

AGENDA ITEM No.

WARDS AFFECTED:
St James

DEVELOPMENT CONTROL COMMITTEE – 31st JANUARY 2011
JOINT REPORT OF THE DIRECTOR OF LAW AND PROPERTY AND THE
DIRECTOR OF THE URBAN ENVIRONMENT

ENFORCEMENT

LOCATION French Connection, 201 High Street, Dudley, West Midlands, DY1 1QQ

REF H/158/22/01

BACKGROUND

- 1 A report seeking enforcement action relating to the site premises of 201 High Street, Dudley was presented to the Development Control Committee held on 31st August 2010. The Committee decided to defer the report until the determination of a planning appeal against the refusal of planning permission P09/1562, which related to the site premises.
- 2 This report is to update Members that the planning appeal has now been determined and consideration should now be made whether enforcement action should be taken against the current unauthorised ground floor use of the premises. The planning appeal was dismissed on 26th November 2010
- 3 The ground floor use of this mid terraced property is currently trading under the business name of 'French Baguette' and the building forms part the Trident Centre. It is located within a section of modern, two-storey, flat roofed units which face the High Street which have a large concrete canopy above the fascia signs of the shops. There is an underground car park below the buildings and a car park on the roof. The premises are also situated within Dudley Town Centre and Dudley Town Centre Conservation Area.

- 4 The Council received a complaint in May 2009 alleging the former ground floor retail use of the property had changed to a café use. An investigation was conducted which revealed the premises are being used for the sale of hot and cold sandwiches with also a small range of other food. The premises has a large floor area set aside for customer seating area, with additional tables and chairs positioned outside the premises frontage. The premises have a main counter with a food preparation located behind. A freestanding drinks refrigeration/chilling unit is located close to the main counter.
- 5 During the inspection consideration was made to whether the ground floor use of the premises would fall within A1 Use Class. The Use Class Order (Amendment) Order 2005 refers to A1 (d) Use Class relates to the use of a property for the sale of sandwiches and other cold food for consumption off the premises.
- 6 The Council must have regard to whether the extent of facilities for providing hot food in addition to cold foods would involve a material change of use of the premises. Further consideration was made to the extent of customer seating provision for customers to consume on the premises.
- 7 It considered that the primary cooking of certain foods such as the breakfast meals including bacon, eggs and sausages would involve an element of heating and cooking and therefore would fall within a classification of an A3 Use Class such as a café. This would also apply to the baking of potatoes for consumption. The reheating of baguettes and sale of hot drinks would be considered to an ancillary element associated with an A1 use such as involved with the sale of sandwiches.
- 8 With regard to the coverage of customer seating provision, it was also considered that the number of chairs and tables provided for 32 No. covers inside and 4 No. covers on the pavement outside for consumption

of food on the premises. It is considered that the extent of seating provision would fall within an A3 Use Class such as a café, rather than a sandwich bar.

- 9 The Council issued a Planning Contravention Notice to ascertain further information about the ground floor use of the premises. The Notice was completed and the owner detailed the ground floor use was being used for the purposes for the retail sale of baguettes, sandwiches and a range of hot foods. The owner also detailed It has been noted that the total floor area for the premises is approximately 2000 square feet. It has been confirmed that 500 square feet is used for the preparation of food; 250 square feet is used for retail sales; and 1500 square feet is used for customer seating provision, which includes external customer seating. The level of customer seating has been detailed to be fifteen tables and thirty chairs. In relation to the proportion of retail sales of hot foods only, based upon a weekly basis, it was noted that approximately twenty-five percent was for the sale of hot foods.
- 10 The Council notified the owner that the ground floor use of the premises required planning permission for the change of use of the premises from retail (A1) to a restaurant/takeaway (A3/A5).
- 11 The Council received a retrospective planning application for the use of the ground floor. The application was registered with the application reference number P09/1562. The application was determined and it was formally assessed that the ground floor A3/A5 use of the premises would be a preferred use within this part of the town centre. The lack of residential units in close proximity to the site limits the potential of the scheme to create issues of noise and disturbance. Given the location of the site within the town centre there is not a need to provide dedicated off-street parking spaces.
- 12 However, in accordance with Policy DD7 of the adopted Dudley Unitary Development Plan and the Council's adopted Planning Obligations

Supplementary Planning Document, the application proposal did require the provision of financial contributions towards planning infrastructure with respect to public realm, highway and infrastructure works and nature conservation.

