

PLANNING APPLICATION NUMBER:P13/0013

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|-------------------------|---|
| Type of approval sought | Full Planning Permission |
| Ward | Halesowen North |
| Applicant | Mr M. Bains Mr M. Bains |
| Location: | 7, WOODBURY ROAD, HURST GREEN SHOPPING CENTRE, HALESOWEN, WEST MIDLANDS, B62 9RH |
| Proposal | CHANGE OF USE OF RETAIL SHOP (A1) TO HOT FOOD TAKEAWAY/DELICATESSEN FACILITIES (A5/A1) WITH NEW FUME EXTRACTION. |
| Recommendation Summary: | APPROVE SUBJECT TO CONDITIONS |

SITE AND SURROUNDINGS

1. The application site lies within an L shaped 1950s parade of 6 shops within a residential estate. There is also a pub and restaurant adjacent to the parade. The site is in the centre of the terrace and there is a flat roof canopy spanning the entirety of the parade. There are residential flats above each of the units.
2. The parade contains four retail units (Use Class A1), two of which are currently vacant, one office (Use Class A2) and a hot-food take-away (Use Class A5). The parade is set back from the highway and this local shopping area comprises an area of on-street parking along the frontage of the local shopping area.
3. At the rear of the site, the parade of shops is screened from residential properties on Hurst Green Road (which area 30m away) by a fence and a run of mature trees. To the west is the Full Moon Public House which is owned by the applicant and to the south at a distance of 50m away are residential properties in Woodbury Road.

PROPOSAL

4. The proposal seeks the change of use of the ground floor of No.7, which has been vacant for over 12 months, from A1 retail to an A5 hot food take-away.
5. The applicant initially proposed that the takeaway would operate opening hours of 15.00 – 23.00 daily. These hours were since revised to a closing time of 22.00.
6. Full extraction flue details have not been submitted with the application and would be controlled through a suitably worded planning condition should planning permission be granted.

HISTORY

| APPLICATION | PROPOSAL | DECISION | DATE |
|-------------|--|---------------------------|----------|
| 80/50240 | Change of use of ground floor to ladies fashions and first floor to travel service office. | Approved with conditions. | 28/02/80 |
| P03/1254 | Change of use from shop (A1) to office (B1) and installation of roller shutters. | Approved with conditions. | 07/08/03 |
| P03/1704 | Extension to existing supermarket and new access to rear of site from Hurst Green Road | Refused | 18/11/03 |
| P07/1844 | Installation of security roller shutters (retrospective) | Approved with conditions | 05/11/07 |

PUBLIC CONSULTATION

7. The application was advertised by way of neighbour notification letters being sent to the occupiers of fifteen properties within close proximity to the site, the display of a site notice and an advertisement being placed in the local press.

8. As a result, a number of objections were received as follows:

- Within 1 mile, there are 5 pizza shops doing home deliveries so another is unnecessary. There are only 5 shops and there is already a good fish and chip shop doing healthy options and a pub serving meals. There are over 26 outlets with a 2-3 mile radius. The development would cause a nuisance to residents with staying open late. There are already problems with youths hanging around and there are regular visits by the police.
- There are enough takeaways in the local small shopping complex. The local fish bar offers a healthy menu as well as fish and chips. The Indian restaurant and takeaway are offered at the local pub and the supermarket is also connected with food and drink. The opening hours of the pub at 3pm will influence local children to cause more litter, noise and disturbance. All the other shops are closed by 10pm and 11pm is too late. Noise, smells and disturbance would be caused to the flats above the parade of shops. There has been a high level of anti-social behaviour in the area where police and youth workers have been involved.
- A petition of 38 names was submitted objecting to the proposal.
- A further petition of 237 names was submitted also in objection.
- Local Ward Councillors have objected as follows:
 - There is already one takeaway food shop which is the chip shop, which provides a range of food other than fish and chips and the Full Moon public house, apart from serving food also provides an Indian takeaway service. 25% of the premises at this small location already provide food and a takeaway service and this application should be rejected on this basis. Problems have occurred and are continuing at this location with anti social behaviour from groups of youngsters. Over the past two years there have been an extremely high number of complaints from shop owners and residents who live above the shops as a result of antisocial behaviour, and yet another takeaway service would further exacerbate this problem.

