

PLANNING APPLICATION NUMBER:P07/0502

Type of approval sought	Outline Planning Permission
Ward	Quarry Bank & Dudley Wood
Applicant	IDCM
Location:	LAND TO REAR OF, CRADLEY ROAD, CRADLEY HEATH, WEST MIDLANDS
Proposal	OUTLINE APPLICATION FOR THE ERECTION OF 6 DWELLINGS (APPEARANCE AND SCALE RESERVED FOR SUBSEQUENT APPROVAL)(RESUBMISSION OF WITHDRAWN APPLICATION P06/2004).
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

1. The site is located off Cradley Road B4173. It is an elongated site running north to south which is dissected by the Mousesweet Brook. This brook forms the boundary between Sandwell MBC and Dudley MBC. Although this application is for six dwellings and new vehicular access it forms part of a larger development. On 29th January 2007 Sandwell MBC granted approval for the development of 45 dwellings (houses and flats) on their part of the site.
2. Access to the dwellings in Sandwell would be served via a new road on to Cradley Road, which is within the Dudley boundary. A second minor access on to Cradley Road would serve the six dwellings which are the subject of this application.
3. The site has an extremely unkempt, neglected appearance and suffers from vandalism and anti-social behaviour. Foundations of former industrial buildings remain visible through the overgrown vegetation and the brook readily floods due to lack of maintenance. A small, vacant, red brick industrial building is situated within Dudley's site adjacent to no 223 Cradley Road.

4. Although the levels on the site fall slightly in a north to south direction, the site is at a much lower level than housing in Bannister Street within Sandwell MBC. A high wall marks the boundary to the rear of the site.
5. A public footpath runs from Bannister Street to Cradley Road across the site. It appears that the site suffers from vandalism

PROPOSAL

6. The application is made in outline with design and external appearance being reserved for subsequent approval.
7. The construction of the six houses would entail the demolition of the industrial building. The applicant intends to construct three, three storey town houses facing Cradley Road. At the rear would be one dormer bungalow and two, two storey detached dwellings.
8. Further south, adjacent to the new main access road it is intended to create a pool. This would help to regulate water levels in the brook by receiving excess water during times of heavy flow. It would also create an area for wildlife. This area would not be publicly accessible but it would be visible from Cradley Road.

HISTORY

9.

APPLICATION No.	PROPOSAL	DECISION	DATE
DY/57/272	Development of land for industrial purposes	Approved	25/06/57
DY/60/201	Extension of existing galvanised hollowware business	Refused	25/07/60
DY/64/57	One pair of semi-detached houses and one detached house	Approved	19/02/64
DY/61/14	Outline residential development	Approved	24/01/61
DY/64/463	Erection of 12 pairs of semi-detached houses	Approved	20/10/64
DB/70/7182	Erection of detached house	Refused	16/10/70
91/50830	Outline residential development	Approved	12/09/91
94/51066	Outline residential development	Approved	25/10/94

Application No. DC/06/46295 for 45 dwellings on the land on the other side of the Mousesweet Brook was approved by Sandwell MBC on 29.01.07.

PUBLIC CONSULTATION

10. No letters of objection have been received following notification of over 60 residents and local companies.

OTHER CONSULTATION

11. **Group Engineer Development** – objection subject to conditions.

12. **Environmental Protection** – no objection subject to conditions.

13. **Environment Agency** – no comments had been received at the time of writing the report but they did not object to the much larger development on Sandwell's side of the brook.
14. **Sandwell MBC** – no objections.

