

**DEVELOPMENT CONTROL COMMITTEE – 24th APRIL 2006**

**REPORT OF THE DIRECTOR OF THE URBAN ENVIRONMENT**

**APPLICATION NO: P04/2619**

**CHANGE OF USE OF FIRST FLOOR FROM CLASS B1 AND B8 TO 13  
APARTMENTS OVER GROUND FLOOR B1 AND B8 UNITS AT FORMER WYKO  
OFFICES, QUEENS CROSS/HIGH STREET, DUDLEY.**

**Purpose of Report**

- 1 To seek approval, retrospectively, for an additional reason for refusal of planning application No. P04/2619.

**Background**

- 2 Application No. P04/2619 was for the partial conversion of a light industrial, warehouse and offices building to residential use. It was refused under powers delegated to officers on 2<sup>nd</sup> February 2005. Three reasons for refusal were stated relating to the employment allocation of the site in the UDP, the unsatisfactory environment for residents because of noise and fumes, and the adverse impact upon local firms if complaints were forthcoming from the residents.
- 3 An appeal was lodged against the decision on 8<sup>th</sup> August 2005 which will be heard in front of an Inspector at a public inquiry in July. Your officers will shortly be preparing Proofs of Evidence in support of the reasons for refusal.
- 4 Shortly after the application was refused, adverse comments were received from the Head of Traffic & Road Safety which were not available at the time of the decision. These relate to poor visibility and excessive gradient at the junction of the site access and the highway as well as the undesirable mixing of residential and industrial traffic.
- 5 Had these comments been available before the decision was made, an additional reason for refusal relating to the inadequacies of the development from a highway safety stand point would have appeared on the decision notice.

- 6 Your officers have engaged a barrister to assist in the inquiry and it is her view that the highway aspects of the case can be put forward at the inquiry but there must be a formal resolution from the Committee to this effect. The Council's pre-inquiry statement has already been submitted and includes a section on the highway deficiencies of the development. It was necessary to do this because any matter not included in the pre-inquiry statement cannot be raised subsequently and because the deadline for submission of the statement to the Planning Inspectorate came quite soon after the appeal had been validated.
- 7 To enable the Council to put forward the best possible case in support of its decision at the inquiry [and seek to avoid a possible award of costs against the Council], it is recommended that members formally support the following additional reason for refusal of the application

The proposed development would be detrimental to the safety of occupiers of the development and users of the highway by reason of excessive gradients and inadequate visibility at the junction of the access drive and the highway, and conflict between residential and industrial traffic. As such, the development would be contrary to Policy DD4 of the adopted Dudley UDP (2005).

### **Finance**

- 8 There are no direct financial consequences arising from this report.

### **Law**

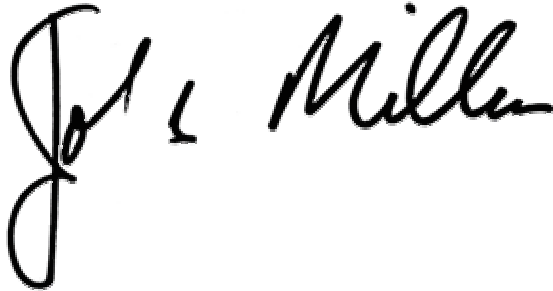
- 9 The Town & Country Planning Act 1990 and the Planning and Compulsory Purchase Act 2004 provide for local planning authorities to determine planning applications.

### **Equality Impact**

- 10 The content of this report complies with the Council's Equal Opportunities Policy and included consideration for children and young people

### **Recommendation**

- 11 It is recommended that the reason set out in paragraph 7 above be added to the decision notice in respect of application No. P04/2619.

A handwritten signature in black ink, appearing to read 'J. B. Millar'. The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

**J. B. MILLAR – DIRECTOR OF THE URBAN ENVIRONMENT**

Contact Officer: Chris Cheetham

Telephone Ext 4157

E. Mail address [chris.cheetham@dudley.gov.uk](mailto:chris.cheetham@dudley.gov.uk)

### **List of Background Papers**

Planning Application P04/2619