- Issues of anti-social behaviour caused by young people at the Hurst Green Shopping Centre are regularly discussed at Halesowen North Police and Community Team (PACT).
- This planned take away restaurant will act as an attraction to this area which already has its problems.

As a result of neighbour consultation, a number of supporters commented as follows:

- There has been a visible decline in anti-social behaviour and the opening of a pizza shop would be a great asset to the area.
- Since the new ownership of the pub there has been a vast reduction in the sale of drugs due to collaboration with the Halesowen Police and Pub Watch Scheme and a local Councillor. The closing hours of the pub at 11 pm – Sunday to Thursday and 12.30pm Friday and Saturday has not given rise to any noise pollution and therefore opening of the proposed hot food takeaway until 11pm will not have any undue impact.
- There has been a drastic decline in the number of customers due to the closure of No. 3 and 7 and the proposed hot food takeaway will attract existing and new customers back to the complex. The empty shops are detrimental for the shopping centre and are having a negative effect on the area.
- A petition of a 110 signatories in support of the applicant was submitted by the applicant.

OTHER CONSULTATION

9. Group Engineer (Development): In view of the site's position within a local shopping facility and the availability of off-street car parking, the Highway Authority has no objections to the proposed change of use to a hot food take-away.
10. Head of Environmental Health and Trading Standards: No adverse comments subject to conditions relating to air extraction, odour control and fixed plant.

RELEVANT PLANNING POLICY

Black Country Core Strategy (2011)

- CEN6 Meeting Local Needs for Shopping Services

Saved Unitary Development Plan (2005)

- DD4 Development in Residential Areas
- EP7 Noise Pollution

Supplementary Planning Guidance/Documents

- Parking Standards Supplementary Planning Document
- PGN 28. Hot food takeaway shops, restaurants and cafes (class A3 uses)
- Emerging Planning for Health SPD

ASSESSMENT

11. The main issues are:

- Principle and Policy
- Neighbour Amenity
- Access and Parking
- Noise and Disturbance

Principle and Policy

12. This application is for a proposed change of use from a vacant retail shop (A1) to a Takeaway (A5) on the ground floor within a parade of shops located on Woodbury Road.

13. Concern has been raised that there are a number of existing hot food takeaways in the parade of shops and also within the locale. The adopted Core Strategy aims to retain A1 retail as the primary use within the Borough's centres and retail parades. The unit however is not in a protected frontage area where policy would stipulate that changes

of use from A1 would be resisted where a certain percentage of units occupied by non – retail uses exceeded 50%.

14. Policy CEN6 Meeting Local Needs for Shopping and Services of the BCCS seeks to ensure the provision and retention of local shops and other centre uses to meet essential day-to-day needs.
15. Policy DD4 Development in Residential Areas is a saved policy within the adopted UDP (2005). This policy addresses issues affecting the quality of the residential environment, people's overall quality of life and public and private amenity.
16. The Council is currently seeking to promote a healthier way of life for the Borough's residents through the Planning for Health SPD. However the SPD is still at a Draft stage and therefore only a limited amount of weight can be attached to that document at this time.
17. There are a total of 6 units within the parade and a pub serving food and a takeaway service of which 2 units are currently vacant. The application property has been vacant for in excess of 12 months. The change of use from A1 would not impact upon the existing A1 uses that are currently in existence within this parade of shops. The unit would be brought back in to use which is considered to be a positive in terms of the vitality and viability of the parade. The proposed development, on balance, would therefore be in accordance with CEN6 of the BCCS.

Neighbour Amenity

18. There are residential units situated above the ground floor retail units. One objection has been raised concerning the noise, smells and disturbance to the above flats as a result of the proposed development. The Head of Environmental Health and Trading Standards has raised no objection to the proposed development subject to a condition requiring full details of the arrangements for internal air extraction, odour control and discharge to the atmosphere to be submitted to and approved by the Council prior to the commencement of the development.

