

PLANNING APPLICATION NUMBER:P07/0294

Type of approval sought	Full Planning Permission
Ward	Brierley Hill
Applicant	Mr Sham Singh
Location:	VINE INN, 326, BRETTELL LANE, BRIERLEY HILL, DY5 3QR
Proposal	CHANGE OF USE TO HOT FOOD TAKE AWAY (A5) WITH NEW SHOP FRONT AND FLUE
Recommendation Summary:	APPROVE SUBJECT TO CONDITIONS

SITE AND SURROUNDINGS

1. The application site is a vacant public house situated within a row of commercial buildings including a post office/convenience store immediately adjacent the site to the east and a takeaway adjacent the site to the west. Further along the row to the west is a tool hire company with associated workshop building. The wider area is in mixed commercial and residential use. The nearest residential properties to the site are a row of bungalows to the east of the post office and houses directly opposite the site on Brettell Lane.

PROPOSAL

2. Permission is sought to use the premises as a hot food takeaway (A5), with opening hours of 12pm – 3pm and 5pm – midnight Mondays to Saturdays (closed on Sundays and Bank Holidays). Consent is also sought for new shop front, including access ramp, and an extract flue to the side of the building.

HISTORY

3. None relevant.

PUBLIC CONSULTATION.

4. A joint letter of objection has been received, signed by the occupants of no.s 316, 318, 320, 321, 322, 323 and 324 Brettell Lane. The letter raises the following issues:
 - Noise nuisance and disturbance to nearby residents;
 - The proposed use will exacerbate existing parking problems on Brettell Lane in the immediate vicinity of the site;
 - The use will lead to vehicles parking on the zig zag lines at the pedestrian crossing;
 - Increased anti-social behaviour.

OTHER CONSULTATION

5. The Group Engineer – Development are summarized in the Assessment section below.
6. The Head of Environmental Protection are summarised in the Assessment section below.

RELEVANT PLANNING POLICY

7. Adopted 2005 UDP

Policy CR11

ASSESSMENT

8. The key issue is whether the proposal complies with Policy CR11, which states that permission for takeaways in appropriately located and accessible sites will normally be granted unless there would be an adverse impact on environmental quality, residential amenity, or public or highway safety.
9. With regard to the potential impact on residential amenity, given the previous use of the site as a public house it would be difficult to demonstrate that the proposed use would have any materially greater impact on the amenities of nearby residents sufficient to warrant refusal of the application, and therefore on balance the use is

considered to be acceptable in principle. The Head of Environmental Protection has no objection to the proposal but has recommended a restriction of opening hours in order to safeguard residential amenity.

10. The proposed extract flue is to be located at the side of the premises and would not be readily visible from the front of the site. The Head of Environmental Protection has advised that the submitted details of the flue should not be approved as it would not be of sufficient height to properly discharge emissions. It is therefore recommended that a condition should be imposed requiring further details to be submitted of a scheme for the treatment of fumes to reduce smell and for their extraction. Information is also required by condition of the method of sound insulation of any plant or machinery to be used at the site.
11. No dedicated off-street parking is available to be used in connection with the proposed use and therefore it is likely that customers will park on Brettell Lane at the front of the site, close to a pedestrian crossing and zig zag lines. The Group Engineer (Development) has expressed concern about on-street parking , particularly in close proximity to the pedestrian crossing. However there is some available space on the highway and refusal principally on the grounds of parking would be difficult to defend on appeal.

CONCLUSION

12. The proposal does not contravene Policy CR11 which seeks to ensure that proposals for new takeaway uses do not detrimentally impact on environmental quality, residential amenity or highway safety.

RECOMMENDATION

13. It is recommended that planning permission is granted subject to the following conditions:

Reason for Approval

The proposal would not have any significantly adverse impact on environmental quality, residential amenity or highway safety and therefore does not contravene Policy CR11 of the UDP.

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. The change of use notwithstanding approved plans ref TA/12/2; 3 received 08.02.07 hereby permitted shall not begin until a scheme for the treatment of fumes to reduce smell and for their extraction has been submitted to and approved by the local planning authority and all works which form part of the scheme have been completed. Such facilities shall be retained for the duration of the use.
3. Before any plant and machinery is used on the premises it shall be enclosed with sound-insulating material in accordance with a scheme to be agreed with the local planning authority.
4. Before any plant and machinery is used on the premises it shall be mounted so as to prevent conducted noise and vibration in accordance with a scheme to be agreed with the local planning authority.
5. The use hereby approved shall only take place between the hours of 0.900 – 23.00 Monday to Thursday, 0.900 – 23.30 Fridays and Saturdays, and not at all on Sundays and Bank Holidays.