential use on this site would materially increase and the impact of new houses at this location on the surrounding highway network would be negligible. In addition, there are good public transport links close to this location.

60. In addition, a footpath link from Planet Road though to Wallows Road is provided, providing appropriate site permeability and Electric Vehicle Charging points in accordance with the guidance in the Car Parking SPD should also be provided. Again, a condition to secure this is recommended.

Nature Conservation/Trees

- 61. The overall site has little existing significant vegetation cover and very few significant individual trees or tree groups within the site curtilage. Within the railway site margin there are some scattered small trees and shrubs, all are self-set with low overall landscape and biodiversity interest. The proposed development would afford the opportunity to secure replacement planting and indeed other new planting by condition that could potentially realise both a quantitative and qualitive enhancement in terms of trees in the longer term and therefore, in this instance, it is considered that the visual harm caused by the loss of any trees would not outweigh the benefits of delivering housing on this site and would not be sufficient reason to refuse the application.
- 62. Where, exceptionally, the strategic benefits of a development clearly outweigh the importance of a local nature conservation site, species, habitat or geological feature, damage must be minimised. Any remaining impacts, including any reduction in area, must be fully mitigated. Compensation will only be accepted in exceptional circumstances. A mitigation strategy must accompany relevant planning applications.
- 63. An Ecological Survey has been undertaken and submitted as part of the application and concluded the site is of 'low ecological value' consisting primarily of hardstanding and amenity grass, although the trees and native scrub on site and along the site edges have moderate ecological value. The site recorded no protected species. The main vegetative habitats to be lost are scrub and species-poor grassland which are of low ecological importance. The development offers clear opportunities to include a comprehensive landscape and tree planting plan to add environmental and community value. Given the linear nature of much of the site

and the poor-quality existing vegetation, a well-planted future 'green link' through the developed site would generate significant environmental benefit. A condition to ensure an appropriate landscaping scheme and further ecological enhancement including Bird and Bat Boxes are recommended.

Land Contamination

64. The Council's Contaminated Land officer has raised no objection to the proposal. The submitted geo-environmental report has been reviewed. Intrusive site investigation has identified a range of inorganic and contaminants which will require remediation. It is recommended that further risk assessment, along with appropriate remediation strategy and verification reports are provide, which can be conditioned.

Flood Risk and Drainage

65. The site is located in Flood Zone 1 and there are no critical drainage issues associated with the site. The use of sustainable urban drainage systems (SuDS) has been considered. The surface water from the site has to discharge, in order of priority, to either an adequate soakaway system, a suitable watercourse or to a sewer. As the ground conditions are not considered suitable for soakaways, an onsite attenuated storm water system is proposed. This consists of underground storm water storage tanks in conjunction with a hydro-brake to control/restrict the storm water run-off rates to an agreed discharge rate into the sewer network. Further information required by condition in relation to the existing network and proposed connections to ensure there are no capacity issues is appropriate and a SuDs Operation and Maintenance strategy is required. Severn Trent has also requested a condition in relation to mains drainage.

Planning Obligations

66. Black Country Core Strategy (BCCS) Policy DEL1 'Infrastructure Provision' sets out the adopted policy framework for Planning Obligations within Dudley and the

Planning Obligations SPD provides further detail on the implementation of this policy; these policy documents were prepared in accordance with national legislation and guidance on planning obligations.

- 67. Policy DEL1 requires all new developments to be supported by sufficient on and offsite infrastructure to serve the development, mitigate its impact on the environment, and ensure that the development is sustainable and contributes to the proper planning of the wider area.
- 68. In determining the required planning obligations on this specific application the following three tests as set out in the Community Infrastructure Levy (CIL) Regulations, in particular Regulation 122, have been applied to ensure that the application is treated on its own merits:
 - a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development;
 - b) fairly and reasonably related in scale and kind to the development.
- 69. Following consideration of the above tests and in accordance with the requirements of the adopted Planning Obligations SPD, the following planning obligations are required for this application:

On-Site Provision (to be secured by Condition)

Affordable Housing (25%) - In accordance with Policy HOU3 of the Core Strategy which requires the provision of 25% affordable housing on all development sites of 15 dwellings or more.