- 13 During the determination of the planning application P09/1562, it was formally assessed that there would be a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community.

It was calculated the application proposal attracted a requirement for a commuted sum to be paid towards the following infrastructure:

- Public Realm - £4,421.25
- Transport Infrastructure Improvements - £3,122.19
- Nature conservation - £62.50
- Management and Monitoring - £500

Total Offsite Contribution = £8,105.94

- 14 The applicant however declined to enter into an agreement to secure such a contribution. As such, this was contrary to Policy DD7 of the adopted Dudley Unitary Development Plan and the Council's adopted Planning Obligations Supplementary Planning Document.
- 15 The planning application was refused planning permission on 6th January 2010. The reason for refusal was:

The lack of an undertaking to make a contribution towards public realm, nature conservation and transport infrastructure improvements and a management and monitoring charge is contrary to the requirements of Policy DD7 of the adopted Dudley Unitary Development Plan and adopted Planning Obligations Supplementary Planning Document and would lead to an increase

in demand on local facilities with no compensation or enhancement, thus resulting in harm to the wider community around the site.

- 16 The Council wrote to the registered land owner in March 2010 advising the applicant had right to appeal the refusal of your planning application within a period of six months of the determination of the application. The Council invited a further planning application to be made for the current use of the premises, with a review of the commuted sum that would need to be paid. The review could also consider the option of staged payments of the commuted sum.
- 17 The review for the provision of financial contributions determined that there would be a significant reduction in the Total Offsite Contribution for the site premises. The re-assessment has determined that there is no need for the provision of any financial contributions relating to public realm or nature conservation. There is however a requirements for a need for a financial contribution towards Transport Infrastructure Improvements which has been calculated to be - £3,122.19. It has been determined that there is a reduced Management and Monitoring fee of £250.

The revised Total Offsite Contribution for the site premises is now £3372.19.

- 18 A planning appeal was lodged against the refusal of the planning P09/1562. The appeal was determined and was dismissed on 26th November 2010. The appeal decision determined that a change of use of the premises has taken place and as a result the use of the premises as a restaurant/take away would lead to an increase in a number of customers and results in an increase in demand on local transport infrastructure. The appeal decision also supported the Council's determination of the planning application P09/1562 that a proportionate

contribution would be required to mitigate the increased pressure on local transport infrastructure.

- 19 As the ground floor use of the premises remains to being trading and operating as an A3/A5 Class Use, without the benefit of planning permission, it is now considered in light of the reasons for refusal of the planning application P09/1562 and the recent appeal decision, that it is expedient to take enforcement action against the unlawful use of the premises.

BREACH OF PLANNING CONTROL

- 20 Without planning permission and within the last ten years , the change of use of the ground floor level of the building from an A1 Retail Use activity to a mixed A3/A5 Class use activity.

For the avoidance of doubt the definition of an A1 Use Class would comprise of the following:- **Shops**: Shops retail warehouses, hairdressers, undertakers, travel and ticket agencies, post offices (but not sorting offices), pet shops, sandwich bars, showrooms, domestic hire shops, dry cleaners, funeral directors and internet cafes.

For the avoidance of doubt the definition of an A3 Use Class would comprise of the following:- **Restaurants and cafés** - For the sale of food and drink for consumption on the premises - restaurants, snack bars and cafes.

For the avoidance of doubt the definition of an A5 Use Class would comprise of the following:- **Hot food takeaways** - For the sale of hot food for consumption off the premises.

WHAT IS REQUIRED TO BE DONE

- 21 i) Permanently and completely cease the use of the ground floor for as a mixed A3/A5 Use class, except where the use is ancillary to a use in Class A1
- ii) Cease the preparation of hot food on the premises except where ancillary to a use in Class A1