19. It is not considered therefore that the proposed change of use would have an adverse impact upon the residential amenity of the occupiers of neighbouring properties thereby ensuring compliance with saved Policies DD4 and EP7 of the Dudley Unitary Development Plan.

Access and parking

20. The application site lies within an established local shopping parade that contains its own off-street parking within a parking area off the main road. The lay-by is considered sufficient to meet the potential parking demand associated with the proposed take-away. The proposed development would not raise any highway safety concerns thereby being in accordance with saved Policy DD4 of the Dudley Unitary Development Plan and the Parking Standards SPD.

Noise and Disturbance

21. Concerns have been raised regarding the general nuisance, rubbish and light associated with take-away proposals. There is an existing take-away within the parade and a public house adjacent to the site which also provides a take-away facility. It is not considered that an additional take-away, alongside those already in existence, would result in a detrimental impact on the occupiers of neighbouring properties. It is proposed to limit the opening to 10pm in line with the other shops in the parade.

CONCLUSION

22. This is a planning application for the change of use of the shop unit from retail (A1) to a hot food takeaway (A5). The proposal would not impact upon the vitality and viability of the parade of shops and would be an acceptable use within that location. Whilst there are residential units within the vicinity, it is not considered that proposed development would significantly impact upon the residential amenity or create issues

of noise and disturbance. Given the dedicated off street parking to the fore of the site, there is not a need to provide dedicated off-street parking spaces.

RECOMMENDATION

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

This is a planning application for the change of use of the shop unit from retail (A1) to a hot food takeaway (A5). The proposal would not impact upon the vitality and viability of the parade of shops and would be an acceptable use within that location. Whilst there are residential units within the vicinity, it is not considered that proposed development would significantly impact upon the residential amenity or create issues of noise and disturbance. Given the dedicated off street parking to the fore of the site, there is not a need to provide dedicated off-street parking spaces. On this basis the application would be compliant with the National Planning Policy Framework, Saved Policies DD4, DD4 and EP7 of the adopted Dudley Unitary Development Plan, Policy CEN6 of The Black Country Core Strategy and Parking Standards Supplementary Planning Document.

The decision to grant planning permission has been taken with regard to the policies and proposals in the BCCS and the Saved 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.

APPROVAL STATEMENT INFORMATIVE

In dealing with this application the Local Planning Authority have worked with the applicant in a positive and proactive manner, seeking solutions to problems arising in relation to dealing with the application, by seeking to help the applicant resolve technical detail issues where required and maintaining the delivery of sustainable development. The development would improve the economic, social and

environmental concerns of the area and thereby being in accordance with paragraphs 186 and 187 of the National Planning Policy Framework.

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. 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 and adjacent buildings 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 premises shall not be open to the public before the hours of 1500 nor after 2200 Monday to Friday, before 1500 or after 2200 on Saturdays or before 1500 or after 2200 on Sundays and Public Holidays.