The Wallows Road site has been designed on the basis that the tenure will be 100% Affordable Rent. The developers preferred client is a Registered Provider who will access grant funding from Homes England for 100% of the units on site. On this basis, it would not be appropriate to require a Section 106 agreement for affordable housing provision for this site. There will be no cross subsidy for non-grant funded affordable housing as there will be no housing for open market sale or shared

ownership on this site. A planning condition will secure that 25% of the units are provided as affordable housing

On-Site Provision (to be secured by condition)

Nature Conservation

Environmental Protection – Provision of external charging points/appropriate gas boilers

Renewable Energy

- 70. It is considered that these contributions meet the necessary tests as stated above in that they contribute to the delivery of a sustainable development, being provided directly on the development site itself and are deemed to be in scale and kind to the proposed development.
- 71. This development complies with the requirements of BCCS Policy DEL1 and the Planning Obligations SPD.

Financial Material Considerations

- 72. Section (124) of the Localism Act states that: Local planning authorities are to have regard to material considerations in dealing with applications including any local finance considerations, so far as material to the application. A 'local finance consideration' may be taken to cover the payment of New Homes Bonus, or sums that a relevant authority has received, or will or could receive, in payment of the Community Infrastructure Levy (CIL).
- 73. The section does not change the law in any way. It is not a new basis for planning policy and it remains unlawful for planning permissions to be 'bought'.
- 74. This proposal would provide 30 new homes generating a New Homes Bonus grant of 30 times the national average council tax for the relevant bands.

- 75. The proposal is liable for CIL but the site falls within Zone 1 which has a £0 rate thus no CIL charge is required
- 76. Whilst these are significant sums of money the planning merits of the proposal are acceptable in any event and therefore this is not accorded significant weight.

CONCLUSION

77. The principle of the development on the site is considered to be acceptable. The design and layout, the impact upon residential amenity and highway safety are also acceptable. On this basis the application would be in accordance with the National Planning Policy Guidance, Policies CSP1, CSP3, DEL1, HOU1, HOU2, TRAN2, ENV2, and ENV3, ENV5, ENV6, ENV7 and ENV8 of the Black Country Core Strategy, Policies S1, S2, S5, S6, S7, S8, S12, S16, S17, S19, S21, S22, S29, S36, L1, L2, D2, and D5 of the Dudley Borough Development Strategy, Nature Conservation and Parking Standards Supplementary Planning Documents.

RECOMMENDATION

It is recommended that the application be APPROVED subject to the attached conditions.

Conditions and/or reasons:

- The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 REASON: To comply with Section 91(1) of the Town and Country Planning Act, 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.
- 2. The development hereby permitted shall be carried out in accordance with the following approved plans: SJD-281-016 Rev C; SJD-281-017 Rev C; SJD-281-018 Rev B; SJD-281-019 Rev B; SJD-281-020 Rev B; SJD-281-021 Rev B; SJD-281-022 Rev B; SJD-281-023 Rev B; SJD-281-024 Rev C; SJD-281-025 Rev C; SJD-281-026 Rev A, SJD-281-027 Rev A and 1618-006. REASON: For the avoidance of doubt and in the interests of proper planning.
- 3. No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with

authoritative UK guidance.

REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.