RELEVANT PLANNING POLICY

15. Adopted Dudley Borough Unitary Development Plan (2005)

Policy DD1 – Urban Design

Policy DD4 – Development in Residential Areas

Policy DD6 – Access and Transport Infrastructure

Policy DD7 – Planning Obligations

Policy DD10 – Nature Conservation and Development

Policy DD11 - Water Courses

Policy DD12 – Sustainable Drainage Systems

Policy AM14 – Parking

Policy H1 - New Housing Development

Policy H3 – Housing Assessment Criteria

Policy H6 – Housing Density

Policy NC1 – Biodiversity

Policy NC5 – Sites of Local Importance for Nature Conservation

Policy NC6 – Wildlife Species

Policy NC8 – Temporarily Vacant Sites and Nature Conservation

Policy NC9 – Mature Trees

Policy NC10 – The Urban Forest

Policy UR8 - Derelict Land

16. Supplementary Planning Guidance

Planning Guidance Note No 3 New Housing Development

Parking Standards and Travel Plans

17. National Planning Policy Guidance

PPS3 – Housing

PPS9 Biodiversity and Geological Conservation and accompanying documents

ASSESSMENT

18. The key issues are:

* Principle

*Access

*Layout

*Flood Risk

*Protected Species

*Commuted payment

Principle

19. The site is identified as a Site of Local Importance for Nature Conservation in the adopted Dudley Unitary Development Plan. It is also within the ARC of Opportunity regeneration zone which is a regeneration strategy.

20. The application is for six houses, two new vehicular accesses and associated landscaping. It forms part of a larger site which is dissected by the Mousesweet brook. This brook also marks the boundary between Sandwell MBC and Dudley MBC. On 29th January 2007 Sandwell MBC granted approval for the development of 45 dwellings (apartments and houses) on its part of the site.

21. The erection of the six dwellings on the Dudley site would require the demolition of the existing industrial building. The applicant has provided details of attempts to market this building which has been vacant for a number of years and it is apparent that he has been unsuccessful. In any event, this building is small and is a non-conforming use within an established residential area. Accordingly, there would be no objection in principle to the residential development of the land.

Access

22. A new main access road on to Cradley Road will serve the recently approved residential development on Sandwell's side. This has been the subject of negotiations with the developer and is acceptable to the Group Engineer (Development). Several parking spaces have been included on either side of this road for visitors to the new development. This should prevent on-street parking on Cradley Road.

Layout

23. The application indicates 3no, three storey town houses fronting Cradley Road, with one dormer bungalow and 2no, two storey detached houses to the rear (their appearance is reserved for subsequent approval). In principle, it is considered that this mix and arrangement is acceptable. There are existing three storey dwellings opposite the site in Cradley Road and the bungalow and two storey dwellings would be acceptable in terms of their relationship to existing houses at the side and rear of the site. The density of development is only 18 dwellings per hectare for the land in Dudley but about half of this would be given over to the balancing pool.

Flood Risk

24. Mousesweet brook at the moment is subject to flooding due in part to lack of maintenance. It is intended to dredge the brook in places, construct a new road bridge across it, and provide a pool which would accept excess water in times of heavy flow. This pool would be visible from Cradley Road. It is expected that with associated planting this would provide an attractive feature which will also be important for wildlife.

Protected Species

25. The brook is a Site of Local Importance for Nature Conservation. It has also been established that the corridor it provides is used by feeding bats. In order to protect and retain plants and wildlife on the site, with specific reference to bats, any permission granted should be subject to a number of conditions which are included below.

Commuted Payment (Public Open Space/Play)

26. Normally, Policy DD7 of the adopted Dudley Unitary Development Plan requires a contribution for the provision of off-site play areas and public open space for the development of six dwellings. However, the applicant has provided evidence regarding the amount of remediation required and works to the brook/flood control which would require a great deal of expenditure. On balance, Sandwell MBC decided not to require an additional cost burden of a Section 106 agreement on their part of the site which has been allocated for residential development in their adopted Unitary Development Plan for many years. Likewise it would seem unreasonable for Dudley to impose such a requirement upon such a difficult site. However, a Section 106 Agreement would be required to create a management plan and ensure the future management of all public areas and private amenity space on the site. The proposed pool would provide a significant feature in the locality which, when established and landscaped, would be an important wildlife habitat.

CONCLUSION

27. The site has a very unkempt appearance. Its development would remove a non-conforming use in a residential area. The siting of the six dwellings is satisfactory. The new access would enable the approved dwellings on Sandwell's side of the boundary to be developed. Nature conservation interests would be protected by condition and the works to the brook should remove the flooding problems currently experienced by residents in Cradley Road. As such the application is considered to be acceptable.

RECOMMENDATION

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

a) The applicant entering into a Section 106 Legal Agreement for a management plan for the proposed pool and areas of open space

- b)The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary
- c)In the event that the Section 106 agreement has not been completed within *two* months of the resolution to grant approval, the application will be refused if appropriate.

