

## PLANNING APPLICATION NUMBER: P09/1619

|                         |   |
|-------------------------|---|
| Type of approval sought | Full Planning Permission  |
| Ward                    | CASTLE & PRIORY   |
| Applicant               | Hussan Lal  |
| Location:               | <b>SHOP, 205, PRIORY ROAD, DUDLEY, DUDLEY, DY1 4EE</b>  |
| Proposal                | <b>CHANGE OF USE FROM CAFE (A3) TO HOT FOOD TAKEAWAY (A5) WITH FUME EXTRACTION AND EXTENDED HOURS (RESUBMISSION OF APPROVED APPLICATION P09/1619)</b> |
| Recommendation Summary: | <b>APPROVE SUBJECT TO A 106 AGREEMENT</b>   |

### SITE AND SURROUNDINGS

- 1 The application premises are presently used as a café and are located in a block of four shops. To the south is an established takeaway (A5) with a further two units to the north.
  
- 2 Above the block of shops are four flats, with other residential uses close by on Priory Road, Mayfield Road, and Alexandra Place. The existing housing opposite the site has been removed as part of the North Priory redevelopment scheme.
  
- 3 There is a parking lay by in front of the block of shops which can accommodate four or five cars. There is no on site parking.

### PROPOSAL

- 4 This application is identical to the previous application for the change of use of an existing café (A3) to a fish and chip shop (A5), except in that the applicant now wishes to open between 1000hrs and 2100hrs on a Sunday in addition to the 0800hrs to 2230hrs Monday to Saturday which was agreed by P09/1041.
  
- 5 No external alterations are proposed to the building bar the provision of a new extraction flue to the rear of the premises.

## HISTORY

| APPLICATION No. | PROPOSAL   | DECISION | DATE       |
|-----------------|--|----------|------------|
| P00/50230       | Change Of Use From Hairdressing Salon (Class A1) To Cafe (Class A3).   | Granted  | 11/02/00   |
| P06/0283        | Change of use from coffee shop (A3) to hot food indian takeaway (A5) with new fume extraction at rear and new shop front | Refused  | 05/04/2006 |
| P08/0655        | New shop front   | Granted  | 18/09/2008 |
| P09/1041        | Change of use from cafe (A3) to hot food takeaway (A5) with fume extraction  | Granted  | 03/11/2009 |

## PUBLIC CONSULTATION

6 None received.

## OTHER CONSULTATION

7 Group Engineer (Development): No objection

8 Head of Environmental Health and Trading Standards: No objection subject to conditions controlling the hours of operation. The specification for the extraction system and the control of odours are considered to be acceptable. The site adjoins an existing A5 takeaway and therefore a precedent has been set. Flue needs to project above the roof line by 1m.

## RELEVANT PLANNING POLICY

### Unitary Development Plan

DD1 Urban Design

DD4 Development in Residential Areas

DD6 Access and Transport Infrastructure

DD7 Planning Obligations  
CR1 Hierarchy of Centres  
CR11 Retail (A3) Uses and Amusement Arcades  
AM3 Strategic Highway Network

### **Supplementary Planning Guidance/Documents**

Parking Standards and Travel Plans Supplementary Planning Document  
Planning Obligations Supplementary Planning Document  
PGN 28. Hot food takeaway shops, restaurants and cafes (class A3 uses)

## **ASSESSMENT**

- 9 The main issues are
- Principle
  - Neighbour Amenity
  - Parking
  - Planning Obligations
  - Other Matters

### Principle/Policy

- 10 The principal policy that deals with hot food takeaways is policy CR11 of the Dudley Unitary Development Plan. It requires such uses to be located on accessible sites. In this case the site is well served by public transport and is close to housing.
- 11 The policy also requires impact on nearby residential amenity, environmental quality and public safety to be considered. These matters are discussed further below.
- 12 The policy requires consideration to be given to the impact on nearby town centres. In this case the floor space of the unit would be less than 200m<sup>2</sup> and as such would not have any harm to vitality or viability.
- 13 Also worth considering is the proliferation of A3/A5 uses as required by (PGN 28 - Hot food takeaway shops, restaurants and cafes (class A3 uses). As stated above

there is already one takeaway adjoining the application site. However, there are two other units within the same block. One appears to be vacant presently and the other is an A1 unit. As such there would only be two A5 uses (50%) in a row, and therefore the proposed use is acceptable with regard to PGN 28 and the proliferation of such uses.

- 14 In addition to the above points planning permission has already been granted for an identical proposal, apart from it would have been closed on Sundays and Bank Holidays.