- 4. Where the approved risk assessment (required by condition 3 above) identifies contamination posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such contamination has been submitted to and approved in writing by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority. REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.
- 5. Following implementation and completion of the approved remediation scheme (required by condition 4 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.
 REASON: To ensure that the risks associated with any contamination have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the NPPF.
- 6. No development shall commence until an assessment of the risks posed by any ground gases or vapours has been submitted to and approved in writing by the Local Planning Authority. Such an assessment shall be carried out in accordance with authoritative UK guidance.
 REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.
- 7. Where the approved risk assessment (required by condition 6 above) identifies ground gases or vapours posing unacceptable risks, no development shall commence until a detailed remediation scheme to protect the development from the effects of such ground gases or vapours has been submitted to and approved in writing by the Local Planning Authority. Following approval, such remediation scheme shall be implemented on site in complete accordance with approved details unless otherwise agreed in writing by the Local Planning Authority.

REASON: These details are required prior to the commencement of development to ensure that the risks associated with any contamination are reduced to acceptable levels and that the health and wellbeing of future

- occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land.
- 8. Following implementation and completion of the approved remediation scheme (required by condition 7 above) and prior to the first occupation of the development, a verification report shall be submitted to and approved in writing by the Local Planning Authority to confirm completion of the remediation scheme in accordance with approved details.
 REASON: To ensure that the risks associated with any ground gases or vapours have been reduced to acceptable levels and that the health and wellbeing of future occupiers are protected and to ensure that the development complies with Borough Development Strategy 2017 Policy D3 Contaminated Land and the
- 9. No above ground development shall commence until a schedule of the types, colours and textures of the materials to be used on the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. REASON: In the interests of the visual amenities of the area and to comply with BCCS Policies CSP4 Place-Making and ENV2 Historic Character and Local Distinctiveness and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)
- 10. No above ground development shall commence until details of the electric vehicle charging points, to be provided for the dwellings in accordance with the Council's standard (Parking Standards SPD), has been submitted to and approved in writing by the Local Planning Authority. Prior to first occupation the electric vehicle charging points shall be provided in accordance with the approved details and shall be maintained for the life of the development. REASON: In the interests of creating a sustainable form of development and to encourage the use of ultra low emission vehicles in accordance with Policies ENV8 (Air Quality) and DEL1 (Infrastructure Provision) of the Black Country Core Strategy.
- 11. In order to minimise the impact of the development on local air quality, any gas boilers provided within the development must meet a dry NOx emission concentration rate of <40mg/kWh. The specification of the gas boilers shall be submitted to and approved in writing by the Local Planning Authority and the approved specification of boilers shall thereafter be fitted in accordance with such details.</p>
 - REASON: To safeguard the air quality of the Borough which is an Air Quality Management Area in compliance with the Black Country Core Strategy Policy ENV8 and the adopted Air Quality SPD.
- 12. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - -A timetable for its implementation, and

NPPF.

- -A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime of the development. None of the development shall be occupied until surface water drainage works have been implemented in accordance with the approved details. REASON: In the interests of sustainability, reducing flood risk and run off and to comply with Adopted BCCS Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island.
- 13. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the works for the disposal of foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. All works shall be completed in accordance with the approved details prior to the occupation of the development hereby approved. The approved works shall thereafter be retained for the life of the development. REASON: In the interests of sustainability, reducing flood risk, run off and pollution of watercourses and to comply with Adopted BCCS Policy ENV5 Flood Risk, Sustainable Drainage Systems and Urban Heat Island and Borough Development Strategy 2017 Policy S5 Minimising Flood Risk and Sustainable Drainage Systems (SuDS).
- 14. No development shall commence (excluding demolition, site clearance and initial ground investigation works) until details of the access(es) into the site, together with parking and turning area(s) [including details of lines, widths, levels, gradients, cross sections, drainage and lighting] have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the access(es) into the site, together with parking and turning area(s) within the site have been laid out in accordance with the approved details. These area(s) shall thereafter be retained and not be used for any other purpose for the life of the development. REASON: In the interests of highway safety and to comply with Borough
 - REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
- 15. No part of the development shall be occupied until visibility splays to the new accesses have been provided at the junction between the proposed means of access and the highway with an 'x' set back distance of 2.4m metres and a 'y' distance of 59 metres. No structure or vegetation exceeding 600mm in height above the adjoining highway shall be placed or allowed to grow within the visibility splay for the life of the development unless otherwise agreed in writing by the Local Planning Authority.
 - REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
- 16. The development shall not be occupied until a Travel Plan has been submitted to and approved in writing by the local planning authority, including details of a Travel Plan Co-ordinator, public transport, walking and cycling initiatives,