TIME FOR COMPLIANCE

- 22 Fours months after the Notice takes effect

REASONS FOR ENFORCEMENT

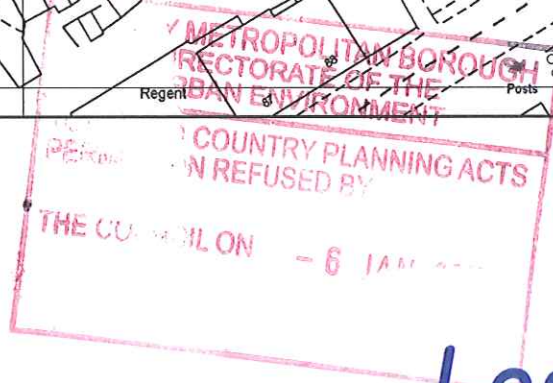
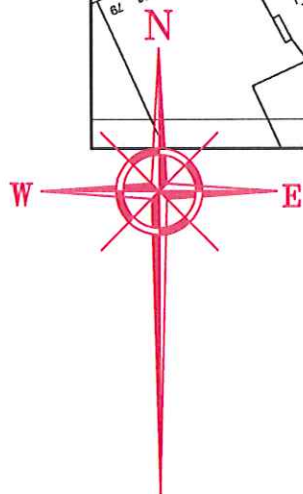
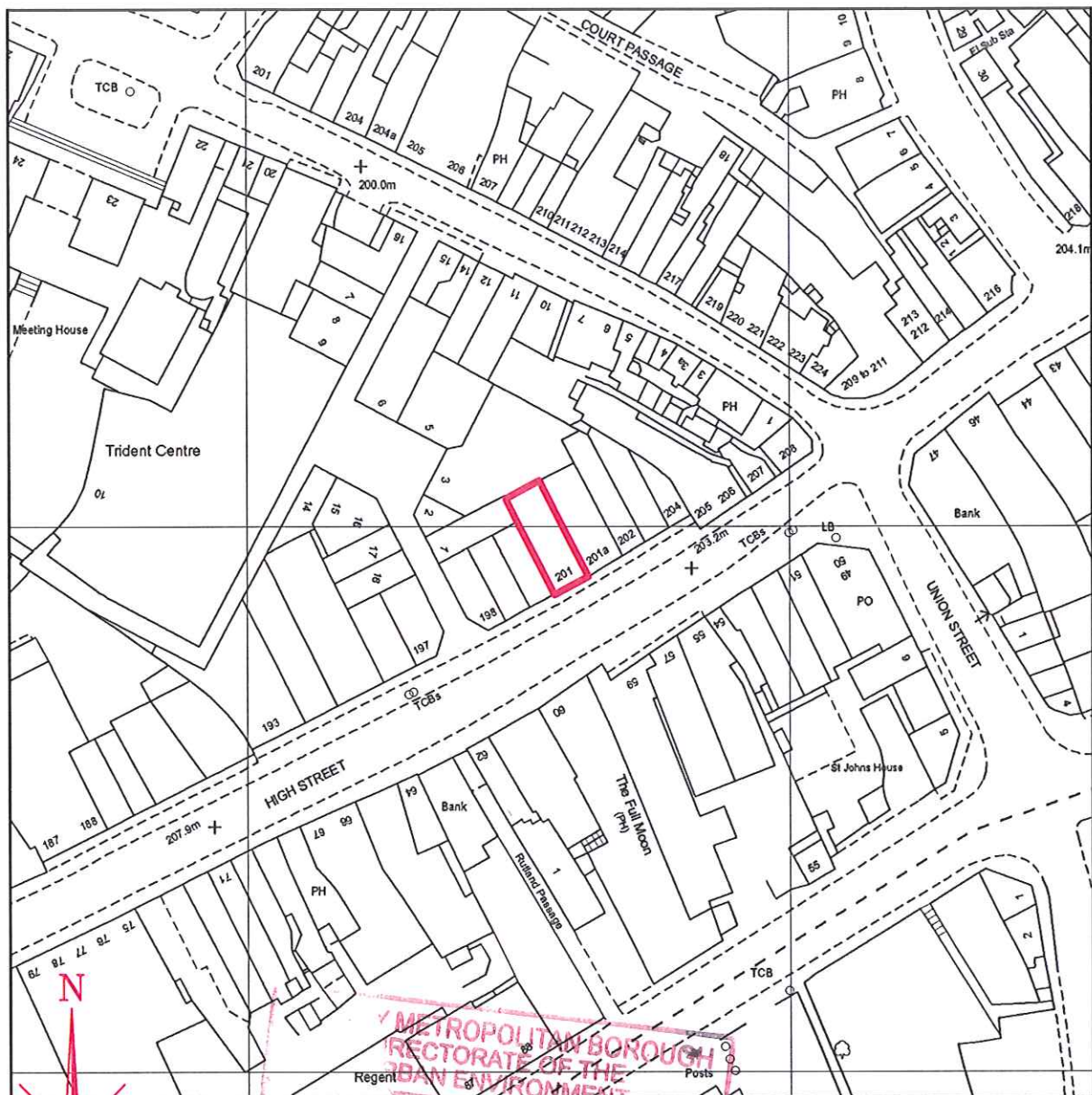
- 23 The lack of an undertaking to make a contribution towards transport infrastructure improvements and a management and monitoring charge is contrary to the requirements of Policy DD7 of the adopted Dudley Unitary Development Plan and adopted Planning Obligations Supplementary Planning Document and would lead to an increase in demand on local facilities with no compensation or enhancement, thus resulting in harm to the wider community around the site.