#### Neighbour Amenity

- 15 As stated above there are four flats over the parade of shops, with other residential uses close by on Priory Road, Mayfield Road, and Alexandra Place. The existing housing opposite the site has been removed as part of the North Priory redevelopment scheme, although this area will be redeveloped for housing at a later date.
- 16 Due to the nature of the proposed use and the proximity of residential uses within the locality the Head of Environmental Health and Trading Standards has been consulted on the application. In this case he is of the view that the proposed use would be acceptable, although conditions would be required to control the hours of operation and ensure the supplied specification for the extraction systems and odour control is provided in accordance with the submitted scheme. He raises no objection to the additional hours of operation on Sundays and Bank Holidays although as with the weekday operation a condition is required to control the hours of operation.
- 17 Additionally the site adjoins an existing takeaway and therefore the locality already attracts activity during the evening. Therefore, for this reason and those listed above the proposed use would cause no detrimental harm to neighbour amenity. It is understood that the existing A5 operation trades on Sundays.

### Access and parking

- 18 The Priory Road forms part of the Boroughs strategic road network (policy AM3) and therefore careful consideration has to be given to whether the proposed use would interfere with the free flow of traffic on Priory Road.
- 19 The existing cafe use (A3) has a car parking requirement of 1 space per 11m<sup>2</sup>, compared to a parking requirement of 1 space per 20m<sup>2</sup> for the proposed A5 use. Therefore from a parking point of view it is not reasonable to request on site parking in that the existing use has a higher parking requirement than the proposed use.
- 20 Additionally there are four or five spaces located within a lay by in front of the unit which provides an area for short term parking whilst takeaways are collected. Therefore no objections are raised on parking and highway safety grounds.

### Planning Obligations

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

|                                    |                        |
|------------------------------------|------------------------|
| • Transport Improvements           | £2484.28               |
| • Monitoring and Management Charge | £250.00                |
| • <b><u>Total Monies</u></b>       | <b><u>£2734.28</u></b> |

- 22 The applicant has agreed to enter into a legal agreement, although wishes to pay the contributions in installments which is considered to be acceptable and was previously agreed with the applicant on the previous application.

### Other matters

- 23 The proposed flue would be located on the rear of the building, and set down below the overall roof line of the building. Therefore views of the proposed flue would be limited and therefore no objection can be raised on visual amenity grounds.

### **CONCLUSION**

- 24 The proposed development is acceptable from a policy point of view and would cause no detrimental harm to neighbour amenity or highway safety. Consideration has been given to policies DD1 Urban Design DD4 Development in Residential Areas DD6 Access and Transport Infrastructure DD7 Planning Obligations CR1 Hierarchy of Centres CR11 Retail (A3) Uses and Amusement Arcades and AM3 Strategic Highway Network of the Dudley Unitary Development Plan.

### **RECOMMENDATION**

It is recommended that the application be approved subject to the following conditions:

- a) The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the payment of contributions totalling £2734.28 towards transport infrastructure improvements and a management and monitoring fee has been submitted to and agreed in writing by the Local Planning Authority.
- b) The Scheme shall include the method, timing and arrangements including a means to guarantee a financial payment, increased through index linking from the first April each subsequent year, in accordance with the Council's planning obligations policies.
- c) The following conditions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary.

### Reason for approval

The proposed development is acceptable from a policy point of view and would cause no detrimental harm to neighbour amenity or highway safety. Consideration has been given to policies DD1 Urban Design DD4 Development in Residential Areas DD6 Access and Transport Infrastructure DD7 Planning Obligations CR1 Hierarchy of Centres CR11 Retail (A3) Uses and Amusement Arcades and AM3 Strategic Highway Network of the Dudley Unitary Development Plan.

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.

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.