Publicity and Marketing, Set targets and monitoring and to join a Travel Wise scheme in Dudley together with a timetable for the implementation of each such element. The Travel Plan shall be implemented in accordance with the details approved by the Local Planning Authority and remain operational for the life of the development.

REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

- 17. Prior to first occupation all redundant dropped kerbs should be replaced with matching full height kerbs and the adjacent Highway made good. REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.
- 18. The dwelling(s) shall not be occupied until details of a Parking Management Plan for the apartments parking area has be submitted to and approved in writing by the Local Planning Authority (The Parking Management Plan will ensure that no parking spaces are allocated for the sole use of any apartment). This Parking Management Plan shall be provided in accordance with the approved details prior to the first occupation of the dwelling(s) and shall thereafter be retained and maintained for no other purpose, for the life of the development.

REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and policies CSP5, DEL1, TRAN2, CEN8 and TRAN5.

19. No development shall commence (excluding demolition, site clearance and initial ground works) until full details of soft landscaping works have been submitted to and approved in writing by the Local Planning Authority. These details must include, where appropriate, planting plans, written specifications, a schedule of plants including species, plant sizes and proposed numbers/densities and a programme of implementation. Plans must also include accurate plotting of all existing landscape features. The agreed scheme shall be implemented in accordance with the approved details within the first planting season following the first occupation of the development, unless otherwise agreed in writing by the Local Planning Authority.

Any trees or shrubs planted in pursuance of this permission including any planting in replacement for it which is removed, uprooted, severely damaged, destroyed or dies within a period of five years from the date of planting shall be replaced by trees or shrubs of the same size and species and in the same place unless otherwise agreed in writing by the Local Planning Authority.

REASON: In order to make a positive contribution to place-making and provide a high quality landscaping and to ensure that the approved landscaping is properly maintained in accordance with BCCS Policies CSP4 - Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 - Design Quality and

- DEL1 Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and Policy L1 Housing Development, extensions and alterations to existing dwellings and Policy D2 Incompatible Land Uses (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) as landscaping is integral to providing a high quality and sustainable development.
- 20. The development shall not be first occupied until a schedule of landscape maintenance to the areas of open space and any communal areas (excluding private gardens), including details of its implementation for a minimum period of five years from first planting has been submitted to and approved in writing by the Local Planning Authority. The open space and any communal areas shall thereafter be cared for in accordance landscape maintenance scheme. REASON: In order to make a positive contribution to place-making and provide a high quality landscaping and to ensure that the approved landscaping is properly maintained in accordance with BCCS Policies CSP4 Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 Design Quality and DEL1 Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and
 - Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part) and LR1 Open Space
- 21. No above ground development shall commence until details of the types, colours and textures of the materials to be used in the hard surfacing of the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in complete accordance with the approved details and retained for the lifetime of the development unless otherwise agreed in writing with the local planning authority. REASON: In order to make a positive contribution to place-making and provide a high quality landscaping in accordance with BCCS Policies CSP4 Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 Design Quality and DEL1 Infrastructure Provision Borough Development Strategy 2017 Policy S6 Urban Design and
 - Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)
 - This detail is required as landscaping is integral to providing a high quality and sustainable development.
- 22. No above ground development shall begin until details of the types, sizes and locations of the boundary treatments around the site and between the proposed plots has been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be carried out in complete accordance with the approved details prior to the occupation of the dwellings hereby approved and shall thereafter retained for the lifetime of the development unless otherwise agreed in writing with the Local Planning Authority REASON: In order to make a positive contribution to place-making and provide a high quality public realm in accordance with BCCS Policies CSP4 Place-Making, ENV 2 Historic Character and Local Distinctiveness, ENV3 Design Quality and DEL1 Infrastructure Provision and Borough Development Strategy 2017 Policy S6 Urban Design and
 - Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part)

