

PLANNING APPLICATION NUMBER:P10/0343

Type of approval sought	Full Planning Permission
Ward	ST JAMESS
Applicant	Sarbjit Dhaliwal
Location:	157, WOLVERHAMPTON STREET, DUDLEY, DY1 3AH
Proposal	CHANGE OF USE OF GROUND FLOOR BARBERS SHOP (A1) TO HOT FOOD TAKEAWAY (A5) WITH FUME EXTRACTION.
Recommendation Summary:	APPROVE SUBJECT TO A 106 AGREEMENT

SITE AND SURROUNDINGS

1. The application site measures 85m² and the property is a two storey building which fronts onto Wolverhampton Street and features a pitched roof. The building is located at the back of the pavement and features storage buildings at the rear of the premises with a small area for car parking. A roller shutter has been installed at ground floor level on the front elevation and there is a side door to the west which leads to an alleyway. The application site has been used previously as a barber's shop (A1) but is now vacant and the gross internal floor area of the building subject to the change of use measures 23m².
2. The property is adjoined by commercial properties directly to the east and west with student accommodation above. The surrounding area generally features a mix of commercial properties at ground floor level with residential flats above and a mix of various types of residential development interspersed. To the south side of the street is an area of land awaiting housing re-development and part of the Dudley College site to the north. There are a few examples of other A5 uses within the street scene but none are adjacent to the site.

PROPOSAL

3. This proposal seeks approval for a change of use from a barbers (A1) to a hot food take-away (A5). The shop would be converted into a serving area at the front of the premises with a kitchen at the rear.
4. A rear extraction flue would be located on the building projecting to a height of 9.15m. A rear facing window would be replaced with a door and a small step with hand-rail at 1.25m in height would also be installed to enable separate access to the flat above.
5. The requested opening times would be 12:00 -23:00 Monday to Friday, 12:00 – 24:00 Saturdays and 12:00 – 23:00 Sundays and Bank Holidays.
6. The application has been accompanied by a Design and Access Statement in support of the proposal.

HISTORY

7. This property has two previous relevant applications.

APPLICATION No.	PROPOSAL	DECISION	DATE
CC/78/3105	Change of use from 2 shops, offices, workshops to 3 retail shops, offices, workshop, storage of building materials	Approved with conditions	26.02.1979
93/51603	Change of use of first floor offices to student accommodation	Approved with conditions	29.11.1993

PUBLIC CONSULTATION

- Direct notification was carried out to sixteen surrounding properties via neighbour notification letters and no written representations objecting to the scheme have been received.
- The latest date for receipt of neighbour comment was the 8th April 2010.

OTHER CONSULTATION

8.

- Group Engineer (Development) – no objections due to the proximity of town centre parking. However, there are some concerns regarding the possibility of indiscriminate parking on the double yellow lines to the front of the property.
- Head of Environmental Health and Trading Standards – no objections subject to conditions regarding extraction, odour control, discharge to atmosphere, plant machinery and opening times. Concerns were also highlighted regarding the height of the flue which has now been increased to 1m above ridge height.
- British Waterways – no adverse comments

RELEVANT PLANNING POLICY

Unitary Development Plan (2005)

- CR1 – Hierarchy of town centres and regeneration areas
- CR11 – Retail (A3) uses and amusement arcades
- AM14 - Parking– Adopted UDP 2005
- DD1 – Urban Design
- DD4 – Development in Residential Areas
- DD6 – Access and Transport Infrastructure
- DD7 – Planning Obligations
- EP5 - Air Quality
- EP7 - Noise Pollution

Supplementary Planning Documents

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

ASSESSMENT

9. The proposed development must be assessed with regard to the following key issues.

10. Key Issues

- Principle
- Design
- Residential amenity
- Vehicle Parking and Highway Safety
- Planning Obligations

Principle

11. The application site is within a predominantly residential but mixed use area just outside Dudley Town Centre. This change of use would provide a hot food takeaway within an existing row of commercial properties at ground floor level. The first floor element of the building comprises residential accommodation (C3) and shall remain unaltered. Policy CR11 states that planning permission for a hot food takeaway would normally be granted subject to the provisions of policy CR4 in existing town and local centres and other appropriately located and accessible sites. The unit is located within a parade of shops and therefore, in line with Policy CR3, and would not result in the loss of a convenience store as the unit was previously a Barbers (A1). Although there are other examples of hot food take-aways within the street there are none directly to the side of the property and this proposal would not create a bunching of similar A5 uses within a predominantly residential area.

