

PLANNING APPLICATION NUMBER:P06/1606

Type of approval sought	Full Planning Permission
Ward	Lye & Wollescote
Applicant	Mr M Uddin
Location:	178-179, HIGH STREET, LYE, DUDLEY, WEST MIDLANDS
Proposal	SINGLE STOREY REAR EXTENSION AND NEW SHOP FRONT
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is a vacant triple bay fronted property with a tiled and brick built appearance fronting High Street. The property is in a dilapidated state with broken windows visible from the High Street and boarded windows to the side elevation. The rear of the premises is also in poor condition with overgrown vegetation restricting access to the premises.
2. This part of the High Street is predominantly commercial, although there are flats above a number of the units on the High Street and houses to the rear of the site on Church Road.

PROPOSAL

3. Permission is sought for a single storey rear extension and new shop front. It will be used as a restaurant falling within the current permitted use (A3) on the site.
4. The proposed single storey rear extension is shown to measure 2.3m in width with a length of 14.1m (32.4 sq.metres in area). The extension would be developed adjacent to the rear wing of the property and would have a flat roof. The shop front

proposed would create two bay windows with a doorway in the centre of the unit in between two single width floor to ceiling windows.

HISTORY

5. There have been numerous historic applications on this site which do not relate to this application. The more recent applications however, which are pertinent to this current application are highlighted in the table below.

APPLICATION No.	PROPOSAL	DECISION	DATE
P00/50680 & P00/50681	Change of use to A3 – Traditional Ale, Wine and Food Public House	Approved with Conditions	25/09/00
P00/51697	Elevational alterations and refurbishment to facilitate approved A3 public house (Ref: P00/50680) incorporating first floor extension to facilitate fire escape and to house the plant room.	Approved with Conditions	16/11/00
P05/1580	Variation of condition No. 1 of planning approval P00/50680 to extend the time period for development to be begun by 1 year.	Approved with Condition	26/09/05

6. This application was originally reported to Committee in October 2006. Evidence had been submitted (in the form of letters from customers) regarding the use of the premises stating that it was open for business on the weekend of June 24th/25th. Members were therefore advised that, although the unit is currently vacant, planning application P00/50680 which was extended by a further year by application P05/1580 had been implemented. Members resolved to visit the site prior to making a decision. At the subsequent meeting in November 2006 following the site visit Committee

resolved to defer determination of the application until conclusive proof had been provided that the development approved under applications P00/50680, P00/50681 and P05/1580 had not time-expired i.e. that the use was implemented within the required timeframe.

7. The applicant's agent has subsequently submitted a letter which states that on the weekend in question food was cooked on the premises for sale to members of the public. Meals were eaten on the premises and also supplied as takeaways. Details have been provided of how the food was prepared. This information has been verified in letters submitted by two of the customers who bought food from the premises. Officers are satisfied based on the information submitted that on the balance of probability the use of the premises for A3 purposes was implemented on that weekend and therefore before the expiry of the relevant time period.
8. Extracts from the letter from the applicants representative are appended to this report with a copy of the letter to and letters from people who purchased prepared food from the property.

PUBLIC CONSULTATION

9. Nine letters of neighbour notification were sent out with written responses received from adjacent neighbours Nos. 2, 3, 6 & 7 Church Road. A 25 name petition was also submitted regarding the proposal which accompanied the letter from 3 Church Road.
10. The neighbours at Nos. 2, 3, 6 & 7 Church Road and a supporting petition provided the following objections;
 - Car parking and access problems and the noise attributed to these activities.
 - Smell associated with cooking on the premises due to close proximity (12m) to residential properties.
 - Food waste encouraging rats.
 - Noise from the fridge/freezer sited in the proposed extension.
 - Noise from extractor fans.

- Inaccurate plans submitted by the applicant – shop frontage not true reflection of adjacent site and new toilets not shown.
- The change of use of the site is due to lapse as nothing has been done to the site in the last 12 months.
- Alteration of the shop front would be detrimental to the building and the character of the surrounding area due to its beautiful period features.

11. Many of these issues are not relevant to this planning application. The proposed kitchen is in the existing building and will require a fume extraction system to be installed, details of which can be requested by condition. The additional space to be constructed in the extension is predominantly for storage of products and will only increase the customer floor area of the premises by a modest amount of 10.6m² compared to the existing floor space of approximately 120m². The site is located within a town centre location well served by public transport and no car parking is to be provided. As stated above, the use of the premises is already established and the footprint of this scheme is actually smaller than what has previously been approved without the requirement of car parking facilities. The disposal of waste satisfactorily would be dealt with by Environmental Protection. The permission if approved will only relate to the units within the red line and an inaccuracy on the adjacent buildings is not relevant to the determination of this application.
12. The use of the site has now been established with evidence provided by the applicant satisfactory to prove implementation of the previous approval.
13. A valid potential concern regarding the application is the possible noise from a fridge and this has been subject to consultation with Environmental Protection.
14. Access in Dudley have made comments on this application however the issues raised are outside the remit of consideration under this planning application and should be addressed in the building regulations application.