- This detail is required prior to the commencement of above ground works as the required works may need to be incorporated into buildings on the site and as well as needing to protect the amenity of existing and proposed occupiers.
- 23. No development shall commence (excluding demolition, site clearance and initial ground works) until details of nature conservation enhancement works have been submitted to and approved in writing by the Local Planning Authority. The nature conservation enhancement works shall thereafter be provided in accordance with the approved details prior to first occupation of the development and be maintained for the life of the development.

REASON: In order to enhance, encourage and protect the nature conservation value of the site and in accordance with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S21 Nature Conservation Enhancement, Mitigation and Compensation

Policy S20 The Borough's Geology (in part)

Policy S1 Presumption in favour of Sustainable Development (in part) and Policy S21 Nature Conservation Enhancement, Mitigation and Compensation (in part)

Policy S19 Dudley Borough's Green Network (in part)

Black Country Core Strategy Policy ENV1 Nature Conservation (in part)
This detail is required pre commencement (excluding demolition, site clearance
and initial ground works) in that the required works may need to be incorporated
into buildings on the site.

24. Prior to the first occupation or use of the development details of the type and location of bat roost provision on the site shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation or use of the development the agreed provision shall be installed on site and thereafter maintained and retained for the lifetime of the development.

REASON: In order to enhance, encourage and protect the nature conservation value of the site and in accordance with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S21 Nature Conservation Enhancement, Mitigation and Compensation

Policy S20 The Borough's Geology (in part)

Policy S1 Presumption in favour of Sustainable Development (in part) and Policy S21 Nature Conservation Enhancement, Mitigation and Compensation (in part)

Policy S19 Dudley Borough's Green Network (in part)

Black Country Core Strategy Policy ENV1 Nature Conservation (in part) This detail is required pre commencement (excluding demolition, site clearance and initial ground works) in that the required works may need to be incorporated into buildings on the site.

25. Prior to the first occupation or use of the development details of the type and location of bird nesting provision on the site shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation or use of the development the agreed provision shall be installed on site and thereafter maintained and retained for the lifetime of the development.

REASON: In order to enhance, encourage and protect the nature conservation

value of the site and in accordance with BCCS Policies ENV1 - Nature Conservation, CSP3 Environmental Infrastructure and DEL1 - Infrastructure Provision and Borough Development Strategy 2017 Policy S21 Nature Conservation Enhancement, Mitigation and Compensation

Policy S20 The Borough's Geology (in part)

Policy S1 Presumption in favour of Sustainable Development (in part) and Policy S21 Nature Conservation Enhancement, Mitigation and Compensation (in part)

Policy S19 Dudley Borough's Green Network (in part)

Black Country Core Strategy Policy ENV1 Nature Conservation (in part). This detail is required pre commencement (excluding demolition, site clearance and initial ground works) in that the required works may need to be incorporated into buildings on the site.

- 26. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (or any order revoking or reenacting that order with or without modification) no development referred to in Schedule 2, Part 1, Classes A, B, C and D of that order shall be carried out without the express grant of planning permission.

 REASON: In the interests of the privacy and amenity of surrounding residents in accordance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).
- 27. No development shall commence (excluding demolition, site clearance and initial ground works) until a scheme for protecting residents in the proposed dwelling(s) from noise from the railway has been submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with the recommendations contained in the Railway Noise Assessment from Hepworth Acoustics Reference P21-426-R01v1 dated November 2021. All works which form part of the approved scheme shall be completed before occupation of the permitted dwelling(s), and such protection measures in the agreed scheme shall be maintained throughout the life of the development.

