

PLANNING APPLICATION NUMBER:P11/1479

Type of approval sought	Full Planning Permission
Ward	HALESOWEN NORTH
Applicant	Mr Kayum Ali
Location:	78, LONG LANE, HALESOWEN, B62 9DJ
Proposal	CHANGE OF USE FROM A1 TO A3 WITH NEW FUME EXTRACTION (RESUBMISSION OF PREVIOUSLY REFUSED APPLICATION P11/1136)
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 property forms part of a mixed use block which originally comprised three commercial units (nos. 78, 79 and 80 Long Lane) at ground floor with three residential flats over. However, during the 1980s nos. 79 and 80 Long Lane were merged, and these units now provide a single commercial premises which operates as an off licence. The established use of the ground floor accommodation at the application premises is a hairdresser's shop (A1 Retail). At the time of writing, although the unit appears to have been vacant for some time, the signage and shop front associated with the previous A1 use remain in situ.
2. The application property forms part of a parade of commercial properties running down the eastern side of Long Lane. This parade is located within the Shell Corner local shopping centre and is made up of varying uses, including two large off licences, a barber's shop, two A2 solicitors offices, a printing shop and two A5 hot food take away outlets. At the time of writing however, several shops in this parade, including the application property, appear to be vacant. On the opposite side of

Long Lane to the west, there is a parade of premises which are located within the Shell Corner protected retail frontage and include an A1 bicycle retailer, an A3 Cafe and two A5 hot food take away outlets.

3. To the rear of the buildings to which the application property belongs, there is a parking area which, according to signs currently in situ at the site, is shared with the adjoining off licence. This area is not marked out, but appears to provide parking facilities for the occupiers of the three flats above the buildings.

PROPOSAL

4. The application seeks planning permission for the change of use of the premises from A1 (Retail) to A3 (Restaurant).
5. Under the proposal, the existing shop floor at the premises would be partitioned, with nine dining tables being provided in the 'front of house' and kitchen and toilet facilities being installed to the rear.
6. The information submitted with the application also indicates the specification of the proposed fume extraction flue, which would be sited to the rear of the premises.

HISTORY

7.

APPLICATION No.	PROPOSAL	DECISION	DATE
81/52009	Erection of extensions and alterations to shops and offices. Construction of car park.	Approved with conditions	05/11/81
81/52569	Alterations to frontage and installation of new shop front. (nos. 79-80 long lane).	Approved with conditions	21/01/82
97/50811	Change of use of premises from class A1 retail to class A2 betting office.	Approved with conditions	17/07/97
P02/1992	Application to use land for the storage of up to 18 touring caravans and to regularise the formal car parking.	Withdrawn	07/01/03
P11/1136	Change of use from A1 to A3/A5 (Restaurant and hot food take away).	Refused	14/11/11

8. Application P11/1136, which proposed a mixed A3/A5 use, rather than the A3 use currently proposed, was refused for the following reasons:

By virtue of the proposed parking spaces being shared with other properties, the proposed access point being narrow, the dimensions of some of the proposed spaces, the parking area to the rear of the premises would be unlikely to be used to accommodate the frequent additional vehicular trips associated with the proposed A3/A5 use, resulting in additional indiscriminate on-street parking in what is already a highly congested and problematic area, to the detriment of highway safety in the locality.

PUBLIC CONSULTATION

9. The application was advertised by way of letters being sent to the occupiers of 32 properties located in the proximity of the site. The application was also advertised by way of a site notice. Eleven letters of objection have been received from the proprietors of nearby businesses, the occupiers of nearby residential properties and a local Ward Councillor. A petition bearing 64 signatures expressing opposition to the proposal has also been received via the operator of a local restaurant and it is noted that a number of the signatories have also submitted their own individual letters of objection.

10. The objections received raise the following concerns:
 - The locality already has several hot food outlets (particularly hot food takeaways), and the addition of another hot 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 another hot foot outlet to the locality would exacerbate existing parking pressures.

11. Several of the submitted objections also made reference to the potential detrimental impact the creation of a new restaurant in the locality would have on the existing hot food outlets in the area in terms of loss of profitability potentially resulting in loss of employment. These are not material planning considerations, but are a matter for commercial judgement and should therefore have no bearing on the determination of the application.

