

PLANNING APPLICATION NUMBER:P10/1721

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|-------------------------|---|
| Type of approval sought | Full Planning Permission |
| Ward | HALESOWEN NORTH |
| Applicant | Mr Arjan Odedra, Stonebank Investments |
| Location: | 1 FIRST MODELS CO UK, CLARAGE HOUSE, LONG LANE, HALESOWEN, B62 9LA |
| Proposal | CHANGE OF USE OF VACANT RETAIL UNIT (A1) TO RESTAURANT (A3) |
| Recommendation Summary: | APPROVE SUBJECT TO CONDITIONS |

SITE AND SURROUNDINGS

1. The site is situated within Shell Corner Local Centre, which is a mixed use area, comprising various retail and commercial units interspersed with residential properties. The application site forms part of Clarage House, which is a mixed use block comprising four retail units at ground floor with residential flats over. The established use of the ground floor accommodation at the application premises is A1 (Retail). However, at the time of writing, the unit appears to have been vacant for some time and shows signs of disrepair.
2. Clarage House forms part of a longer parade of commercial properties fronting Long Lane, which are served by a dedicated off street parking area accessed from the main road. At the time of writing, seven of the eleven shops in this parade appear to be vacant.
3. To the south, the site is adjacent to a disused former hand car wash which fronts Long Lane. The site is also adjacent to residential properties in Woodland Road to the west and south west.

4. The premises have been extended previously to increase the floor area of the retail unit, with the effect that the building now abuts the southern and western boundaries of the site.

PROPOSAL

5. The application seeks planning permission for the change of use of the premises from A1 (Retail) to A3 (Restaurant/Café).
6. Under the proposal, the existing floor layout at the premises would be retained, with dining space being provided on the former shop floor and kitchen facilities being installed in a former store room. Additional storage space towards the rear of the premises would also be retained.
7. The information submitted with the application does not include details of the proposed method of fume extraction or of the proposed opening hours of the premises. Therefore, should approval be granted, these details would need to be confirmed by way of conditions.

HISTORY

8.

| APPLICATION No. | PROPOSAL | DECISION | DATE |
|--------------------|---------------------------------------|--------------------------|----------|
| HB/58/250 | Four shops with living accommodation. | Approved with conditions | 02/07/58 |
| HB/70/18/S | Fascia Sign. | Approved with conditions | 10/07/70 |
| HB/70/307 | Shop Front. | Approved with conditions | 23/07/70 |

PUBLIC CONSULTATION

9. The application was advertised by way of letters sent to the occupiers of 24 properties located within close proximity to the site. Six objections have been received; two from the proprietors of nearby hot food outlets, one from the landlord of a number of residential units in close proximity to the application premises, two from the occupiers of nearby residential dwellings, and one anonymous objection.
10. The objections received raised the following concerns:
- The locality already has several hot food outlets (particularly hot food takeaways), and the addition of another food outlet would be inappropriate.
 - Potential impact on neighbouring residential properties in terms of noise, smell and rubbish emanating from the premises, including potential attraction of rodents.
 - Unsightly appearance of extraction equipment.
 - Parking in this area is already insufficient, leading to congestion issues, and the addition of an additional restaurant to the locality would exacerbate existing parking pressures.
11. In addition to these objections, comments were received from a Local Ward Member. This representation acknowledged the desirability of bringing back into use a vacant unit in an area which contains several disused commercial properties, but expressed concern regarding the potential impact on parking in the area in the evenings.

OTHER CONSULTATION

12. **The Group Engineer (Development):** Whilst the lack of off-street parking in the locality is a concern, the property is located in a Local Centre and the proposed change of use from retail to a restaurant would not generate sufficient additional demand for parking to justify refusal of the application. In addition, nearby hot food outlets also have a substandard number of off street parking spaces, and it is therefore considered that it would be unreasonable to refuse this application on the grounds that insufficient

parking is provided within the site. On this basis, the Group Engineer (Development) does not object to the proposal.

13. Head of Environmental Health and Trading Standards: The application premises are the end property in a row of commercial properties. It is immediately adjacent to an existing A5 hot food take-away and there are a further two A3/A5 premises in close proximity. As there are residential dwellings in close proximity to the application site (including flats above) it would be necessary to incorporate into the development a suitable scheme for the extraction and treatment of cooking odours. Such a scheme would need to include an appropriate filter medium and an extract flue with a termination height not less than 1m above the roof ridge height of the main building. Any scheme would also need to incorporate appropriate noise mitigation measures such as a fan attenuator and anti vibration mountings. Furthermore, Environmental Protection would recommend that the opening hours of the business were restricted so that noise associated with the business activities did not disturb existing residents, particularly in the evening.