12. The development would be modest in scale and due to the small size of the takeaway servery it is considered that the proposal would only have a minor increase in intensity on the surrounding area. As the premises are currently vacant this

proposal would increase the vitality of this site by bringing it back into use and providing a service to the local area. The proposal is of an appropriate size within a residential area and would not impact on the vitality of nearby local centres, such as Dudley, in accordance with Policy CR1 of the adopted UDP. Due to the mixed use nature of the area, it is considered that the location of the site is acceptable for an A5 use, providing there would be no adverse impact on environmental quality, residential amenity or highway safety in accordance with Policy CR11. In this regard the proposal complies with the requirements of Policies DD4 – Development in Residential Areas and CR11 – Retail (A3) uses and amusement arcades of the Adopted UDP (October 2005).

Design

13. The only proposed external changes to the existing building would be located at the rear of the premises and would not impact on the visual amenity or adversely affect the street scene. Although the amended plan shows that the proposed flue would project 1m above the existing ridge height this would not appear prominent due to its location at the rear of the premises and due to screening from the existing building. The proposal would therefore not adversely affect the character of this area in accordance with Policy DD1 – Urban Design of the adopted UDP.

Residential amenity

14. The application site is located near to Dudley Town Centre but within a residential area which includes student accommodation directly above the application site. Local amenity should not be adversely affected by the proposal and the Head of Environmental Health and Trading Standards has raised no objections to the proposal on these grounds.

15. The Head of Environmental Health and Trading Standards has also suggested amended opening times for the hot food take-away compared to those suggested by the applicant to avoid a gradual worsening of the night-time noise climate through progressively later hours. The amended flue height would also ensure that cooking odours are effectively dispersed. Conditions regarding the submission of a scheme detailing discharge and noise / disturbance as well as limitations on plant machinery have also been suggested by the Head of Environmental Health and Trading

Standards to ensure that there would be no impact on residential amenity resulting from the development. It is considered that through robust conditioning to control hours of operation as well as servicing of the restaurant and the control of the discharge of odours, residential amenity would not be prejudiced and no concerns have been raised through the public consultation process. In this regard the proposal would be in accordance with the requirements of Policy CR11 – Retail (A3) uses and amusement arcades of the Adopted UDP (October 2005) and Policy DD4 – Development in Residential Areas.

Vehicle Parking and Highway Safety

16. The use of the premises as a hot food take-away is expected to moderately increase the level of vehicular trips to the premises. The application form demonstrates that the existing property features two car parking spaces to the rear of the premises. However, these would not be used by customers of the proposed hot food take-away and would be for staff use only so would not constitute accessible car parking spaces. Due to the modest size of the premises only one space would normally be required for customers. Although there would be no available customer parking on-site the property is located near to Dudley Town Centre and there are local public car parks to provide spaces for any users of the site. The proposed development therefore would not require any off street parking in view of the site's position near to Dudley Town Centre with both on street and off street parking available within close proximity of the site. The lack of any customer parking provision is therefore not considered to be an issue so there would be no impact on highway safety resulting from the proposal.

17. The Group Engineer (Development) does not have any objections to the proposal which would be in accordance with Policy DD6 of the UDP and would also comply with the requirements of Policy AM14 - Parking– Adopted UDP 2005 and the Parking Standards and Travel Plans SPD.

Planning Obligations

18. 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:

Offsite Contributions:

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

Transport Infrastructure Improvement costs	= £ 333.71
Management and Monitoring charge	= £ 250.00
Total Offsite Contributions	= <u>£ 583.71</u>

The applicant has not yet agreed to the payment of these offsite planning obligations.

Onsite Contributions:

No onsite contributions would be required for this development.

CONCLUSION

19. The proposed A5 use is appropriate in this residential area close to Dudley Town Centre due to the scale and size of the proposal. There would be no elevational changes to the front which would impact on visual amenity and subject to certain conditions there would be no impact on residential amenity resulting from the proposal as the proposed flue at the rear of the property would effectively disperse odours. The development would therefore comply with all relevant policies including Policy CR11 (Retail (A3) Uses and Amusement Arcades) of the adopted Dudley Unitary Development Plan (2005), Planning Guidance Note 28 (Hot Food Takeaway Shops, Restaurants and Cafes) and Policy DD4 – Development in Residential Areas.