RECOMMENDATION

- 24 It is recommended that enforcement action is authorised against the current ground floor for A3 and A5 use of the premises at No 201 High Street, Dudley.

Background documents

Planning application P09/1562 application report
Planning application P09/1562 decision report
Planning appeal decision document
Photograph of the frontage of the premises
Location plan of the premises



Location Map.

ARC Building Design Ltd
102, Queslett Road East,
Streetly,
Sutton Coldfield,
B74 2EZ.

SCALE	1:1250
DATE	November '09
DRAWING STATUS	N/A
DRAWING No.	N/A

CLIENT **French Connection**

PROJECT
**201, High Street,
Dudley,
DY1 1QQ**





**DRAFT OFFICER'S
REPORT**

DELEGATED

Planning application number	P09/1562
Site Address	Shop, 201 High Street, Dudley
Case officer	Mrs J North
Date	30 th December 2009
Report vetted by	cc
Date report vetted	6/1/10
Recommendation	Refuse

SITE AND SURROUNDINGS

1. This is a reasonably modern building which fronts onto the High Street. It occupies a prominent position. It is situated within Dudley Town Centre and Dudley Town Centre Conservation Area.
2. The building forms part the Trident Centre. It is located within a section of modern, two-storey, flat roofed units which face the High Street which have a large concrete canopy above the fascia signs of the shops. There is an underground car park below the buildings and a car park on the roof.

PROPOSAL

3. This is a retrospective planning application for the change of use of the premises from retail (A1) to a restaurant/takeaway (A3/A5). The application does not include details of an extraction flue as one is not intended to be installed. The hot food being sold at the premises would not require the fitting of extraction equipment.
4. The submitted floorplans indicate a kitchen and food preparation area with a counter for sales towards the rear of the unit with a dining area for 32 No. covers inside and 4 No. covers on the pavement outside. The first floor would be used as a store and office.

HISTORY

5. Relevant history

APPLICATION No.	PROPOSAL	DECISION	DATE
DY/62/474	Replacement of existing shops and outbuildings with new modern store with offices over	Approve	10/04/64
DB/69/6237	Outline erection of retail shops with basement car park and first floor service facilities	Approve	16/12/69
DB/70/6909	Outline erection of retail shops, basement car park and first floor services facilities	Approve	22/05/70
DB/71/8482	Erection of shops with basement, public car park, first floor service facilities and second floor private car park	Approve	30/07/71

PUBLIC CONSULTATION

6. The application has been advertised in the local newspaper; by means of a site notice; and letters to the occupants of adjacent properties. No letters of objection have been received.

OTHER CONSULTATION

7. Group Engineer - Development – As this is a town centre location, no objection, provided that there is a contribution to transport infrastructure. The provision of tables and chairs on the public highway is subject to a license from the local authority and should not form part of the planning application.
8. Head of Environmental Health and Trading Standards - It is not clear whether residential premises are located within the vicinity of the proposed use. If there are not dwellings within 50m of the proposed use then the hours of use and delivery shall match other A3/A5 uses within the vicinity. If there are residential premises located within 50m of the proposed use, then there is the potential for the amenity of residents to be adversely affected by noise from the restaurant/hot food takeaway, and it is therefore recommended that conditions restricting the hours of

delivery, opening hours and details of the fume extraction details are placed on any approval given.