Environmental Protection therefore offers no objection to the proposed development provided the following conditions are included in any approval:

- Prior to the commencement of development a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.
- Before any internal or external fixed plant or machinery (including plant, machinery or ducting used for air extraction, odour control, and discharge to atmosphere) associated with the development is used, a scheme to prevent disturbance to

other occupiers of the building from conducted noise and vibration arising from its operation shall be submitted to and approved in writing by the local planning authority. All works that form part of the approved scheme shall be completed before use of the plant or machinery, and retained during use of the plant or machinery for the duration of the development.

- The premises shall not be open to the public before the hours of 1200 nor after 2300 Monday to Sunday.

14. **West Midlands Police:** The premises are positioned in a slip road off Long Lane, in close proximity to other take-aways and cafes. The building is in poor repair and appears unsightly and disused. Police systems provide no data which would frustrate the change of use from retail unit to restaurant. Taking all factors into consideration we raise no objections.

RELEVANT PLANNING POLICY

15. Unitary Development Plan

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|-------------|--|
| Policy DD4 | Development in Residential Areas |
| Policy DD6 | Access and Transport Infrastructure |
| Policy DD7 | Planning Obligations |
| Policy CR1 | Hierarchy of Town Centres and Regeneration Areas |
| Policy CR3 | Local Shopping Areas |
| Policy CR4 | Protected Frontages |
| Policy CR11 | Retail (A3) Uses and Amusement Arcades |
| Policy EP5 | Air Quality |
| Policy EP7 | Noise Pollution |
| Policy AM14 | Parking |

16. Supplementary Planning Documents

Parking Standards and Travel Plans
Planning Obligations

17. Supplementary Planning Guidance

Planning Guidance Note 28 – Hot Food Takeaway Shops, Restaurants and Cafes (Class A3 Uses)

18. National Planning Guidance

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|-------|------------------------------------|
| PPS1 | Delivering Sustainable Development |
| PPG13 | Transport |
| PPS23 | Planning and Pollution Control |

ASSESSMENT

19. Key Issues

- Principle
- Amenity
- Highways
- Planning Obligations

Principle

20. The pre-ambles to Policy CR4 (Protected Frontages) of the adopted Dudley Unitary Development Plan (UDP) states that within protected frontages the change of use from A1 (retail) to A3 (food and drink) will be considered favourably only if the overall function of the centre would be maintained, whilst being compatible with other land uses and ensuring that no bunching of non-retail uses occur. Policy CR3 (Local Shopping Areas) of the adopted UDP reiterates this by stating that the Council will seek to ensure that retail (A1) uses remain the dominant use in such areas easily accessible for those without the use of a car. Under this policy, proposals for changes of use will also only be allowed where there would be no adverse impact on highway safety, traffic generation and residential amenity. Policy CR11 (Retail (A3) Uses and Amusement Arcades) of the adopted UDP also states that hot food uses will normally be granted in local parades unless there would be an adverse impact on environmental quality,

residential amenity, public or highway safety or the vitality and viability of the town centre concerned.

21. Whilst the parade to which the application property belongs has a number of hot food uses, including an A5 use next door, the Shell Corner Local Centre contains a wide mix of commercial properties, with a large proportion being currently vacant. The use classes amongst Protected Frontages in Shell Corner were, at the time of the last survey (March 2009), divided up as follows: -

- 36% A1 Retail
- 34% Vacant
- 7% Hot Food (A3 or A5)
- 7% A2 Financial and Professional
- 16% Other non-A Class Uses

22. In this context, it is considered that the proposed change of use would not result in the overall balance of the protected frontages in Shell Corner being altered to the extent that the function of the Centre would be compromised. The ratio of A3 or A5 uses to other commercial operations across the Centre would remain low amongst the units which are currently in use. The proposal would also bring back into use a unit which has been empty for some time, improving the visual amenity and vitality of the locality. In this regard, the proposal is considered to comply, overall, with Policies CR3 (Local Shopping Areas) and CR4 (Protected Frontages) of the adopted UDP.

23. In relation to the presence of other hot food outlets in close proximity to the application site, it is acknowledged that this section of Shell Corner Local Centre has a disproportionately number of non-retail uses, and that Policy CR3 states that 'bunching' of non-retail uses will be resisted. However, the policy defines 'bunching' as 'no more than two non-retail uses next to each other'. Whilst the unit next to the application property currently has non-retail use (A5 Hot Food Take Away), approval of the application would not result in the creation of more than two adjacent non-retail uses in this part of the Local Centre. The proposal would therefore comply with this aspect of the Protected Frontages policy. In addition, it is considered that the perception that the

area is dominated by hot food uses is exacerbated by the level of vacancy of nearby commercial properties. Should these units become occupied again in the future, it is considered that hot food uses would not dominate the locality.