Reason for Approval

The site has a very unkempt appearance. Its development would remove a non-conforming use in a residential area. The siting of the six dwellings is satisfactory. The new access would enable the approved dwellings on Sandwell's side of the boundary to be developed. Nature conservation interests would be protected by condition and the works to the brook should remove the flooding problems currently experienced by residents in Cradley Road. As such the application is considered to be acceptable.

The decision to grant planning permission has been taken with regard to:

- Policy DD1 – Urban Design
- Policy DD4 – Development in Residential Areas
- Policy DD6 – Access and Transport Infrastructure
- Policy DD7 – Planning Obligations
- Policy DD10 – Nature Conservation and Development
- Policy DD11 - Water Courses
- Policy DD12 – Sustainable Drainage Systems
- Policy AM14 – Parking
- Policy H1 - New Housing Development
- Policy H3 – Housing Assessment Criteria
- Policy H6 – Housing Density
- Policy NC1 – Biodiversity
- Policy NC5 – Sites of Local Importance for Nature Conservation
- Policy NC6 – Wildlife Species
- Policy NC8 – Temporarily Vacant Sites and Nature Conservation
- Policy NC9 – Mature Trees
- Policy NC10 – The Urban Forest

Policy UR8 - Derelict Land

of the adopted Dudley Unitary Development Plan (2005) and to all other relevant material considerations. The detailed reasons for the granting of approval are contained within the application report.

Note for Applicant

The development hereby permitted shall be built in accordance with the approved plans, numbered IDCM 001A, IDCM 001B and the outline planting plan dated 23/02/07, unless otherwise agreed in writing by the Local Planning Authority.

Conditions and/or reasons:

1. Application for reserved matters (design and external appearance) approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and the development to which the permission relates must be begun not later than the expiration of two years from the final approval of the reserved matters or, in the case of approval on different dates, the final approval of the last such matter to be approved.
2. None of the dwellings shall be occupied until works for the disposal of foul and surface water drainage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved by the Local Planning Authority.
3. Development shall not begin until details of the existing and proposed levels of the site, which should be related to those of adjoining land and highways, have been submitted to and approved by the local planning authority. Development shall proceed in accordance with the approved details.
4. Before any dwelling hereby approved is first occupied the parking area a scheme for the paving of the access roads and parking spaces shall be submitted to and approved in writing by the Local Planning Authority. This shall include the use of grasscrete under the canopies of existing and newly planted trees and close to the banks of the brook.
5. No development shall take place until there has been a detailed landscape scheme submitted to and approved in writing by the Local Planning Authority. This shall include the location, species and size of all trees, plants and shrubs to be planted on the site and the seed mixes to be used, this shall accord with the outline planting

plan hereby approved. It shall also include an establishment and management plan for the for planting and retention of the approved scheme.

6. Notwithstanding the provisions of the Town and Country Planning General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order) at no time during the life of the development shall the areas approved for landscaping be used for any other purpose.
7. No development shall take place until there has been submitted to, and approved in writing by the Local Planning Authority details of the tree protection measures on site. The details shall include:

A plan showing the location and identification (with reference to a survey schedule if necessary) of all trees on, or directly adjacent to the development site, that are to be retained during construction. These trees are to be marked with a continuous outline.

A plan showing the location and identification (with reference to a survey schedule if necessary) of all the trees on, or directly adjacent to the development site that are to be removed prior to, or during development. These trees are to be marked with a dashed outline.

A plan showing the extent of the Root Protection Area, which is to be protected by physical barriers during development. The extent of the area that is to be protected will be calculated in accordance with Clause 5.2 of British Standard BS: 5837 – 2005 “Trees in Relation to Construction – Recommendations”.

Design details of the proposed protective barriers to be erected around the trees during development. Any protection barriers should be designed and constructed in accordance with the provisions set out in section 9.2 of British Standard BS:5837 – 2005 “Trees in Relation to Construction – Recommendations”.

The approved measures to be implemented prior to construction works commencing on the site and retained until construction is completed.

8. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the Local Planning authority. No development or other operations shall take place except in complete accordance with the approved Method Statement. Such method statement shall include full detail of the following:
 - Implementation, supervision and monitoring of the approved Tree Protection Plan.
 - Implementation, supervision and monitoring of the approved Treework Specification.
 - Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Plan.
 - Timing and phasing of arboricultural works in relation to the approved

development.

