

PLANNING APPLICATION NUMBER: P11/1264

Type of approval sought	Full Planning Permission
Ward	ST JAMESS
Applicant	Mr Dwayne Millwood, Dwayne Soulflood
Location:	GRIFFIN BROS (DUDLEY) LTD, 10, WELLINGTON ROAD, DUDLEY, DY1 1RB
Proposal	VARIATION OF CONDITION 4 OF PLANNING APPLICATION P10/0119 TO BE REVISED TO 'THE USE HEREBY PERMITTED SHALL BE DISCONTINUED AND THE LAND RESTORED TO ITS FORMER CONDITION ON OR BEFORE THE EARLIER OF THE FOLLOWING DATES: 30 JUNE 2012, OR THE DATE ON WHICH GRIFFIN BROS (DUDLEY) LTD CEASE TO OCCUPY 10 WELLINGTON ROAD'
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

- No 10 Wellington Road is occupied by a firm called Griffin Bros (Dudley) Ltd. It occupies a prominent position on the corner of Waterloo Street and the heavily trafficked Wellington Road (B4177). It is a mixed use area. The site itself forms part of the forecourt of this industrial unit. There is housing directly to the north; retail and a café to the south; retail to the north-east and a public house to the south-east.
- The site is designated within an area of Linear Open Space (Policy S02) within the adopted Dudley Unitary Development Plan.

PROPOSAL

- The application is for the variation of Condition 4 of planning application P10/0119 which granted permission for the stationing of a mobile caravan for hot food take away sales on the site. Condition 4 gave the approval on a temporary basis. The variation sought is 'the use hereby permitted shall be discontinued and the land

restored to its former condition on or before the earlier of the following dates: 30th June 2012, or the date on which Griffin Bros (Dudley) Ltd cease to occupy 10 Wellington Road'

HISTORY

4. Relevant history

APPLICATION No.	PROPOSAL	DECISION	DATE
DY/52/83	Extension to existing works	Approved	13/03/52
DY/57/393	Extension to factory	Approved	15/07/57
DY/63/341	Outline extension to factory	Approved	14/08/63
DY/64/16	Extension to existing works	Approved	22/01/64
DB/66/241	Outline erection of store, loading bay and garage and provision of car parking	Refused	31/10/66
DB/72/10836	Erection of 2 storey factory	Approved	15/01/73
P08/1610	Change of use of land for the siting of a mobile catering trailer (retrospective)	Refused	11/02/09
P10/0119	Stationing of a mobile caravan for hot food take away sales (re-submission of refused application P08/1610)	Refused Allowed on Appeal	16/03/10 05/10/10

PUBLIC CONSULTATION

5. Letters were sent directly to adjacent and nearby premises. Letters were also sent to a group of shareholders who had recently made themselves known to have an interest in the land. A Site Notice was also put up in front of the site. Four letters of objection have been received to the application from four shareholders of Griffin Bros which make the following points:

- Lack of notification to the shareholders of Griffin Bros to the earlier application;

- The storage of unsecured LPG gas cylinders outside and inside the mobile unit in close proximity to the building and the permanently connected electricity supply are a serious fire risk. The unit should be a minimum of 4.0m away from the building.
6. It can be confirmed that the applicant served notice on Griffin Bros for both this and the previous application (P10/0119) in accordance with the correct procedures. The Local Planning Authority does not contact individual shareholders when applications are received. The names of shareholders are unknown to the LPA and therefore it is for the Directors of the company to inform their shareholders of any applications. Nevertheless, following concerns from four shareholders to planning application P10/0119 letters were forwarded directly to them upon the receipt of this application.

OTHER CONSULTATION

7. Group Engineer - Development – in consideration of the appeal decision of application P10/0119 it would not be unreasonable to extend the temporary permission for a further 6 months to enable us to fully assess the highway safety situation.
8. Head of Environmental Health and Trading Standards – no objections.
9. British Waterways – no objections.

RELEVANT PLANNING POLICY

10. National Planning Guidance
PPS11 - Regional Spatial Strategies
PPS12 - Local Development Frameworks
PPG13 – Transport

11. Regional Planning Guidance

The High Court Decision on 10th November 2010 in respect of the challenge by Cala Homes (South) Ltd (2010 EWHC 2866) quashed the Government's decision on 6th July 2010 to revoke the Regional Strategies. As a consequence the West Midlands Regional Spatial Strategy forms an ongoing part of the development plan.

The Chief Planner at the Department for Communities and Local Government wrote to all local authorities setting out that the Secretary of State expected them, and the Planning Inspectorate, to have regard to his letter of 27th May 2010, announcing his intention to abolish the Regional Strategies through the introduction of the emerging Localism Bill, as a material consideration in planning decisions.

The Localism Bill received Royal Assent on the 16th November 2011 becoming law; and confirmed the Governments intention to revoke Regional Strategies. In the coming months the measures in the Localism Act will begin to come into *effect* but the abolition of the RSS will not happen until the end of January at the earliest as the Government is currently consulting on the environmental impact of the abolition. Therefore the RSS policies still form part of the development plan until such point, and the following policies are considered relevant to the material consideration of this planning application.