Amenity

24. The premises are located within a Local Centre and the majority of nearby uses are commercial. However, there are C3 (Residential) properties within close proximity to the application site. In particular, the first floor of Clarage House contains a number of residential units and the property also backs onto houses in Woodland Road to the west and south west. There are also nearby residential properties across Long Lane to the east.
25. When consulted on the proposal, the Head of Environmental Health and Trading Standards advised that, provided appropriate measures were taken to mitigate noise and smell disturbance to nearby residential occupiers, there would be no objection to the proposal on the grounds of detrimental impact to neighbours. In this regard, it is considered that the conditions recommended by the Head of Environmental Health and Trading Standards, notably in relation to fume extraction, noise vibration and the limiting of hours of operation, would be sufficient to protect the amenity of the occupiers of neighbouring residential properties. Subject to these conditions being imposed, it is considered that the proposal would comply with Policy DD4 (Development in Residential Areas) of the UDP.
26. In relation to the concerns expressed by local residents regarding the potential for litter and rubbish emanating from the premises to attract animals, in particular rodents, the application proposes a change to a restaurant use, with food being served for consumption on the premises, and it is not therefore considered that the operation would generate a significant amount of litter. In the event that any public health issues did arise as a result of rubbish, these would be dealt with other existing Environmental Health legislation and can not, therefore, be considered in relation to the application.

Highways

27. Despite acknowledging that there is currently an under provision of off street parking on this section of Long Lane, the Group Engineer (Development) notes that the premises are located in the Shell Corner Local Centre, meaning that patrons of the businesses in the area may generally travel to them on foot or by public transport and that the proposal would result in a net decrease in the number of trips to and from the premises, relative to the established A1 use. Whilst the proposed A3 restaurant use would usually, according to the Council's Parking Standards and Travel Plans Supplementary Planning Document, require a higher number of off street places (10 spaces in comparison with the 8 required for the existing A1 use), this slight shortfall is not considered sufficient, on balance, to justify refusal of the application. In particular, given that the existing hot food outlets in the locality also currently fail to provide dedicated off street parking and because those parking to use the premises will do so for a longer period, they are likely to park responsibly. The application is therefore considered to be acceptable, on balance, in relation to highways matters.
28. Notwithstanding this, it is considered that the operation of any take away service at the premises, even as an ancillary use to the main A3 restaurant use, would be inappropriate in this location due to the resulting indiscriminate short term parking which would occur in the surrounding area and the potential highway safety issues which could arise. In this regard, should the application be approved it is recommended that a condition be imposed prohibiting the operation of any ancillary uses, specifically the preparation of any food for take away purposes.

Planning Obligations

29. Policy DD7 (Planning Obligations) of the adopted UDP in conjunction with the Council's adopted Supplementary Planning Document (SPD) (Planning Obligations) requires applicants to enter into planning obligations where the scale and impact of the development, in accordance with government advice, result in a consequential planning loss to the existing community. Planning Obligations must where appropriate and necessary; make appropriate provision for the infrastructure requirements of the development and ensure that there is no unacceptable adverse impact on the existing

environment, nor consequential unacceptable loss to the existing level of services enjoyed by the community.

30. As noted above, the Group Engineer (Development) advises that the proposed use would generate fewer trips to and from the premises than the existing A1 use, and no highways contribution is therefore required. Public Realm and Nature Conservations contributions are also considered to be out of scale and kind relative to this small scale development which has no external alterations and only minor internal modifications. Indeed, it is considered that the bringing back into use of this vacant and highly visible property will have an inherently positive impact on the visual amenity and quality of the area. Therefore, the proposal would not attract a requirement for a commuted sum to be paid towards any off-site infrastructure.

CONCLUSION

31. The proposal would bring a currently disused commercial property back into use, with a consequent positive impact on the vitality and amenity of the locality. Whilst the proposal would result in the loss of an existing protected retail frontage in close proximity to other non-retail uses, the mix of commercial operations within the Shell Corner Local Centre would remain compliant with the Council's policies both in relation to local shopping areas, and in relation to the maintenance of protected retail frontages. In relation to parking concerns, whilst it is acknowledged that there is currently an under provision of off street parking on this section of Long Lane, the premises are located in a Local Centre, where patrons of the businesses in the area will often travel to them on foot or by public transport and the proposal would result in a net decrease in the number of trips to and from the premises in comparison with the existing established A1 use.