OTHER CONSULTATION

12. The Group Engineer (Development): No objections, on the grounds that the number of spaces to be provided in the rear car park would be sufficient to accommodate the number of vehicles which would visit a restaurant of this size. Under the terms of the Parking Standards SPD, the proposed restaurant would require 8 spaces. The submitted layout shows 22 spaces and there would therefore be sufficient provision both for the proposed restaurant and the existing off licence.
13. Head of Environmental Health and Trading Standards: The development site is within a mixed use commercial and residential centre with residential dwellings above the premises. There are also two residential dwellings to the south east of the rear car park which have bedroom windows overlooking the car park. There are several other A3/A5 uses in the surrounding area and an additional A3/A5 use in this location has the potential to adversely affect the amenities of residents in terms of noise and odour from cooking operations.
 - It is considered that residential amenity could be protected in this location provided that conditions are attached to any approval to ensure a suitable cooking fume extraction system is installed and that the hours of opening to the public are restricted. Some information and plans relating to a proposed extraction system have been submitted; however the height of the proposed flue is insufficient to adequately disperse cooking odours and should not be accepted as part of any approval granted. The height of the flue should be at least 1 metre above the roof ridge to ensure odours can be adequately dispersed.
 - The opening hours of nearby A3/A5 uses have been taken into account when determining the recommendation for hours of opening restrictions. It is considered that some slight further restrictions are required to late night opening (in comparison to the A3/A5 use at 85 Long Lane) due to the proximity of a bedroom window at the closest rear residential property overlooking the car park, which is shown to have 25 parking spaces. There is potential for residential amenity to be adversely affected by noise from patrons using the rear car park.

In order to address such concerns, conditions are recommend to be applied to any approval.

RELEVANT PLANNING POLICY

14. National Planning Guidance

PPS1	Delivering Sustainable Development
PPG13	Transport
PPS23	Planning and Pollution Control

15. Black Country Joint Core Strategy

Policy DEL1	Managing Infrastructure Provision
Policy TRAN 2	Managing Transport Impacts of New Development

16. Unitary Development Plan

Policy DD4	Development in Residential Areas
Policy EP5	Air Quality
Policy EP7	Noise Pollution

17. Supplementary Planning Documents

Parking Standards and Travel Plans
Planning Obligations

18. Supplementary Planning Guidance

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

19. Key Issues

- Principle
- Amenity
- Highways
- Planning Obligations

Principle

20. Whilst the area immediately surrounding the application property currently accommodates a number of hot food uses, including two premises within 30m of the application property on this side of Long Lane and another two on the opposite side of the road at Clarage House, the Shell Corner Local Centre contains a wide mix of commercial properties, a large proportion of which are currently vacant. Uses within the protected retail 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

21. In this context, it is considered that the proposed change of use would not result in the overall balance of uses in Shell Corner local centre 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. In this regard, the proposal is considered to comply, overall, with Policy CR3 (Local Shopping Areas) of the adopted UDP.

Amenity

22. The premises are located within a Local Centre location and the majority of nearby uses are commercial. However, there are numerous C3 (Residential) properties within close proximity to the application site. In particular, the first floor of the application building contains three residential units and there is also residential accommodation provided above the majority of neighbouring properties along this section of Long Lane.

23. 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 should the application be approved. Therefore, subject to these conditions being imposed, it is considered that the proposal would comply with Policy DD4 (Development in Residential Areas) of the UDP. The indicated location of fume extract systems to the rear of the building would suggest that such a system could also be appropriately screened.

24. 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, in the event that any public health issues did arise as a result of rubbish accumulation, these would be dealt with under existing Environmental Health legislation and cannot, therefore, be considered as material relation to the consideration of this application.

Highways

25. Whilst the proposed parking arrangements are unchanged from the previously refused application, it is considered that, as the application now proposes an A3 restaurant operation, rather than a mixed A3/A5 use, customers' visits to the premises would be for a longer duration and therefore they would be more likely to use the parking facilities to the rear of the premises, rather than parking indiscriminately on Long Lane. Whilst the access to the car park is quite narrow, the nature of the proposed operation at the application premises would mean that trips to and from the restaurant would be less frequent and of longer duration than previously proposed. The proposed access arrangements are therefore considered, overall, to be acceptable.

Planning Obligations

26. Policy DEL1 (Managing Infrastructure Provision) of the Black Country Joint Core Strategy (2010), in conjunction with the Council's adopted Planning Obligations Supplementary Planning Document (SPD), 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.

27. The proposed change of use would be likely result in a net decrease in the number of vehicular trips to and from the premises. Using the trip rates set out in the Planning Obligations SPD, it is not considered that any potential increase in the number of trips would be so substantial or on such a significant scale to justify the pursuit of an obligation to finance mitigating transport infrastructure measures. Even if a net increase in trips did result, the required obligation would not exceed the

£500 minimum set out in the SPD and on this basis it is considered that no obligation would be payable should the application be approved.