9. No development or other operations shall commence on site or in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed tree felling/pruning specification has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall commence on site until the approved tree felling and pruning works have been completed. All tree felling and pruning shall be carried out in full accordance with the approved specification and the requirements of British Standard 3998 (1989) Recommendations for Tree Work.
10. The existing trees shown on the approved plans to be retained shall not be damaged or destroyed, uprooted, felled, lopped or topped during the construction period of the development without prior written consent of the local planning authority. Any trees removed without such consent or dying or being seriously damaged or diseased during that period shall be replaced with healthy trees of such size and species as may be agreed in writing by the Local Planning Authority.
11. All excavations to be undertaken within 6 metres of the stem of existing trees on site shall be undertaken in accordance with NJUG Publication number 10 'Guidelines for the Planning, Installation and Maintenance of Utility Services in proximity to Trees'.
12. No development or other operations shall commence on site in connection with the development hereby approved, (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed service and foul and surface water drainage layout has been submitted to and approved in writing by the Local Planning Authority. Such layout shall provide for the long term retention of the trees. No development or other operations shall take place except in complete accordance with the approved service/drainage layout.
13. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority technical details of any proposed driveway/parking area within 3 metres of the outer canopy spread of any existing tree situated on or off the site. The details of the vehicular access and parking areas shall include existing and proposed ground levels, materials to be used and the relative time of construction within the whole development and must be in accordance with appropriate guidelines, namely BS 5837:2005 'Trees in Relation to Construction' and Arboricultural Advisory & Information Service Practice Note 'Driveways Close to Trees' (1996). Any driveway / parking areas within 3 metres of existing trees must be constructed using minimum excavation techniques incorporating appropriate surfaces to avoid damage to trees and to prevent any potential direct or indirect damage caused by trees.
14. All demolition of buildings and trees on the site must follow protocols to be agreed in writing by the Local Planning Authority. Building features suitable for bats must be dismantled by hand and all trees be sectional felled. All work must cease if evidence of bats is found and the Local Planning Authority and Natural England

informed immediately. Any work within the bird nesting season should proceed with care and must not damage or destroy nests, eggs or birds.

15. A scheme for including Woodcrete bat boxes/tubes on suitable buildings on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the first occupation and retained for the life of the development.
16. Before the commencement of development the approved bat survey shall not be more than 12 months old. In the event that this date expires, a new bat survey will be required and be approved in writing by the Local Planning Authority.
17. Before the commencement of development on the site a strategy for the removal of invasive species on the site including Japanese knotweed and Himalayan balsam should be submitted to and approved in writing by the Local Planning Authority. The approved scheme to be implemented before development commences.
18. Prior to the occupation of the first dwelling on the site a boundary wall running adjacent to no 223 Cradley Road shall be covered by facing bricks on the side which will be seen from the new development. The materials to be used shall first be approved by the Local Planning Authority and the wall retained for the life of the development.
19. Before the development is commenced details of boundary treatment for the boundaries of the site, individual plots and adjacent to the Mousesweet Brook shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme to be implemented prior to the occupation of the first house on the site.
20. 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.
21. Before the commencement of development a scheme for the external lighting of the site shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme to be implemented prior to the occupation of the first house on the site.
22. Development shall not begin until details of the type, texture and colour of the brickwork to be used in the construction of the external walls, and the roofing tiles have been submitted to and approved by the local planning authority. Such materials shall, unless otherwise agreed in writing by the local planning authority, closely match in type, texture and colour those of the existing building. Development shall proceed in accordance with the approved details.
23. 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.
24. Prior to commencement on site the developer shall enter into and agree a section 278 agreement under the 1980 Highways Act, with the Highway Authority for works

on the Highway including, barrier protection systems, retaining structures, re-alignment of carriageway and footway and bridges.

25. Prior to first occupation of development the means of access and parking areas shall be graded, levelled, drained, surfaced and marked out and shall be retained for the life of the development.
26. Prior to commencement on site details of the parking area and means of access shall be submitted to and approved in writing by the Local Planning Authority.
27. Prior to commencement of development details of all bridges, retaining structures and barrier systems shall be in accordance with DMRB and approved in writing by the Local Planning Authority. These will be provided in accordance with the approved details prior to first occupation.