- Policy QE3 – Creating a high quality built environment for all

12. Saved Dudley Unitary Development Plan Policies

Policy DD1 – Urban Design

Policy DD2 – Mixed Use

Policy SO2 – Linear Open Space

13. Supplementary Planning Documents/Guidance

Parking Standards and Travel Plans Supplementary Planning Document

ASSESSMENT

Key Issues

- Background
- Impact upon the existing car park and highway safety

Background

14. Two planning applications have been made in the past for the siting of a mobile hot food trailer on this site (P08/1610 and P10/0119). Both were refused by the Committee. The latter application was refused for the following reasons:

1. *The siting of a mobile catering trailer, situated in such a prominent location would create a visually incongruous feature in the street scene which would detract from the character of the area. As such it would be contrary to Policy DD1 of the adopted Dudley Unitary Development Plan.*

2. *The use of the existing factory forecourt to accommodate the mobile trailer and associated customer parking would considerably reduce available off-street parking for the existing factory unit. This could lead to on-street parking which would be to the detriment of highway safety and contrary to Policy DD6 of the adopted Dudley Unitary Development Plan.*

3. *The nature of the hot food business and its close proximity to the highway would encourage indiscriminate short-term on-street parking close to the junction with Waterloo Street to the detriment of highway safety contrary to Policy DD6 of the adopted Dudley Unitary Development Plan.*

15. This application was however allowed on appeal for a temporary period.

The Inspector was of the opinion that a small caravan would be relatively inconspicuous within the existing street scene and that its commercial character would be entirely in accordance with that of the area as a whole. He therefore did not agree that it would be harmful to the character or appearance of the area. With regard to highway safety, based on the evidence provided by Griffin Bros regarding the current uses of the site and his own site visit, the Inspector concluded that the forecourt is little used and that there was no reason to suppose that the overall parking demand would be so high that vehicles would be displaced onto the highway. As such, he felt that it would be unlikely to detract from highway safety. He did

however, acknowledge that there had been five injury accidents near the site within the last five years and thought that a “precautionary approach” should therefore be taken. He therefore granted a temporary planning permission to “...allow sufficient time for any adverse consequences of the use to become apparent...”

16. On the basis of the above, the following conditions were attached to the permission:

1) The development hereby permitted shall begin not later than three years from the date of this decision.

2) The development hereby permitted shall be carried out in accordance with the approved plans referenced “andi/jones – 001 Revision A” and “andi/jones – 002”.

3) The hot food takeaway use hereby permitted shall not be open to customers outside the following times: 1100 to 2300 on Mondays to Saturdays inclusive, and shall not be open to customers at any time on Sundays or on bank and public holidays.

*4) The use hereby permitted shall be discontinued and the land restored to its former condition on or before the earlier of the following dates:
31 December 2011, or the date on which Griffin Bros (Dudley) Ltd cease to occupy 10 Wellington Road.*

17. On 24th June 2011 a letter was received from the applicant stating that, due to a bereavement of a close family member and other personal circumstances, he had not been able to implement his temporary approval until 27th June 2011. He asked therefore whether he could have an extension of time. Within the auspices of the Town and Country Planning Act 1990 such an extension would require a variation of a condition following the grant of permission. The applicant was therefore advised to submit a new planning application. This is the reason for the application now under consideration

Impact upon the existing car park and highway safety

18. No 10 Wellington Road is a large industrial unit (approximately 1,150 sq m in size). Car parking is available for this unit on the front forecourt (which is the subject of this application) and there is also a small parking area to the rear of the building accessed off Waterloo Street. The building also has access for delivery vehicles within both frontages. The parking requirement for the industrial unit is 17No. car parking spaces.
19. Concerns about the following matters remain:
- The loss of parking spaces for the industrial unit;
 - The use of the forecourt for the loading and unloading of goods from large vehicles could block the vehicular access to the parking area for the catering trailer leading to on-street parking;
 - Wellington Road (B4177) is a heavily trafficked District Distributor road. Despite a total prohibition of waiting and also a loading restriction in front of the building there is potential for short term indiscriminate parking by users of the catering trailer;
 - There have been 5 No. injury accidents in the last five years within 100m of the site. Two of these accidents were of a serious nature.
20. Despite these concerns the Group Engineer (Development) is mindful of the Inspectors' decision. As the catering trailer has not been on the forecourt for a full twelve month period, sufficient time has not lapsed to fully evaluate the impact of the development. With this in mind it would seem reasonable to vary Condition 4 of planning approval P10/0119 by extending the use of the site for a further six months or until such time that Griffin Bros (Dudley) Ltd cease to operate from the site.

CONCLUSION

21. In allowing the appeal for planning application P10/0119 the Inspector gave approval for use of the site for the stationing of a mobile caravan for hot food take away sales

for a twelve month period to allow sufficient time for any adverse consequences of the use to become apparent. Due to personal circumstances the applicant has not been able to operate from the site for the full time period and therefore the request to extend this time period is not considered to be unreasonable. On this basis, the application would accord with Planning Policy Guidance 3 Transport, Policies DD1 and DD4 of the adopted Dudley Unitary Development Plan and Supplementary Planning Documents/Guidance Parking Standards and Travel Plans Supplementary Planning Document.

RECOMMENDATION

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

Conditions and/or reasons:

1. The development hereby permitted shall be carried out in accordance with the approved plans referenced "andi/jones – 001 Revision A" and "andi/jones – 002".
2. The hot food takeaway use hereby permitted shall not be open to customers outside the following times: 1100 to 2300 on Mondays to Saturdays inclusive, and shall not be open to customers at any time on Sundays or on bank and public holidays.
3. The use hereby permitted shall be discontinued and the land restored to its former condition on or before the earlier of the following dates: 30th June 2012, or the date on which Griffin Bros (Dudley) Limited cease to occupy 10 Wellington Road.

Location Plan - AREA 2 HA
SCALE 1:1250

CENTRE COORDINATES: 393612, 289914

Reference no.7



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PROPOSED SITE PLAN (A2)