RELEVANT PLANNING POLICY

9. Adopted Dudley Unitary Development Plan

Policy DD1 Urban Design
Policy DD3 – Design of Retail Development
Policy DD7 – Planning Obligations
Policy CR1 Hierarchy of Town Centres and Regeneration Areas
Policy CR5 – Regeneration and Development of Centres
Policy UR1 - Central Employment Zone
Policy CR1 – Hierarchy of Centres
Policy DTC2 – Major Opportunity Area/Development Site
Policy DTC2(vi) – Block 7 – Upper High Street/Trident Centre
Policy AM14 - Parking
Policy HE4 – Conservation Areas

10. Supplementary Planning Documents

Planning Obligations
Parking standards and travel plans

ASSESSMENT

Key Issues

- Principle
- The impact of the use on adjacent occupiers
- Parking
- The provision of tables of the pavement
- Planning Obligations

Principle

11. The building is situated within Dudley Town Centre and Dudley Town Centre Conservation Area. The adopted Unitary Development Plan identifies a number of urban quarters within the town centre which are areas of identifiable character. This site is situated within the "Top Church" quarter, at the western gateway to the town where there is a mixture of modern and older properties many in poor condition. The adopted Dudley Unitary Development Plan also identifies "Street Blocks" within the town centre. This site is located within Block 7, "Upper High

Street/Trident Centre” which contains “secondary shopping”, offices and Inhedge Gardens. This area is identified as a major opportunity area/development site. Preferred uses within this Block include A3 and A5 uses.

The impact of the use upon adjacent occupiers

12. Within the immediate vicinity of the site there is a mixture of retail outlets, public houses, commercial uses and hot food premises. It is understood that there are not any residential flats within close proximity to the site. As such the intended change of use would not have implications for residential amenity.

Parking

13. To the front of the site there is restricted parking for disabled badge holders only. On the opposite side of the road is a taxi rank. There is also the Trident Centre public car park above and below the premises. Although there is no parking available immediately in front of the shop unit, given the town centre location of the site the Group Engineer does not raise an objection to this change of use.

The provision of tables on the pavement

14. The application indicates two tables placed on the footpath directly in front of the shop unit. The provision of tables and chairs on the public highway is subject to a license from the local authority and should therefore not form part of this planning application.

Planning Obligations

15. The proposed development has a requirement to provide planning obligations to mitigate against the consequential planning loss to the existing community. Should permission be granted a S106 Agreement would be required in respect of an off-site contribution.

The proposal attracts a requirement for a commuted sum to be paid towards the following infrastructure:

- Public Realm - £4,421.25
- Transport Infrastructure Improvements - £3,122.19
- Nature conservation - £62.50

- Management and Monitoring - £500

Total Offsite Contribution = £8,105.94

16. The applicant considers that this sum of money is unreasonable particularly as he has moved from exiting premises within the town centre to this shop unit. He therefore has declined to pay this off-site contribution.

CONCLUSION

17. This is a retrospective planning application for the change of use of the ground floor shop unit from retail (A1) to a restaurant/hot food takeaway (A3/A5). In principle, there is no objection to the application which would be a preferred use within this part of the town centre. The lack of residential units in close proximity to the site limits the potential of the scheme to create issues of noise and disturbance. Given the location of the site within the town centre there is not a need to provide dedicated off-street parking spaces. However, in accordance with Policy DD7 of the adopted Dudley Unitary Development Plan and the Council's adopted Planning Obligations Supplementary Planning Document, the development would require the provision of financial contributions towards planning infrastructure with respect to public realm, highway and infrastructure works and nature conservation. However, the applicant has declined to enter into an agreement to secure such a contribution. As such this would be contrary to Policy DD7 of the adopted Dudley Unitary Development Plan and the Council's adopted Planning Obligations Supplementary Planning Document.

RECOMMENDATION

18. It is recommended that the application be refused for the following reason:

1. The lack of an undertaking to make a contribution towards *public realm and transport improvements and a management and monitoring charge* planning infrastructure is contrary to the requirements of Policy DD7 of the adopted Dudley Unitary Development Plan and adopted Planning Obligations Supplementary Planning Document and would lead to an increase in demand on local facilities with no compensation or enhancement, thus resulting in harm to the wider community around the site.