 REASON: In order to safeguard the amenities and wellbeing of the occupiers of the proposed dwelling(s) in compliance with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing
- 28. At least 10% of the energy supply of the development shall be secured on site from renewable or low-carbon energy sources. Details and a timetable showing how this is to be achieved for each phase of development including details of physical works on site, shall be submitted to and approved in writing by the Local Planning Authority prior to commencement (excluding demotion, site clearance and grounds works) for that phase. The approved details shall be implemented in accordance with the approved timetable and retained as operational thereafter or the use of the building, unless otherwise agreed in writing by the Local Planning Authority.

dwellings Policy D2 Incompatible Land Uses (in part) and EP7 - Noise Pollution.

- REASON: To reduce the impact of climate change and to comply with BCCS Policy ENV 7 and the Renewable Energy SPD
- 29. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to

throughout the construction period. The Statement shall provide for:

The parking of vehicles of site operatives and visitors

Loading and unloading of plant and materials

Storage of plant and materials used in constructing the development

The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate

Wheel washing facilities

Measures to control the emission of noise, dust and dirt during construction A scheme for recycling/disposing of waste resulting from demolition and construction works

REASON: To protect the amenity of residents in the vicinity of the site during construction of the development and to comply with Borough Development Strategy 2017 Policy L1 Housing Development, extensions and alterations to existing dwellings

- 30. No development shall take place until a scheme for the provision of affordable housing as part of the development shall have been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2: Glossary of National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i) The number, type, tenure and location on the site of the affordable housing provision to be made, which shall consist of not less than 25% housing units.
 - ii) The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no RSL is involved)
 - iii) The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing and
 - iv) The occupancy criteria to be used for the determination of the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

The affordable housing shall be retained in accordance with the approved scheme.

Reason: In the interest of securing affordable housing, having regard to Policy DEL1 (Infrastructure Provision); HOU3 (Delivering Affordable Housing) of the Black Country Core Strategy (2011); Policy L3 (Provision of Affordable Housing in New Development) and L4 (Type, Tenure and Location of Affordable Housing in New Development) of the Dudley Borough Development Strategy (2017) and guidance contained within the National Planning Policy Framework (2019)

31. The development shall not be occupied until details of a scheme to implement a prohibition of Waiting at the site access and along the visibility splay at Wallows Road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be progressed with the best endeavours of the applicant to conclusion, including any fees which may be due to the highway authority.

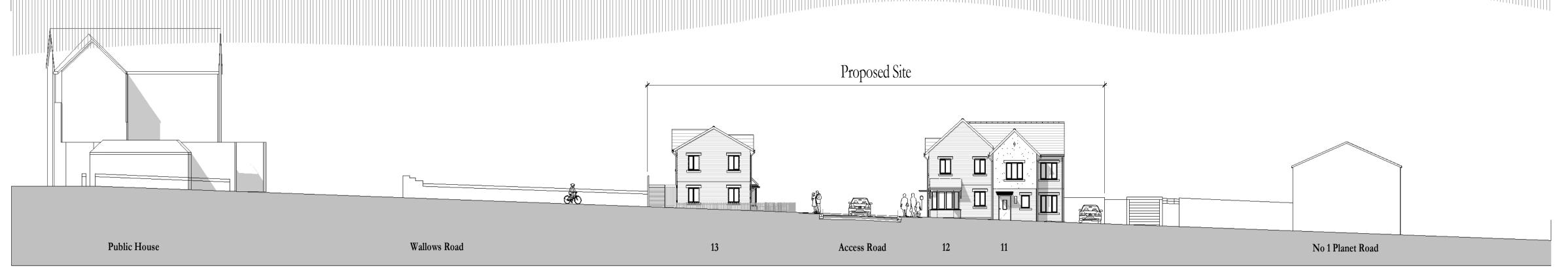
REASON: In the interests of highway safety and to comply with Borough Development Strategy 2017 Policy S6 Urban Design, Policy L1 Housing Development, extensions and alterations to existing dwellings Policy D2 Incompatible Land Uses (in part).

