

PLANNING APPLICATION NUMBER:P05/2037

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| Type of approval sought | Full Planning Permission |
| Ward | Castle & Priory |
| Applicant | Projects 2000 Ltd |
| Location: | ASHMORE SITE, TIPTON ROAD, DUDLEY, WEST MIDLANDS. |
| Proposal | REDEVELOPMENT OF INDUSTRIAL SITE WITH 104 RESIDENTIAL UNITS AND ANCILLARY WORKS WITH ACCESS OFF TIPTON ROAD (IDENTICAL TO APPLICATION P05/1230 NOW SUBJECT TO APPEAL) |
| Recommendation Summary: | APPROVE SUBJECT TO A 106 AGREEMENT |

SITE AND SURROUNDINGS

1. The site is located on the east side of Tipton Road (A.4037) just to the north of the railway line. It has an area of 1.32 hectares and is currently vacant. For many years it was used by Ashmores for vehicle dismantling and recovery, mostly in the open air.
2. A small part of the site contains some old industrial buildings which are used for Class B1 and B2 purposes.
3. The site is adjoined to the north and east by Dudley Guest Hospital which is scheduled for closure. Part of the hospital site has recently been developed with an Ambulatory Care Centre Day Clinic which adjoins the northern boundary of the Ashmores site.
4. To the south is a vacant, former car sales site with separate vehicular access to Tipton Road. Also adjoining the southern boundary and set within a cutting is the Walsall-Brierley Hill railway line which is earmarked as the route for the proposed Midland Metro Line 2 to Brierley Hill.

PROPOSAL

5. It is proposed to erect 104 houses and flats with associated access roads and car parking. The development would be accessed by a new road roughly in the centre of the frontage to Tipton Road which would run through the site culminating in a turning head. However, the layout makes provision for the future extension of this road into the adjoining hospital land.
6. The first part of the site from Tipton Road would be developed primarily with three and four-storey blocks of apartments. Beyond these where the site narrows, the development would be 3-storey town houses and 2-storey houses.
7. Initially, it was considered that access to the new Ambulatory Care Centre should be provided from the new road serving the development, but, with the agreement of the Head of Traffic and Road Safety, this link has been omitted and the Care Centre will be accessed from the other side.

HISTORY

8. Application No. P05/1230 - Erection of 104 dwellings with associated access road and parking

An appeal has been lodged against non-determination of this application within the prescribed period. This means that the Council cannot determine the application. However, to ensure the proposals can still be considered by the Council, the current application for exactly the same development has been submitted.

PUBLIC CONSULTATION

9. The application has been publicised by way of a newspaper advertisement, site notice and individual notification letters.

10. An objection has been received from Thomas Dudley Limited who operate a foundry on the other side of the railway fronting the Birmingham New Road. The objection relates to possible adverse effect upon the long term future of the company, which employs 300 people, because of complaints from the future occupiers of the dwellings to noise and smell emanating from the foundry. The company consider the site to be more suitable for industrial development.
11. A letter of support for the development jointly signed by the three Ward Councillors has been received.

OTHER CONSULTATION

12. **The Head of Traffic and Road Safety:** did have concerns about the design of the link to the Ambulatory Care Centre, various obstructed visibility splays, the siting of some parking spaces relative to the units they were intended to serve and the provision of turning facilities. These points have all been addressed to the satisfaction of the HTRS in subsequent amendments to the amended layout plan.
13. The initial layout did not make full provision for the planned four-way junction on Tipton Road to serve the application site and the hospital land behind, and the Castle Hill land on the other side of Tipton Road for which planning permission for mixed development has now been granted to St. Modwens. Because of this, the HTRS objected to the layout. A revised scheme has subsequently been submitted which does make the necessary provision for the new crossroads junction and is acceptable to the HTRS. This will require improvements to Tipton Road to create a right turn lane to provide access to the site from the South, which should be secured through the Section 106 Agreement.
14. **The Head of Public Protection:** has considered the Noise Assessment submitted with the application but is concerned that noise from the tannoy system and hydrosonic scrubber at the foundry of Thomas Dudley Limited could lead to complaints from future occupiers of the development. He raises no objection in respect of Air Quality.

15. **Environment Agency:** A Flood Risk Assessment has been submitted to the Environment Agency which they consider satisfactory.
16. **Highways Agency/Centro:** No objections are raised.