RECOMMENDATION

20. It is recommended that the application is approved subject to:

- a) The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the provision of contributions towards transport infrastructure improvements and a monitoring and management charge

totalling £583.71 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 contributions, with delegated powers to the Director of the Urban Environment to make amendments to these as necessary.

Reason for the Grant of Planning Permission

It is considered that the proposed change of use to A5 is acceptable from a policy point of view. There would be no significant harm to neighbouring properties and there would be no adverse effect on the street scene or character of the area despite the proposed flue projecting 1m above ridge height. The change of use would not have a negative impact on highway safety and the proposal, therefore, complies with the following Council policies and guidance; DD6 Access and Transport Infrastructure, DD7 Planning Obligations, CR1 Hierarchy of Centres, CR11 Retail (A3) Uses and Amusement Arcades and DD4 – Development in Residential Areas of the Dudley Unitary Development Plan.

The decision to grant planning permission has been taken with regard to the policies and proposals in the Dudley Unitary Development Plan and to all relevant material considerations including Supplementary Planning Guidance.

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

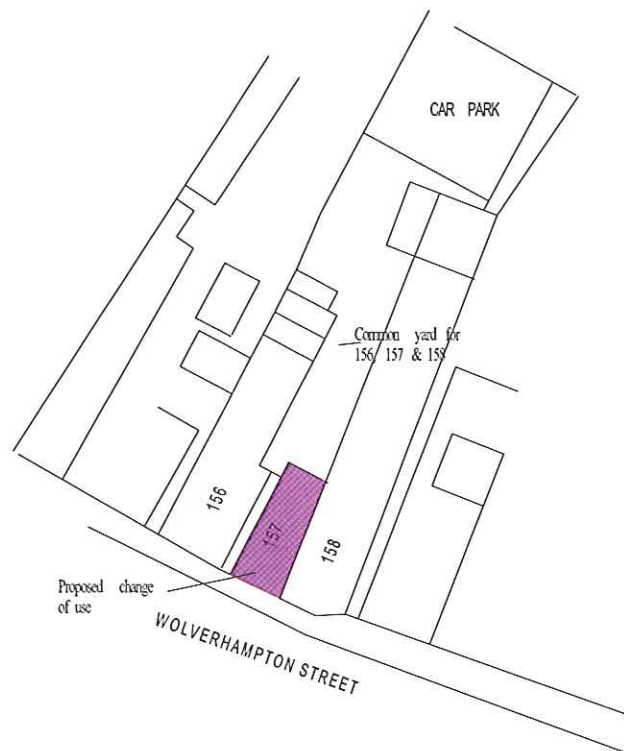
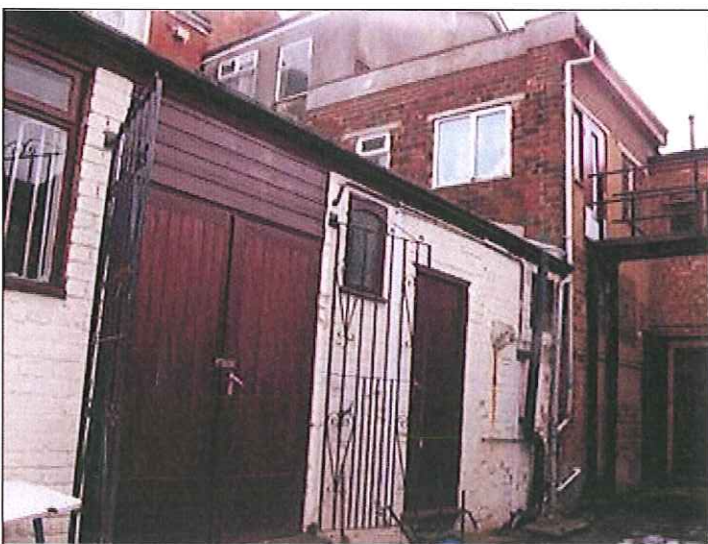
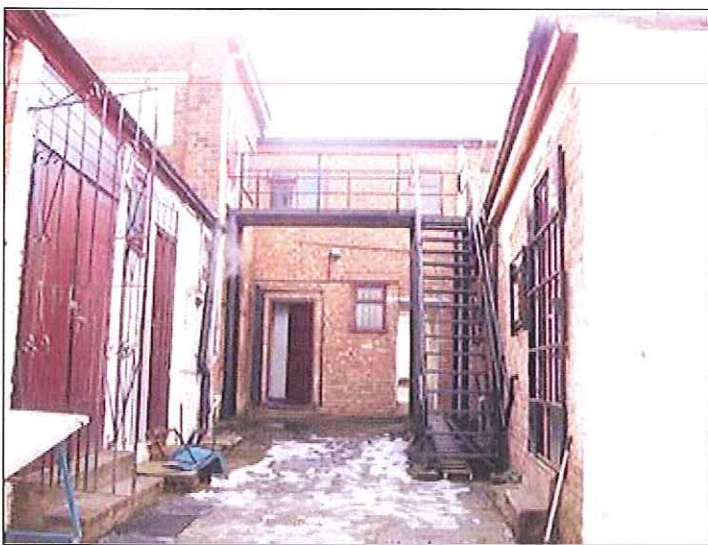
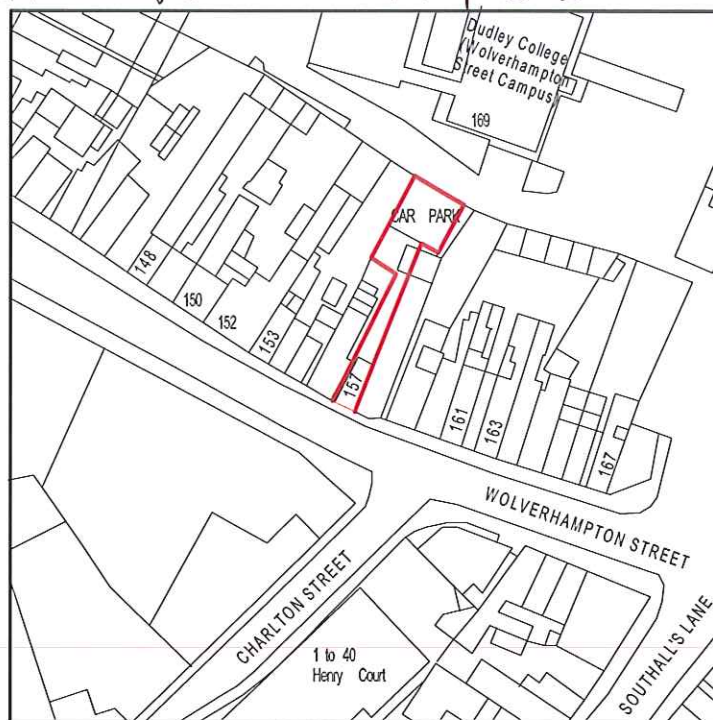
Note for Applicant