1:1250th. LOCATION PLAN

1:500th. BLOCK PLAN

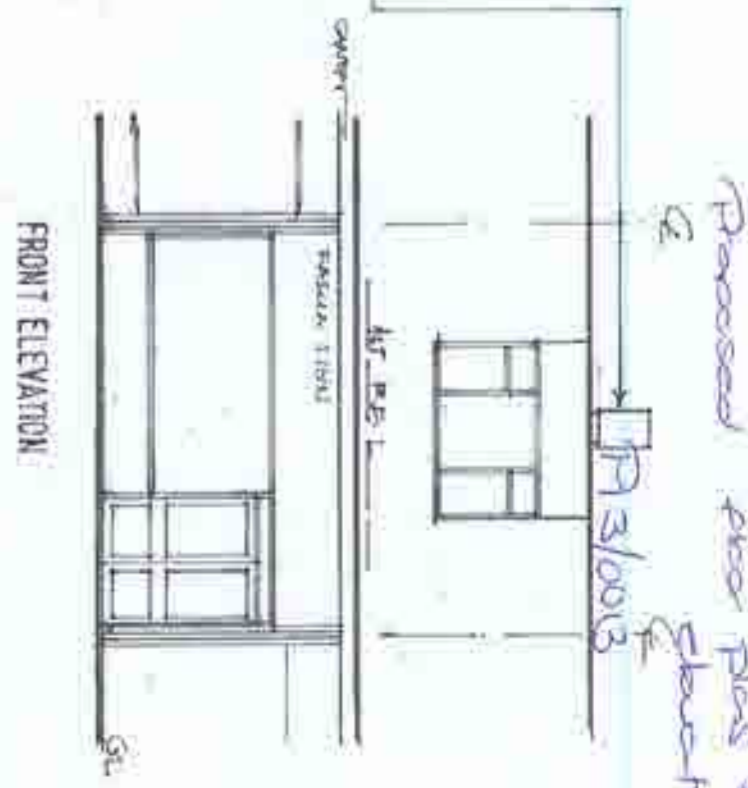
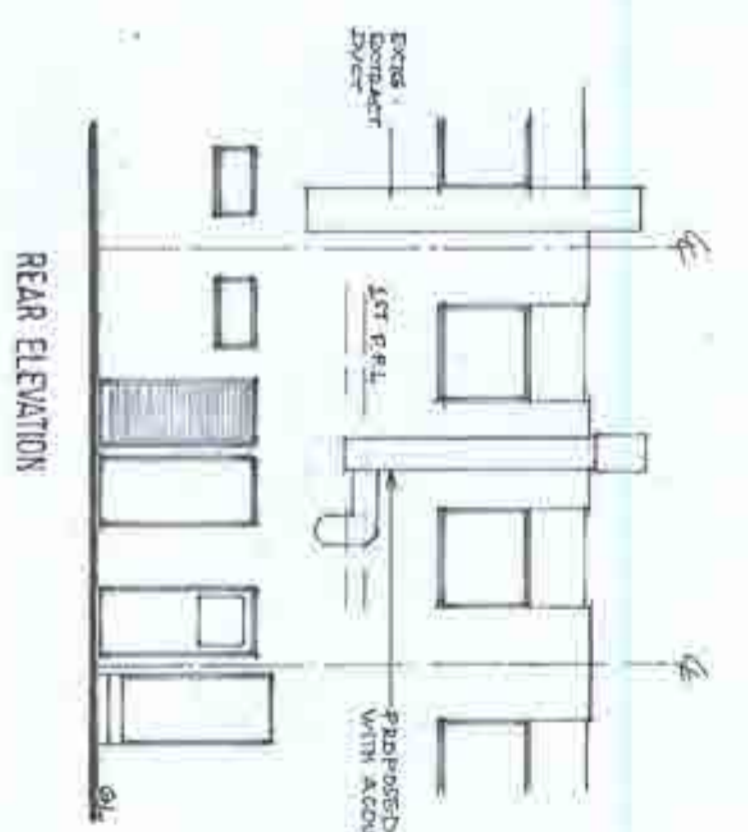
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|---|--|
| Client | MR. M. BAINS |
| Project | PROPOSED C.O.U. at 7 WOODBURY ROAD HURST GREEN SHOPPING CENTRE HALESOVEN, B62 9RH |
| Drawing Title | BLOCK & LOCATION PLANS |
| Drawing No. | 12.42.2 |
| Scale | AS SHOWN |
| Date | DEC. 2012 |
| Karam S. Chana <small>MOAT, ACOB</small> Chartered architectural technologist 7 Bracebridge Road Four Oaks Park Sutton Coldfield B74 2SB Tel / Fax 0121 308 1324 | |