32. No works of construction, levels changes, regrading or other site clearance or infrastructure works involving ground disturbance shall commence until the developer has secured the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation (WSI) which has first been submitted to an approved in writing by the Local Planning Authority. The WSI shall include details of any physical archaeological evaluation works to areas identified as having the potential for archaeological significance and at the appropriate stage details of any subsequent programmes of archaeological recording works required in mitigation of damage to or loss of archaeological remains or proposals for the preservation in situ of archaeological remains. The WSI shall include details of proposed general archaeological monitoring and recording in relation to the ongoing development in the form of an archaeological watching brief it will also include provision for subsequent analysis, reporting and archiving. Following approval of the WSI all such works will be carried out in accordance with the agreed details.

REASON: The site is identified to be of archaeological significance due to the presence of the former Wallow Street Glass Works (HER 4823) and it is important that in accordance with BCCS Policy ENV2 (Historic Character Distinctiveness) and Dudley Borough Development Strategy (2017) Policy S15 (Heritage Assets of Archaeological Interest, Scheduled Ancient Monuments and Archaeological Priority Areas) and paragraphs 194 and 205 of the NPPF that any archaeological remains uncovered during the implementation of the approved scheme be preserved either in-situ or by record.





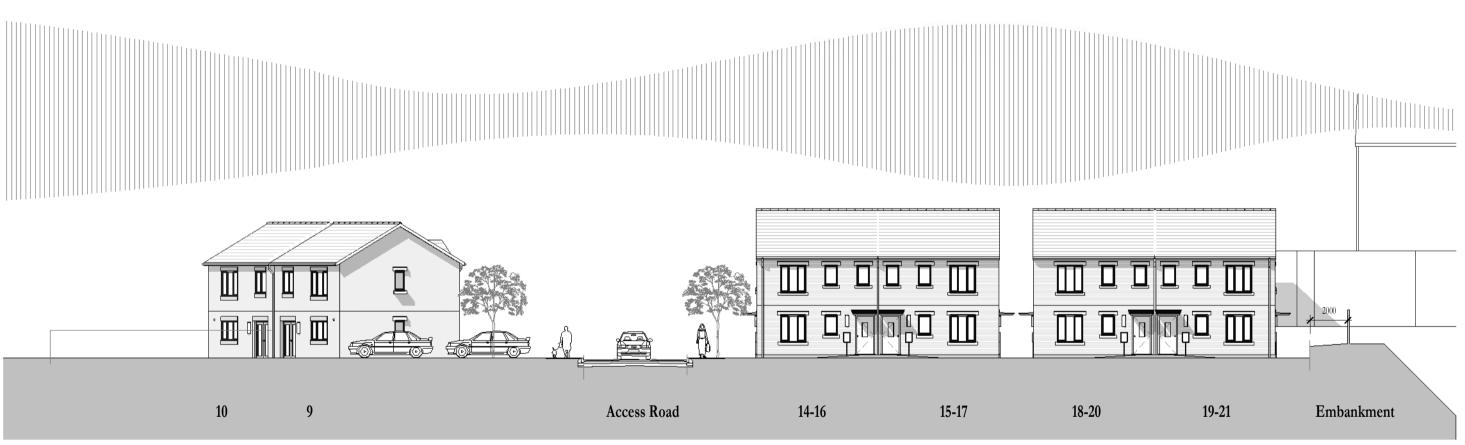


Proposed Street Scene Elevation A

1:200

Proposed Street Scene Elevation B

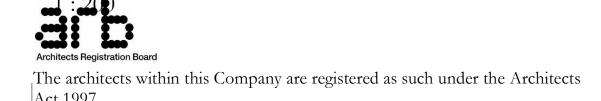
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Proposed Street Scene Elevation C



Proposed Street Scene Elevation E







Proposed Street Scene Elevation D

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All Gradients to the Civil **Engineers Drawings**