RELEVANT PLANNING POLICY

17. The site falls within the area covered by the Interim Planning Brief for the Dudley Guest Hospital site which was approved by the former Planning Committee in February 1999. The Brief recommended 'a new residential development' on the site.
18. In the former Unitary Development Plan adopted in 1993, the site fell within the boundary of the Castle Gate Opportunity Site on the Proposals Map but its development for leisure and Class B1 purposes was not pursued because of the difficulties of gaining access to its from the main site across the railway line.
19. In the new Unitary Development Plan the site is designated a Primary Development Site on the Proposals Map. Policy UR3 of the document relates specifically to the Tipton Road Development Area, an extensive area covering the hospital, the application site and the land at Castle Hill (i.e. the St. Modwen's site). The policy requires the erection of 350 dwellings in this area.
20. Other policies in the Plan relevant to the proposals include:-
 - DD1 Urban Design
 - DD6 Access and Transport Infrastructure
 - DD7 Planning Obligations
 - DD8 Provision of Open Space, Sport and Recreation facilities
 - DD9 Public Art
 - H1 New Housing Development
 - H4 Housing Mix

- H5 Affordable Housing
- H6 Housing Density
- EP4 Air Quality
- EP7 Noise Pollution
- UR3 Tipton Road Development Area
- PPG3 Housing

ASSESSMENT

Land Use Policy

21. The site forms part of a larger area which has been identified as a strategic housing site in the UDP. Policy UR3 specifically requires the erection of 350 dwellings in this area.

Housing Mix

22. The development comprises 72 (69%) apartments and 32 (31%) houses. The apartments would be one and two-bedroomed while the houses range from two to four-bedroomed units. This represents a good housing mix and meets the requirements of Policy H4.

Affordable Housing

23. The applicants have discussed the provision of affordable housing with the Council's Principal Housing Strategy Officer. Initially, it was proposed that 15 one-bedroom flats would be made available at discounted price for key worker housing. An additional 26 units comprising 10 two-bed units (houses and flats) for shared ownership and 16 three and four-bedroom houses for social renting was also agreed.
24. However, the cost of treating contamination on the site and stabilising the land (which is underlain by old coal and limestone workings) are very high. In addition, the cost of carrying out noise reduction works at the foundry and partial implementation of the Tipton Road junction would also have to be borne by the applicants. The applicants contend that these additional costs, which are accepted

as being abnormally high, would make the development unviable unless some reduction in the level of affordable housing was permitted. An economic appraisal of the scheme is currently being prepared to ascertain if this is, indeed, the case. In the light of this, it is recommended that the level of affordable housing required is not specified at this time and that it be left for subsequent negotiation with the applicants once the economic assessment is available.

Recreation provision

25. The development is of sufficient scale to generate the need for on-site public open space. However, as the site adjoins the larger Guest Hospital development site where a small park to serve the entire new development would be better sited, the Head of Landscape and Projects has decided that a commuted payment which could be put towards this facility would be preferable. Despite this, the layout does provide a small area of open space in approximately the centre of the site. This area would not be adopted, but would be maintained by the occupiers under a management agreement. This location may also be appropriate for public art. Under the formula used, the Public Open Space/play contribution would be £144,321.

Contamination

26. The site is contaminated because of its previous uses, but the Head of Public Protection has examined the contamination report submitted by the applicants and is satisfied that residential development can take place subject to the normal contamination requirements being addressed.

Housing density and layout

27. The Interim Planning Brief recommended high density development, comprising a mixture of 2, 3 or 4-storey apartments and buildings. A preliminary figure of 50-70 dwellings per hectare was suggested.
28. The density of the proposed scheme is 79 dwellings per hectare which is considered appropriate to this particular site and reflects emergency guidance from Central Government in PPS3. The location is highly sustainable with excellent

access to bus and rail services and proximity to Dudley Town Centre. A cycle route runs along Tipton Road and through Castlegate Park.

29. The shape of the application site is asymmetrical and requires an original design solution. This has been achieved with a bold and imaginative layout. The main focal point is the entrance buildings at the junction with Tipton Road. They are curved to follow the line of the road and act as a gateway to the site and are the tallest buildings on the site, at 15.6 m high.
30. The site has no particular context architecturally and is not seen against or alongside any existing residential properties. It is, in essence, a 'stand alone' site where the development can set its own design criteria and can make a positive and exciting addition to the streetscape. The development of three and four-storey buildings of attractive yet distinctive design at the front of the site is quite appropriate in this context.
31. The layout has been refined since the original submission principally to ensure that parking spaces are located close to the buildings they serve and are sufficient in number. As previously stated, the link to the Ambulatory Care Centre has been omitted and the frontage blocks set further back to allow for the future junction on Tipton Road.
32. Particular attention has been paid to the community safety aspects of the scheme with all parts of the site receiving natural surveillance and windows in all elevations.

Noise

33. As previously stated, the Head of Public Protection is concerned about noise from the nearby foundry and considers the likelihood of complaints from occupiers of the development to be high. The applicants contend that it would be no worse than it is for existing residents along the Birmingham New Road in Dudley and Sandwell who do not complain because they may have become accustomed to the noise over a long period of time. Were these existing residents to complain, the Council would

be legally obliged to take action against the company anyway who would have to bear the cost themselves.