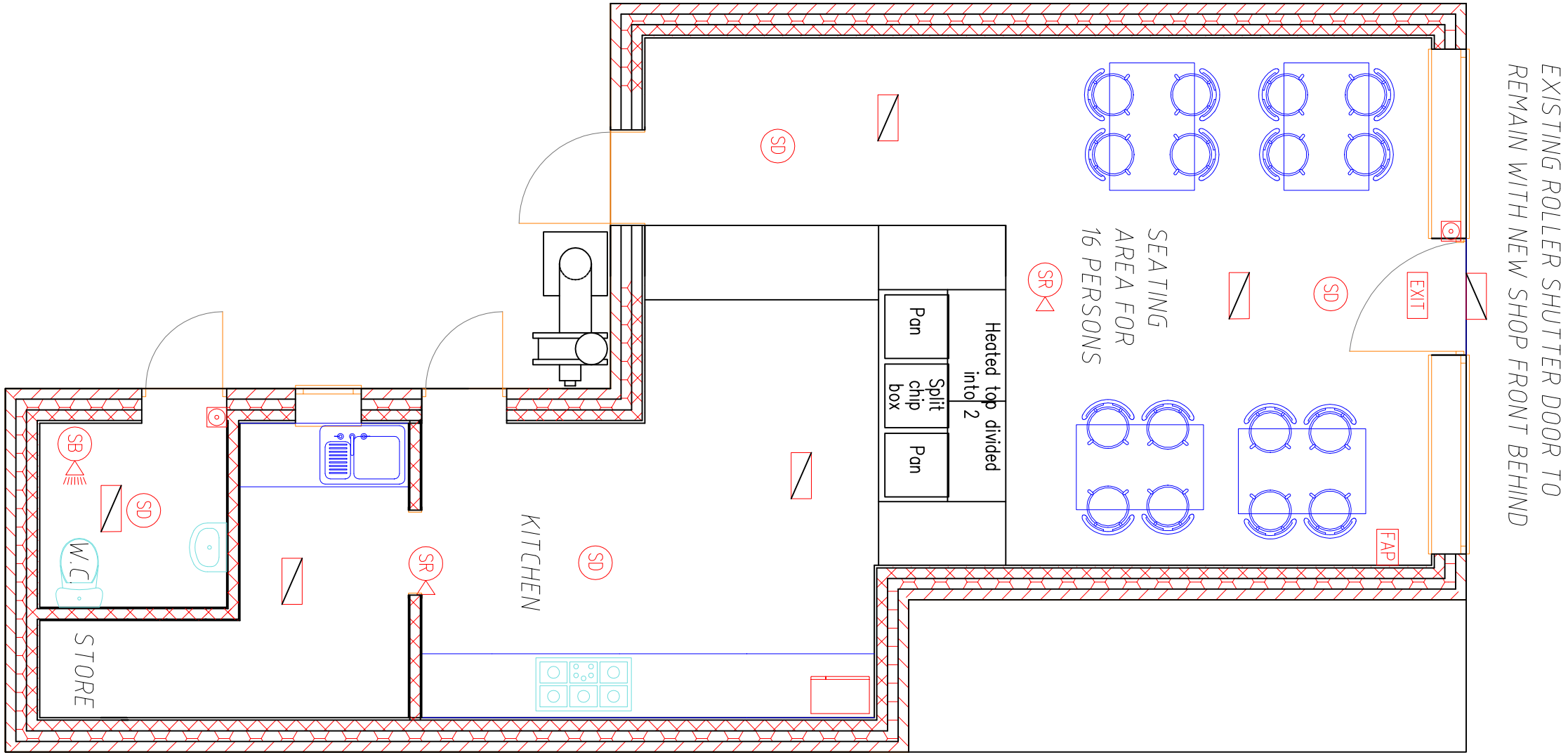
The development hereby permitted shall be built in accordance with the approved plans un-numbered and specification submitted with the application unless otherwise agreed in writing by the Local Planning Authority.

