



Development Control Committee

Date 7 October 2008

REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

Pool Hayes Public House, Pool Hayes Lane, Willenhall

1. PURPOSE OF REPORT

To advise members of the refusal of a retrospective planning application and a breach of planning control and request authority to take enforcement action.

2. RECOMMENDATIONS

- 2.1 That authority is given to the Head of Planning and Building Control and the Assistant Director – Legal and Constitutional Services for the issuing of an enforcement notice and Requisition for Information notices.
- 2.2 That authority is delegated to the Head of Planning and Building Control, and the Assistant Director – Legal and Constitutional Services to commence prosecution proceedings in the event that the enforcement notice or Requisition for Information Notice is not complied with.
- 2.3 That authority is also delegated to the Head of Planning and Building Control in consultation with the Assistant Director – Legal and Constitutional Services to amend, add to, or delete from the wording set out below, stating the requirement(s) of the Notice or identifying the boundaries of the site:

Breach of Planning Control

Change of use of part of the public house to a hot food take away.

Requirements of the Notice

To permanently cease to use the public house for the purposes of a hot food take away.

Reasons for issuing the Notice

The development is outside any designated local centre as defined in the Walsall Unitary Development Plan (the shopping parade opposite not being classed as a local centre) and is therefore contrary to the policies which seek to protect and enhance the economic viability of existing facilities by focussing investment in those centres. Due to a lack of a secure and enclosed space for customers the use causes additional noise and disturbance to the occupiers of adjoining and nearby residential property in the locality. The development is therefore contrary to policies GP2, GP7, ENV10, ENV32, S5, S6 and S10 of the Walsall Unitary Development Plan.

Time for Compliance

1 month

3. FINANCIAL IMPLICATIONS

None arising directly from this report.

4. POLICY IMPLICATIONS

Officers consider that remedial action is necessary to comply with policies.

5. LEGAL IMPLICATIONS

Non-compliance with an enforcement notice is an offence and may lead to the instigation of prosecution proceedings.

6. EQUAL OPPORTUNITY IMPLICATIONS

None arising directly from this report.

7. ENVIRONMENTAL IMPACT

The report recommends action to remedy an adverse impact on amenity.

8. WARD(S) AFFECTED

Short Heath

9. CONSULTEEES

None

10. CONTACT OFFICER

Tonia Upton

Planning Enforcement Team: 01922 652411

11. BACKGROUND PAPERS

Enforcement File – Not published

Planning Application file – 07/1448/FL.W6

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12 BACKGROUND AND REPORT DETAIL

- 12.1 This matter relates to a public house from which a hot food take away is operating without planning permission. Food is served to customers from a serving hatch which is located within the single storey extension of the public house. Customers wait to be served outside the public house between the car park and the public house. Following receipt of complaints and an investigation by the Enforcement Team a retrospective planning application was submitted to try to retain the use. The planning application was refused on 3 October 2007. An appeal against the decision was not made and the use has continued. The application was refused, essentially, for the reasons set out in paragraph 2.3 of this report.
- 12.2 The refused application raised a number of concerns including the detrimental impact the use has on residential amenity by virtue of noise and disturbance, the fact that the site lies opposite a local shopping centre where the refusal of hot food takeaway uses have been successfully defended at appeal and the use of the car park for the consumption of food which raises safety issues.
- 12.3 Given that the retrospective planning application has been refused and that problems continue, it is considered that the only solution to remedy the problem would be to take enforcement action. In this case closure of the hot food takeaway is recommended as set out.

Head of Planning and Building Control

Pool Hayes Public House - Serving Hatch for Hot Food Take-away