34. However, notwithstanding these arguments, they have had discussions with the foundry management to see whether the two sources of noise can be dealt with sufficiently to satisfy the Head of Public Protection and thereby allow planning permission to be granted. Although no specific measures have yet been provided, it would appear that certain works are possible to mitigate the nuisance at a cost that a development of this size could absorb provided a reduction in the number of affordable housing units previously agreed with the Principal Housing Strategy Officer was acceptable. Under the circumstances, and assuming the economic appraisal supports this, your officers consider such a course would be acceptable. Similar arrangements have been allowed on other sites in the Borough where development costs have been very high.

CONCLUSION

35. The use of this former industrial site for new residential development accords with approved Council policy. A range of dwelling sizes, types and tenure is proposed as required by the relevant policies in the UDP. The layout is distinctive and imaginative, and would provide a landmark development along Tipton Road just to the north of Castlegate Park, which also contains a number of very modern leisure and office buildings. The layout allows for the extension of the new access road into the adjoining Guest Hospital site which will also be developed in the next few years. The density of development is in line with the Planning Brief and is considered appropriate for this particular site. The proposed crossroads junction on Tipton Road has been safeguarded and your officers are satisfied that the necessary works to alleviate noise nuisance from the nearby foundry can be achieved. The scheme has the support of the three Ward Councillors as well.

RECOMMENDATION

36. It is recommended that the application be approved subject to the following:-
1. A Section 106 Agreement being entered into requiring:-
 - i) a commuted payment of £144,132 towards the off-site provision of public open space and children's play facilities to serve the development on land in the vicinity,
 - ii) the provision of highway improvements to Tipton Road to create a right turn lane for vehicles accessing the site from the South, and pedestrian facilities,
 - iii) the transfer at no cost of the land required for the full implementation of the new junction on Tipton Road and for its subsequent dedication as highway,
 - iv) the carrying out of satisfactory noise reduction works at the foundry of Thomas Dudley Limited before any dwellings on the site are occupied,
 - v) the provision of affordable housing units, the level of such provision to be agreed by the Director of the Urban Environment.
 2. The Section 106 Agreement being completed within 3 months of the resolution to grant permission.
37. Reason for Approval

The decision to grant planning permission has been taken with regard to the policies and proposals in the adopted Dudley UDP (2005) and to all other relevant material considerations.

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 begin until details of the type, texture and colour of materials to be used in the external elevations have been submitted to and approved by the local planning authority.
3. No development shall take place until there has been submitted to and approved by the local planning authority a scheme of landscaping, which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with measures for their protection in the course of the development.
4. All planting, seeding or turfing comprised in the details of landscaping approved in accordance with condition 3 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.
5. Prior to the commencement of development, a Landscape Establishment and Management Plan shall be submitted to and agreed in writing by the Local Planning Authority. This Plan shall include details of ground preparation, planting and seeding, establishment aftercare and long term management. The establishment phase of the Plan shall be implemented prior to occupation of the development.
6. A minimum of two weeks advance warning shall be given to the Borough Geologist/Keeper of Geology concerning any excavation works (temporary or permanent in nature). This shall include such activities as site investigation, digging of foundation trenches, drainage and service trenches and similar site disturbance. In advance of any such works, access arrangements shall be made for the Borough Geologist/Keeper of Geology and/or his approved representatives to enter onto the site for the purpose of recording and collecting from both exposed rock strata and spoil arising from the works.
7. 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.
8. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed by the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of contaminants and permit the risk based assessment of the development site. Where the investigations identify the presence of contamination, development shall not begin until a scheme to protect the development from the effects of such contamination has been submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.
9. Development shall not begin until a comprehensive written site investigation strategy (in a form to be agreed by the local planning authority), has been submitted to and approved by the local planning authority. Such a strategy shall facilitate the identification of methane & carbon dioxide. Where the investigations identify the presence of methane and/or carbon dioxide the development shall not begin until a scheme to protect the development from the effects of such gases has been

submitted to and approved by the local planning authority. Such a scheme shall: include provisions for validation monitoring & sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.

10. The development shall be carried out in accordance with the following approved plans:-
Ash/1001/N, Ash/2001/A, Ash/2002/B, Ash/2003/B, Ash/2004/A, Ash/2005/A, Ash/2006/B, Ash/2007/B, Ash/2008/C, Ash/2009/C, Ash/2010/C, Ash/2011/C, Ash/2012/B, Ash/2013/B, P327/405E, 3116/1, 4260-1B.
11. Details of all boundary fencing and walling shall be submitted to and agreed in writing by the Local Planning Authority prior to its erection. Such approved fencing/walling shall be retained for the life of the development.
12. Development shall not begin until details of the visibility splays to be provided at the junction between the proposed means of access and the highway have been submitted to and approved by the local planning authority and no building shall be occupied until the visibility splays have been provided in accordance with the approved details.
13. The buildings shall not be occupied until the area shown for car parking on the plan attached hereto has been graded, levelled, surfaced, drained and marked out, and that area shall not thereafter be used for any purpose other than the parking of vehicles.
14. Development shall not begin until a scheme for protecting the proposed dwellings from noise from traffic using Tipton Road, noise from fixed plant at the Ambulatory Care Centre and nearby industry 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.