TOWN & COUNTRY PLANNING ACT 1990 (as amended)

TOWN & COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

Deposited on: 23 November 2009

Application number:P09/1562

Applicant:

MR M ALI, FRENCH CONNECTION
BAGUETTE HOUSE
GOING PLACES
201, HIGH STREET
DUDLEY
DY1 1QQ

Agent:

MR ALEXANDER CROOK, ARC BUILDING
DESIGN LIMITED
102, QUESLETT ROAD EAST
STREETLY
SUTTON COLDFIELD
WEST MIDLANDS
B74 2EZ

SITE:

SHOP, 201, HIGH STREET, DUDLEY, WEST MIDLANDS, DY1 1QQ

PARTICULARS OF PROPOSED DEVELOPMENT:

**CHANGE OF USE OF RETAIL SHOP (A1) TO RESTAURANT/HOT FOOD TAKEAWAY
(A3/A5) (RETROSPECTIVE)**

The Dudley Metropolitan Borough Council as local planning authority hereby **refuses** permission for the above described development proposed in the application numbered as shown above and in the plans and drawings attached thereto, a copy of which is attached to this notice.

The reason(s) for the Councils' decision is/are:

1. The lack of an undertaking to make a contribution towards public realm, nature conservation and transport infrastructure improvements and a management and monitoring charge is contrary to the requirements of Policy DD7 of the adopted Dudley Unitary Development Plan and adopted Planning Obligations Supplementary Planning Document and would lead to an increase in demand on local facilities with no compensation or enhancement, thus resulting in harm to the wider community around the site.

In addition to the above you should also be aware of the notes attached to this decision notice.

TOWN & COUNTRY PLANNING ACT 1990 (as amended)

TOWN & COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE) ORDER 1995

Deposited on: 23 November 2009

Application number: P09/1562



J B Millar

Director of the Urban Environment

This is not a Decision under the Building Regulations or other Legislation

APPEALS TO THE SECRETARY OF STATE

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions then you can appeal to the secretary of state:
 - a) Under Section 78 of the Town and Country Planning Act 1990 (non-householder)
 - a) under section 78 of the Town and Country Planning Act 1990 (householder)
 - b) in the case of Listed Building Consents under Sections 20 and 21 of the Planning (Listed Buildings and Conservation Areas) Act 1990
 - c) in the case of Certificates of Lawful Use or Development under Sections 195 and 196 of the Town and Country Planning Act 1990 (as amended)
 - d) in the case of advertisements under Regulation 17 of the Town and Country Planning (Control of Advertisements, England) Regulations 2007.
- If you want to appeal, then you must do so within 6 months of the date of this notice in respect of appeals referred to in paragraphs a) and c) above, within 12 weeks of this notice in respect of appeals referred to in paragraph b) above, or within 8 weeks in respect of appeals referred to in paragraph e). There is no time limit in respect of appeals referred to in paragraph d) above. Appeals must be made using a form which can be obtained online at www.planningportal.gov.uk/pcs or from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.
- The Secretary of State can allow longer periods for giving notice of an appeal, but he will not normally be prepared to use his power unless there are special circumstances which excuse the delay in giving notice of the appeal.
- The secretary of state need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the secretary of state does not refuse to consider appeals solely because the local planning authority based its decision on a direction given by him.
- You have the right to appeal to the secretary of state where consent to fell or lop trees is refused or if you object to any conditions attached to your consent. The appeal must be made within 28 days of receiving the decision on your application. The secretary of state may allow or dismiss an appeal or vary the original decision by the authority in any respect. As in any case of orders to which there are objections, the appeal will normally be decided on the basis of written representations but both the applicant and the authority have the right to a public local enquiry or hearing. To appeal a decision made on an application relating to trees, you should contact the Planning Inspectorate, The Environment Team, Room 4/04, Kite Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN.

PURCHASE NOTICE

- If either the local planning authority or the secretary of state refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonable beneficial use in its existing state nor render the land capable of a reasonable beneficial use, by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act, 1990.
- This decision is given under the Town and Country Planning Act 1990 (as amended) and the Town and Country Planning (General Permitted Development) Order 1995 (amended).
- You are reminded of the need to ensure due compliance with the Building Regulations 1991 (as amended), with other Public General Enactments relating to the development (in particular the Public Health Act 1936 and 1961, Clean Air Act 1993 the Highways Acts 1959, 1971 and 1980, the Control of Pollution Act 1974, the Planning (Hazardous Substances) Act 1990, the Environmental Protection Act 1990, and with the Local Enactments for the time being in force in the Borough. Nothing herein contained is to be regarded as dispensing with such compliance beyond the extent (if any) herein specified. The permission specified does not modify or affect any personal or restrictive covenant applying to the land or any right of any person entitled to the benefit thereof.
- Should the development result in the provision of a building or premises to which the public are admitted or in which persons are to be employed, the applicant is reminded of the need to observe Sections 4, 7 and 8A of the Chronically Sick and Disabled Persons Act 1970 (as amended) and the codes of practice "Design of buildings and their approaches to meet the needs of disabled people" (BS 8300).
- If the development will result in the provisions of an educational building then the applicant is reminded of the need to observe Sections 7 and 8 of the Chronically Sick and Disabled persons Act 1970 and DfES constructional standards.