RECOMMENDATION

32. It is recommended that the application is approved, subject to conditions: -

Reason for approval

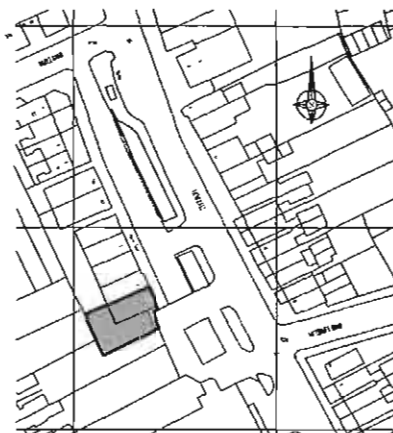
The proposal would bring a currently disused commercial property back into use, with a consequent positive impact on the vitality and amenity of the locality. Whilst the proposal would result in the loss of an existing protected retail frontage in close proximity to other non-retail uses, the mix of commercial operations within the Shell Corner Local Centre would remain compliant with the Council's policies both in relation to local shopping areas, and in relation to the maintenance of protected retail frontages. In relation to parking concerns, whilst it is acknowledged that there is currently an under provision of off street parking on this section of Long Lane, the premises are located in a Local Centre, meaning that patrons of the businesses in the area will often travel to them on foot, and the proposal would result in a net decrease in the number of trips to and from the premises in comparison with the existing established A1 use.


The decision to grant planning permission has been taken with regard to the policies in the adopted Dudley Unitary Development Plan (2005) and to all relevant material considerations:

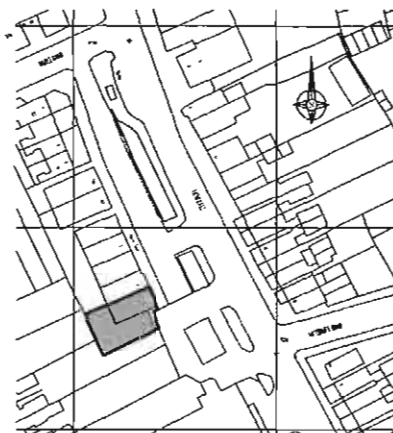
The above is intended as a summary of the reasons for the grant of planning permission. For further detail on the decision please see the application report.


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. Prior to the commencement of development a scheme containing full details of arrangements for internal air extraction, odour control, and discharge to atmosphere from cooking operations, including any external ducting and flues, shall be submitted to and approved in writing by the Local Planning Authority. The works detailed in the approved scheme shall be installed in their entirety before the use hereby permitted is commenced. The equipment shall thereafter be maintained in accordance with the manufacturer's instructions and operated at all times when cooking is being carried out unless otherwise agreed beforehand in writing with the Local Planning Authority.
3. Before any internal or external fixed plant or machinery (including plant, machinery or ducting used for air extraction, odour control, and discharge to atmosphere) associated with the development is used, a scheme to prevent disturbance to other occupiers of the building from conducted noise and vibration arising from its operation shall be submitted to and approved in writing by the local planning authority. All works that form part of the approved scheme shall be completed before use of the plant or machinery, and retained during use of the plant or machinery for the duration of the development.
4. The premises shall not be open to the public before the hours of 1200 nor after 2300 Monday to Sunday.
5. The restaurant hereby permitted shall be used for purposes within Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (or any order revoking or re-enacting that Order) and not for any use falling within Class A5 of that Order.
6. The development hereby approved shall be built in accordance with the plans received by the Local Authority on 20th December 2010, and referenced 'DWNG. No. 573.1', unless otherwise agreed in writing by the Local Planning Authority.



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| DWG. TITLE | | | | PROJECT | | PROPOSED CHANGE OF USE | | CB DESIGN SERVICES LTD | | | |
| LOCATION PLAN | | | | CLIENT | | STONEBANK INVESTMENTS | | CHARTERED SURVEYORS AND BUILDING DESIGN CONSULTANTS | | | |
| DWG. NO | | | | 578.LP | | | | DATE | | | |
| | | | | | | | | | | | |
| SCALE | | | | 1:1250 @ A4 | | | |  | | | |
| DATE | | | | 13.12.10 | | | | | | | |
| | | | | No 1 CLARAGE HOUSE | | | | <div>18 SANDHILLS ROAD, BACHT GREEN</div> <div>STROUD, GLOS. GL6 8NR</div> <div>Tel: 01235 445 294 E: info@cbdesignservices.co.uk</div> | | | |
| | | | | LONG LANE | | | | | | | |
| | | | | HALESOWEN | | | | | | | |
| | | | | B62 9LA | | | | | | | |



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|---------------|--|-------------|--|---|--|--|--|
| DWG. TITLE | | | | PROJECT | | CB DESIGN SERVICES LTD | |
| LOCATION PLAN | | | | CLIENT | | CHARTERED SURVEYORS AND BUILDING DESIGN CONSULTANTS | |
| | | | | SITE | |  | |
| DWG. NO | | 578.LP | | No 1 CLARAGE HOUSE LONG LANE HALESOWEN B62 9LA | | <div>8 SANDHILLS ROAD, BACHT GREEN STURROCKHAMPTON BA1 4ND Tel: 01223 445 294 E-mail: enquiries@cbdesignservices.co.uk</div> | |
| | | SCALE | | | | | |
| | | 1:1250 @ A4 | | | | | |
| | | DATE | | | | | |
| | | 13.12.10 | | | | | |