

# PLANNING APPLICATION NUMBER: P05/2512

Type of approval sought	OUTLINE PLANNING PERMISSION
Ward	CASTLE & PRIORY
Applicant	DUDLEY MBC
Location:	<b>LAND AT BURTON ROAD/JEWS LANE, UPPER GORNAL</b>
Proposal:	<b>INDUSTRIAL DEVELOPMENT (OUTLINE) ACCESS TO BE CONSIDERED. ALL OTHER MATTERS RESERVED FOR SUBSEQUENT APPROVAL (RESUBMISSION OF REFUSED APPLICATION P05/2035).</b>
Recommendation summary:	<b>APPROVE SUBJECT TO CONDITIONS</b>

## SITE AND SURROUNDINGS

1. The application site abuts the southern side of the Burton Road/Jews Lane junction. The topography of the site is sculpted such that it rises from the highway by some 1.5m before levelling out and stepping up again by a similar height, to the eastern boundary of the site which abuts the Dormston Industrial Estate. The site is located within a mixed use area that comprises of residential and industrial land uses.
2. Immediately bordering the western boundary of the site is the rear amenity space of the residential properties fronting Jews Lane, no's. 1 -5 (odds) and a parcel of land in use as storage land. A car park located off Jews Lane, which partially dictates the shape of the site is also found on the western boundary and is owned/controlled by the applicant. Abutting the northern fringes of the site is situated the back edge of the footpath that runs adjacent to Burton Road and located on the opposite side of Burton Road are residential properties. To the east of the site is a vacant garage, which fronts Burton Road and is screened from the site by mature trees. Running along the south-east boundary of the site is palisade fencing measuring some 2.2m in height, beyond which is located industrial units which form part of the wider context of the Dormston Trading Estate.
3. The site was formerly occupied by a house which was acquired by the Council and demolished for the recent junction improvements.

## PROPOSAL

4. The proposed development seeks outline permission for Industrial Development B1, B2 and B8 use, with means of access to be determined at this stage. All other matters are reserved for future consideration.

## HISTORY

5. Relevant planning history;

<b>APPLICATION No.</b>	<b>PROPOSAL</b>	<b>DECISION</b>	<b>DATE</b>
89/52070	Change of Use from Garage to Offices	Refused	19/10/1989
89/52323	Use of land for the sale of motor vehicles and the erection of a 3.5m high fence	Withdrawn	08/01/1990
90/51801	Siting of Portakabin and use of land for taxi services and parking spaces	Approved	15/02/1991
95/51074	Display of 3 no. advertisement hoardings with feather edge fencing 2.4m high	Refused	14/12/1995
98/50322	Retention of residential use of house and change of use of open storage land to haulage depot	Refused	28/05/1998
99/50076	Outline application for the erection of three retail shops, car wash and associated car parking and general highway	Refused	07/06/1999
P00/51947	Part 31 determination – demolition of the hill	Prior approval not required	14/12/2000
P05/2035	Outline application for Industrial Development	Withdrawn	14/11/2005

6. This application is a resubmission of P04/2035 following the withdrawal of a similar proposal, however, that application was for all matters to be reserved for subsequent approval.

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## **PUBLIC CONSULTATION**

8. The application was advertised by way of thirty-five letters of notification and a site notice being displayed on 2<sup>nd</sup> December 2005, inviting written representations to be made within 21 days of notice being put on view. Two letters of objection have been received from nearby residential properties. The grounds of objection are;
  - Increase in noise, nuisance from industrial development occurring on-site and the associated increase in traffic.
  - Loss of views.

## **OTHER CONSULTATION**

9. Environmental Protection consulted. The following observations were made;

The application site adjoins residential premises and so concerns have been expressed that noise and pollution from the proposed industrial development could affect the neighbouring residents. It is possible that the impact of the development could be reduced by locating B1 uses only near to residential premises and by restricting the hours of use of all the units and restricting the times for deliveries and despatches.