The development hereby approved will remain in accordance with the approved drawings received on the 9th March 2010 and 7th April 2010 and referenced 'Sheet

2' and Drawing No. '18/10' unless otherwise agreed in writing by the Local Planning Authority.

Conditions and/or reasons:

1. The development shall not be commenced until a scheme for the submission and approval of a planning obligation to guarantee the provision of contributions towards transport infrastructure improvements and a monitoring and management charge has been submitted to and agreed in writing by the Local Planning Authority.
2. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
3. The materials to be used in the approved development shall match in appearance, colour and texture those of the existing building unless otherwise agreed in writing with the local planning authority.
4. Prior to the commencement of the change of use, 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.
5. 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.
6. The premises shall not be open to the public before the hours of [0900] nor after [2300] Monday to Thursdays, before [09:00] nor after [23:30] Fridays and Saturdays, before [10:00] nor after [23:00] on Sundays and Bank holidays.
7. The operation of fixed plant and/or machinery associated with the development (including the discharge of cooking fume from a flue) shall not cause background noise levels at any nearby dwelling to be exceeded by a Noise Rating Level of more than 5 dB (A), as assessed under the methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments.



PICTORIAL VIEWS

SITE: 157 Wolverhampton Street- Photos

Block Plan

Scale 1:500

J.K. Kalsi

Building Designs and Technical Services

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