OTHER CONSULTATION

15. Environmental Protection have advised that a refrigeration unit contained within a brick built structure would not normally require noise conditions to be placed upon it.

RELEVANT PLANNING POLICY

16. Policies DD1 (Urban Design), DD4 (Development in Residential Areas), EP7 (Noise Pollution), CR3 (Local Shopping Areas) and S10 (Quality Design) of the adopted UDP and PGN 27 (Shop Front Design and Security).
17. The issue relating to the use of the property is essentially irrelevant to the determination of this application, which seeks approval for extensions, and also for a shop front which is identical to that approved in 2000. This application must therefore be determined in relation to issues identified in paragraph 18. It should be noted that the premises and extensions could be utilised for A1 retail purposes regardless of the question of authorised use.

ASSESSMENT

18. The determining issues are whether the proposals are compatible with the existing building and the character of the area. The impact upon the residential amenity of the adjacent dwellings will also be considered.
19. The proposed new shop front submitted as part of the proposals constitutes a good standard of design and will not have an adverse impact upon the character of the street scene. The shop front with an appropriate scale and use of materials will replace an existing dilapidated frontage which is currently an eyesore within the street scene. This part of the proposal therefore follows the principles set out in PGN 27 (Shop Front Design and Security) and policies S10 (Quality Design) and DD1 (Urban Design) of the adopted UDP. The shop front proposed is also identical to that approved by the previous application P00/51697 in 2000.

20. The proposed rear extension will increase the floor space of the two units by an amount of 32.2m² which will be predominantly for the storage of food for use in the already approved restaurant. The extension will only increase the customer floor area of the premises by 10.6m² which will not have an adverse impact upon parking due to the location of the premises in a town centre well served by public transport with public car parking facilities available in the vicinity. The proposal therefore adheres to the principles of policy CR3 of the adopted UDP.
21. The proposed single storey flat roofed extension will not have an adverse impact upon the character of the area due to the proposal not being a readily visible element within the street scene located at the rear of the building adjacent to an existing two storey pitched roof building. The proposal will also assimilate with existing flat roofed structures at the rear of the property. This part of the proposal therefore adheres with the principles of policy DD1 of the adopted UDP.
22. The installation of a fridge in the proposed rear extension will have no impact upon the residential amenity of the nearby dwellings due to the development being totally enclosed within the brick built structure which will inhibit sound emissions from the unit. The only insertions in the side elevation for the proposed extension are for a rear door and two high level windows serving different spaces within the unit and any external alteration to the elevation at a later date, would require a planning application. This part of the proposal therefore adheres with the principles of policy DD4 of the adopted UDP.

CONCLUSION

23. The proposed modest extension will have no adverse impact upon the character of the area due to the location of the proposal at the rear of the existing units not readily visible from the street scene. The extension will also have no adverse impact on traffic generation due to the location of the proposal within a town centre location well served by public transport and with parking facilities nearby. The proposed new shop front will have no adverse impact upon the character of the area as it will assimilate

well within the street scene and replace a dilapidated shop front with a new attractive frontage.

24. The proposal is in conformity with policies DD1, DD4, EP7, CR3 and S10 of the adopted UDP as well as guidance provided in PGN 27 and would not cause harm to amenity.

RECOMMENDATION

25. It is recommended that permission is granted subject to the following conditions.

Reason for Approval

The proposed development would not cause harm to the character of the area or residential amenity and is therefore in accordance with Policies DD1, DD4, EP7, CR3 and S10 of the adopted UDP.

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. No materials shall be delivered to or despatched from the premises before 08:00 hours nor after 18:00 hours on Mondays to Saturdays inclusive, nor at any time on Sundays or Bank Holidays.
3. No amplified music shall be audible at any boundary of the site.
4. The premises shall not be open to the public outside the hours of 11:00 am to 11:30pm Mondays to Saturdays and 12:00 noon to 11:00pm on Sundays.
5. The development hereby permitted shall not begin until a scheme for the treatment of fumes to reduce smell and for their extraction has been submitted to and approved by the local planning authority and all works which form part of the scheme have been completed. Such facilities shall then be retained for the life of the development.
6. The materials to be used in the development shall closely match the type, texture and colour of the existing brickwork and roof tiles.