10. Traffic and Road Safety Consulted. The following observations were made;

The application site is located in a prominent elevated position adjacent to the new Jews Lane / Burton traffic signal controlled junction. The only form of vehicular access to the site is via the existing industrial estate road due levels, visibility splays and the proximity of the adjacent junction. Policy AM3, DD6 seeks to ensure there is no detrimental impact on the safe and efficient operation of the strategic highway. The creation of a new vehicular access directly from Burton Road to the application site would have a significant impact

on the operation of the adjacent junction due to visibility, standing traffic waiting to turn right into the site which would result in through traffic backing up and clogging the new traffic signal controlled junction.

The existing industrial estate access is considered to be of poor construction and alignment especially at its junction with Burton Road. There is little prospect of any improvement in this access since its ownership is outside the applicants control. Consideration could be given to a negative planning condition that requires improvements to take place prior to the implementation of the reserve matter application. Advice will need to be given if such a condition could be enforced.

## RELEVANT PLANNING POLICY

11. Policy EE2 – ‘Local Employment Areas’. Adopted Dudley UDP (2005).

## ASSESSMENT

12. The application site is located within an area designated for industrial employment land use and therefore Policy EE2 is of relevance. Policy EE2 states ...*“The Local Employment Areas and Development Sites are defined on the Proposals Map. Acceptable employment uses are:-*

- *B1 Research Development and Light Industry.*
- *B2 General Industrial.*
- *B8 Warehousing, Storage and Distribution.*

*Ancillary uses are:-*

- *Individual factory outlets up to 10% of the gross industrial floorspace of the unit concerned with a maximum of 200 sq. metres.*
- *A1 (food), A3 (food & drink) and D1 (care facilities) uses of a scale, nature and location to serve the immediate needs of the Local Employment Area”...*

13. It is considered that given the close proximity of the existing pockets of residential land use to the site combined with the existing Dormston Trading Estate, further industrial development of B2, General Industrial Use may compound and exacerbate existing problems and pollution levels. It is therefore considered that development should be limited solely to B1 (part b and c Use), i.e. Research and Development and Light

Industry, and B8, Warehousing. Class B1a Office Use development could not be supported under Policy EE2 as a Primary Land Use at this specific site. Subject to the uses being restricted to B1b, B1c and B8 it is considered that this outline application is acceptable.

14. It should be noted that details of siting, design, external appearance and landscaping have been reserved for subsequent approval.
15. Access to this land has always been from a pair of existing 5.2m wide gates in the palisade boundary fencing separating the site from the Dormston Trading Estate. This existing access leads onto the unadopted road serving the Dormston Trading Estate. Given the open nature of the adjacent land between the gates and the estate road, which is currently in use as a taxi depot, there would be adequate visibility for vehicles entering and leaving the site at this point. The Head of Traffic and Road Safety would not permit direct access onto Burton Road or Jews Lane so access from the estate road would be the only other alternative.

## CONCLUSION

16. It is not considered that the outline development would be detrimental to the amenities of adjacent residents providing that only B1b, B1c and B8 Uses were located on site. The proposal therefore accords with Policy EE2 of the adopted Dudley UDP, and as such approval of the application is recommended.

## RECOMMENDATION

### 17. 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.

It is recommended that the application is approved subject to conditions.

**Conditions and/or reasons:**

1. A01A Submission of reserved matters
2. Application for reserved matter 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 the approval on different dates, the final approval of the last such matter to be approved.
3. 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 and sampling; be implemented in accordance with the approved details before the development is first occupied; and be retained throughout the lifetime of the development.
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 methane and 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 and 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. This permission shall only relate to Class B1 (b and c) and B8 of the Schedule to the Town and County Planning Use Classes (Amendment) Order 2005, or in any provision equivalent to those Classes in any statutory instrument revoking and re-enacting that Order.
6. No machinery shall be operated on the premises or materials be delivered to or despatched from the site before 08:00 hours on Mondays to Fridays and 08:30 on Saturdays, nor after 18:00 hours on Mondays to Fridays inclusive and 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holidays.
7. C05A Details of roads & drainage