### Conditions and/or reasons:

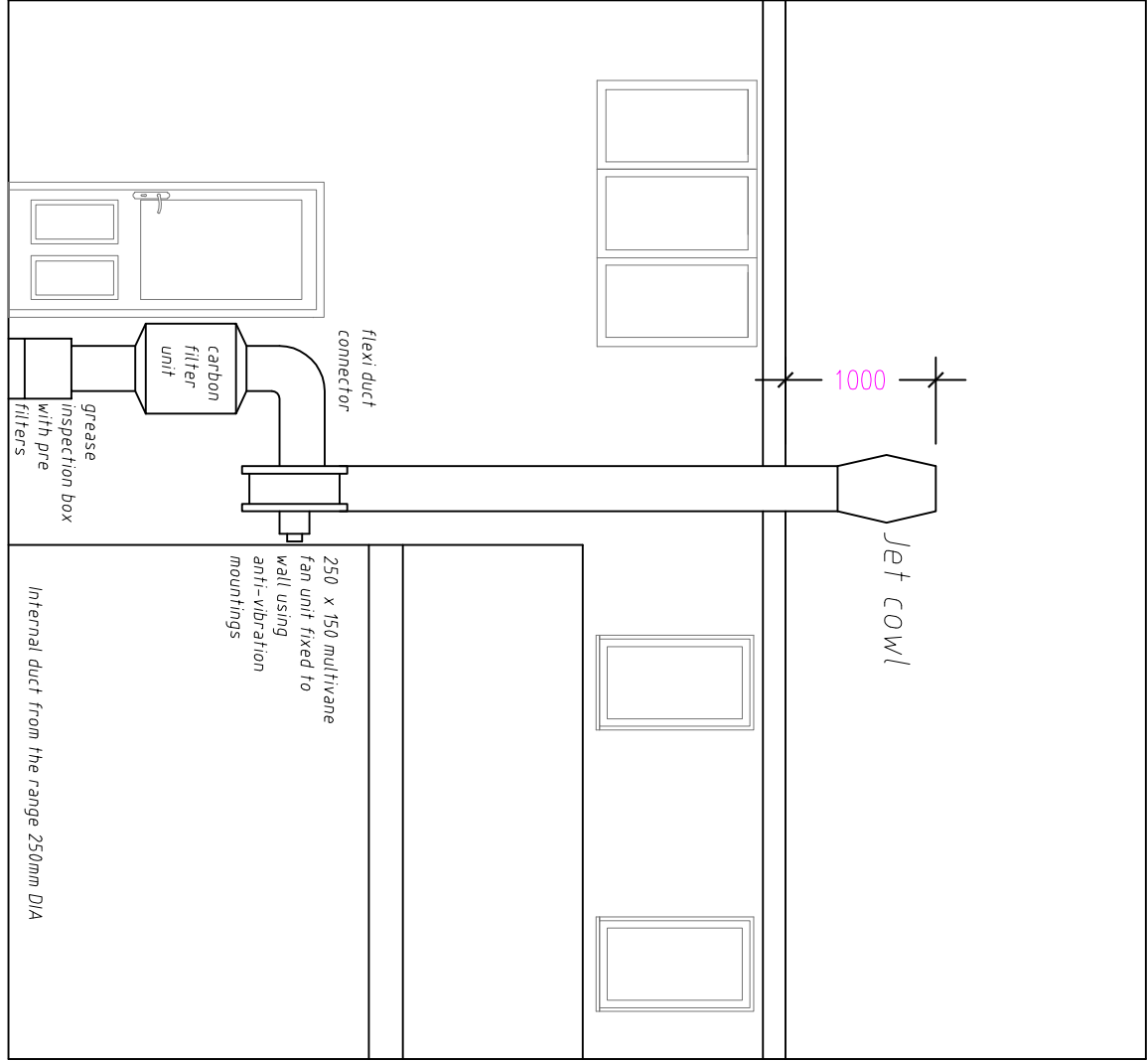
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. Development shall not commence until an arrangement for the provision of off site transport infrastructure improvements has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the method, timing and arrangements to comply with the Council's policies for the provision of the infrastructure required in connection with the proposed development.
3. Prior to the commencement of development a scheme for the extraction and treatment of cooking odours shall be submitted to and approved in writing which shall include the provision of a flue which needs to be extended to 1 metre above the ridge of the building. The extraction and treatment system and flue shall thereafter be provided in accordance with the approved details.
4. The premises shall not be open to the public before 0800 hours or after 2230 hours Monday to Saturday and before 1000 or after 2100 hours on Sundays and Bank Holidays.







PROPOSED GF LAYOUT  
SCALE 1:50



Specification of the system as follows:

1. 1st stage filtration extracts up to 75% of fat particulate from the cooking phase via a stainless steel baffle filter housed inline with the duct. This housing also consists of a fat trap and the 2nd stage filter manufactured from stainless steel perforated sheet which further disrupts the phase depositing 15-20% of fat on the filter. The unit is positioned in close proximity to the cooking range thus the particulate is deposited whilst in its gaseous stage onto the filters with the heat from the cooking range acting as a self-cleaning catalyst, hastening the fat to run off into the fat trap. An air-tight access hatch is fitted for quick removal of the filters and fat trap sump.

2. Finally an active carbon filter will remove any residual odour from the phase. We use 207c grade base carbon in the form of a 12-cell unit.

The fan is of an impeller type powered by a 1hp 4-pole 230vac motor with a rpm value of 1450. The impeller is capable of producing 1m<sup>3</sup> per sec @ 350Pa

2 No. 3x diameter sound attenuators reduce noise levels to below 35dba @ 3 metres inside the building, any residual sound transference through the brickwork is eliminated by mounting the system on anti-vibration fittings.

Duct termination is at the rear of the premises on the pitched roof. Discharge of the phase will be via a high-velocity cowl @ 12m/s

|  |                           |
|--|---------------------------|
| CLIENT:-<br><br>MR HUSSAN LAL  |                           |
| DRAWING TITLE:-<br><br>Planning application drawing for proposed change of use from A3 to A5 to 205 Priory Road Dudley West Midlands DY1 4EE       |                           |
| DRAWING No:-<br>041-2008   | DRAWN:-<br>SMA            |
| SCALE:-<br>1:50  | DATE:-<br>31 - MAR - 2008 |
| ARCHITECTURAL DESIGN SERVICES<br>16 WILLIAMS CLOSE, SHORT HEATH<br>WILLENHALL, WY12 4QP<br>TEL:- 07912 986832<br>e-mail:-scotfrms@blueyonder.co.uk |                           |
| SHEET NUMBER 1 OF 1  |                           |