DECEMBER

drawing: 12.42.1A

Proposed floor plans & elevations

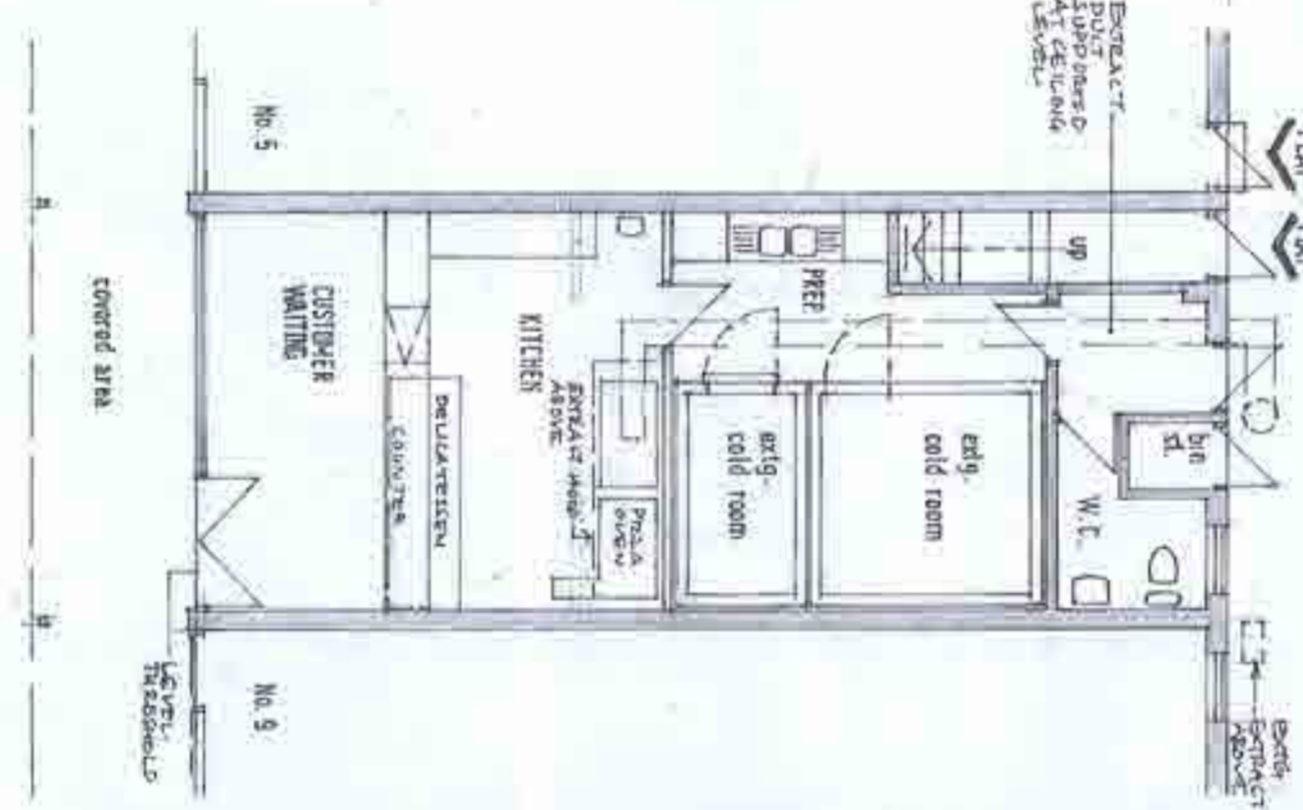
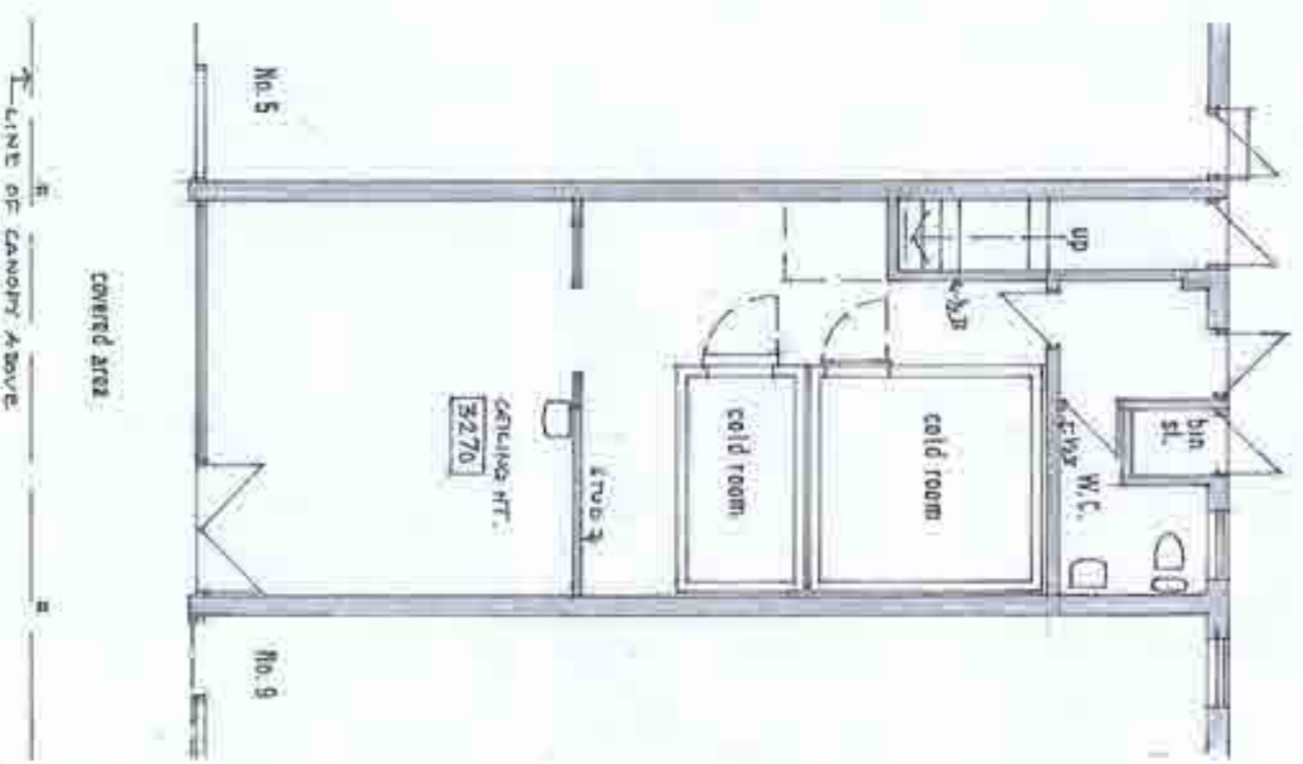
19/3/2013