It is advisable that this notice be carefully retained, possibly with the deeds of the property



Appeal Decision

Site visit made on 3 November 2010

by **Les Greenwood BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 26 November 2010

Appeal Ref: APP/C4615/A/10/2120924

201 High Street, Dudley, West Midlands DY1 1QQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr M Ali against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P09/1562, dated 17 November 2009, was refused by notice dated 6 January 2010.
 - The development proposed is the change of use from A1 (retail) to A3/A5 use.
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Decision

1. I dismiss the appeal.

Procedural matters

2. The proposed change of use from Class A1 (retail) to Classes A3 and A5 (restaurant and hot food takeaway) began before the appeal application was submitted and the application was therefore retrospective. I was able to see the restaurant/takeaway use taking place at the time of my site visit.
3. The notice of decision refusing the appeal application referred to requirements for a number of different contributions towards provision of local service infrastructure. The Council has clarified, however, that it is now only seeking a contribution towards transport infrastructure improvements.

Main issue

4. The main issue is whether the development is sustainable, with reference to adopted policies and to the impact on local transport infrastructure.

Reasons

5. The lack of a planning obligation in this case means that no contribution would be made to local transport infrastructure, as such matters cannot be dealt with by means of planning conditions. Circular 5/2005: *Planning Obligations* advises that planning obligations are intended to make acceptable development which would otherwise be unacceptable in planning terms. Standard charges and formulae should not be applied in blanket form regardless of actual impacts. In order to be able to conclude that the Secretary of State's tests are met, the matters sought by the Council need to be justified in each case.
-

6. The site is within the commercial core of Dudley where there are clearly demands on transport infrastructure and services: for roads, footways, bicycling networks, parking and buses. Dudley Borough Unitary Development Plan (UDP) Policy DD7 states that the Council will require applicants to enter into planning obligations where the scale and impact of the proposal can be shown to result in consequential loss to the level of existing services enjoyed by the community. The Council's Supplementary Planning Document (SPD) *Planning Obligations* adds detail to this requirement, advising that contributions towards transport infrastructure improvements will be sought on any developments that generate a net increase in the number of trips to a site.
7. In this case, the Council has submitted a trip rate calculation in accordance with the SPD indicating that the change of use from Class A1 to A3/A5 significantly increases the projected number of trips by car to the premises. The restaurant/takeaway is within the town centre and it is unlikely that many people would travel specifically to visit it, but the Council's calculation does have a built in allowance for linked trips.
8. The appellant has not disputed the Council's trip rate calculation. Although I am not convinced that the figure used by the Council as a baseline trip rate for the currently unrestricted Class A1 use of the premises is fair, I nevertheless agree that the change of use of a shop to a restaurant/takeaway would normally significantly increase numbers of customers. It would therefore also increase demand on local transport infrastructure. It appears to me to be reasonable for the Council to require a proportionate contribution towards this provision, in line with its adopted policies.
9. I understand that any such requirement for payments to the Council would be difficult for a small business, particularly in the current economic climate. However, the Council has now limited its requirement in this case to one matter only and the appellant has not submitted evidence demonstrating that the business would become unviable if a payment is required.
10. On the evidence before me, I am satisfied that the Council's requirements in this case are necessary and do fairly and reasonably relate to the proposal. I conclude that the development has not made adequate provision to mitigate the increased pressure on local transport infrastructure which it causes. The development is therefore not sustainable and conflicts with UDP Policy DD7 and the SPD.
11. I have considered all other matters raised and find nothing to alter my conclusion that, for the reasons set out above, the appeal should not succeed.

Les Greenwood

INSPECTOR