CONCLUSION

28. The proposed change of use is acceptable in planning policy terms, retaining the balance within Shell Corner Local Centre between retail and non-retail premises. The proposal would not, subject to appropriate conditions being imposed, adversely affect the residential amenity of nearby occupiers. Finally, the proposed A3 use would attract longer duration, infrequent vehicular visits to the premises by customers, with the effect that they would be likely to use the rear parking facilities, rather than parking indiscriminately on the street in Long Lane. The proposal is therefore considered to be acceptable, taking into account all material considerations, as assessed against the relevant Council policies and guidance.

RECOMMENDATION

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

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. Such details shall contain measures to minimise the visual impact of such equipment in the street scene. 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.

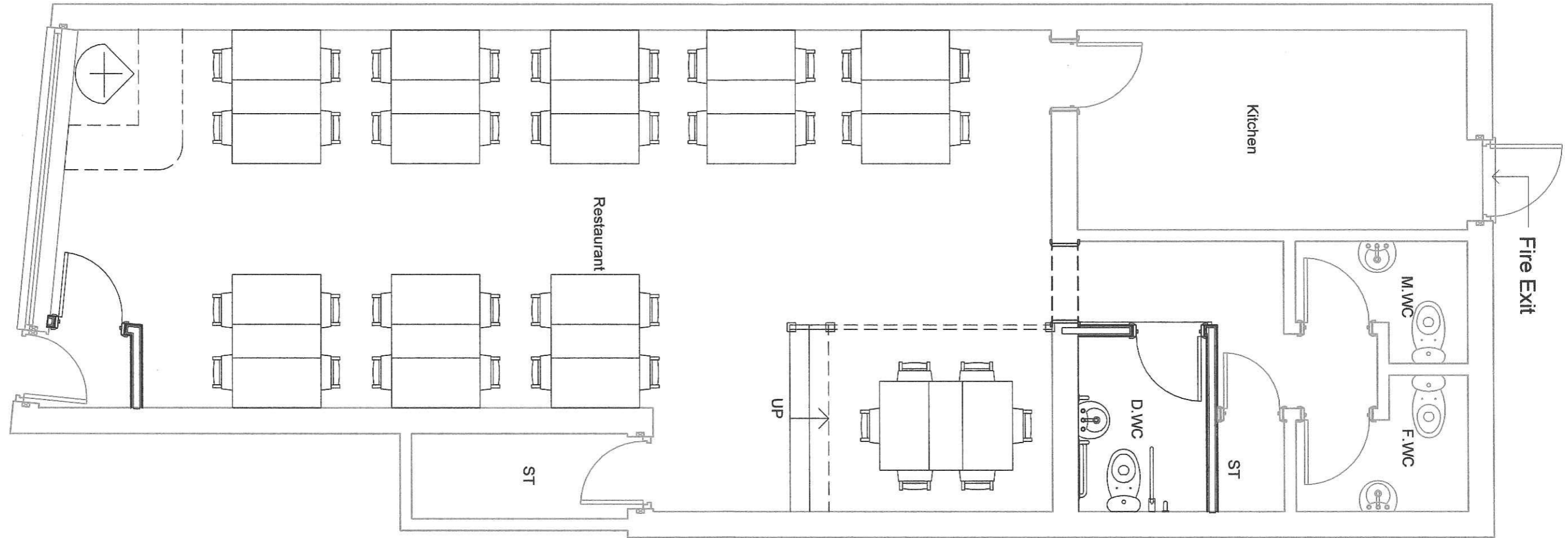
4. The noise rating level of any fixed plant and/or machinery associated with the development (including the discharge of cooking fume from a flue) shall not exceed background noise levels at any nearby dwelling by more than 5dB(A), as assessed under the methodology of BS 4142 (1997) (Method for rating industrial noise affecting mixed residential and industrial areas) and/or its subsequent amendments.
5. The premises shall not be open to the public, nor shall deliveries from the premises be made, before the hours of 0900 nor after 2300 Monday to Thursday, before 0900 or after 2300 on Fridays and Saturdays, nor before 0900 or after 2200 on Sundays and Public Holidays.
6. The development hereby approved shall be implemented in accordance with the submitted plans stamped received by the Local Authority on 24th November 2011 and referenced 'A100 A', 'A101' and 'A102', unless otherwise agreed in writing by the Local Planning Authority.

P11/1479





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Floor Layout
1:50



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No.	Description	Date

78 Long Lane, Birmingham, B62 9DJ

Restaurant Layout

Project number	111002
Date	14/10/2011
Drawn by	CS
Checked by	RMW

A102

Scale 1:50

 APPLICATION PROPERTY



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