BLUE DETAIL OF THE PROPOSAL

It is proposed to convert the existing cold room into a hot food takeaway (HFT).
 Proposed layout should be created within the existing building.
 Premises will be fitted out to a very high standard in full compliance with the requirements of the Food Hygiene Regulations current edition.
 Extract duct from cooking range to ultrasonic silencers and down to the etc. as detailed. This will be installed.
CERAMIC HOUSE: 15.00 - 23.00 HRS - SEVEN DAYS

EXTRA WORKS BEING SHOWN THUS
 EXIST. WORKS BEING REMOVED SHOWN THUS
 NEW WORKS SHOWN THUS



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| Revisions | DATE | BY |
| NO. FRONT ELEVATION ADDED | 12/1/13 | |
| Client | MR. M. BAINS | |
| Project | PROPOSED C.O.U. at 7 WOODBURY ROAD HURST GREEN SHOPPING CENTRE HALESOWEN, B62 9RH | |
| Drawing Title | PROPOSAL | |
| Drawing No | 12.42.1A | Date |
| Scale | 1:100 | Date |
| Karam S. Chana | | |
| MCIAT, ACOB Chartered Architectural Technologist 7 Bracebridge Road Four Oaks Park Sutton Coldfield B74 2SB Tel / Fax 0121 308 1324 | | |

Exit Ground Floor Plan

PROPOSED GROUND FLOOR PLAN