

Name of Applicant Type of Certificate	Proposal	Map/Plan Policy	Plan. Ref Expiry Date
Mr P Narang 'A'	Regularisation of Car Showroom through amendment to roof of east elevation - Crossroads Garage, Dodford, Bromsgrove, B61 9DU	Green Belt	11/0251-DK 27/05/2011

RECOMMENDATION that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration Services to determine the application upon the expiry of the publicity period on 25.05.2011.

MINDED TO REFUSE

Consultations

WH	Consulted: 08.04.2011. Response received: 21.04.2011. No objection.
Dodford PC	Consulted: 08.04.2011. Response received: 26.04.2011. No objection.
EDO	Consulted: 08.04.2011. Response received: 15.04.2011. Economic Development supports the application.
LP	Consulted 08.04.2011. Response awaited.
EHO (Commercial)	Consulted 08.04.2011. Response received 12.04.2010. No objections in principle. However, the premises and business will need to comply with Health and Safety legislation.
EHO (Contaminated Land)	Records indicate that the proposed development site has previously comprised a petrol filling station and garage. As such and in accordance with Planning Policy Statement 23 the following recommendations are made:

I understand that the building has already been constructed and so there seems little value in requesting information relating to contaminated land investigation as part of the application and prior to the granting of any consent. Therefore I recommend that conditions are attached to any consent granted.

Publicity	1 letters sent 08.04.2011. (expire 29.04.2011). 2 letter posted: 04.05.2011. (expire 25.05.2011) Site notice posted on: 03.05.2011 (expires 24.05.2011)
	1 email received: 04.05 as follows: <ul style="list-style-type: none"> The planning application is invalid and the entire development is unlawful. The Enforcement Notice issued should stand. Notwithstanding this, the development should be refused as being inappropriate in the Green Belt with no very special circumstances. Core Policy 22 in the Council's draft Core Strategy, and the Council's saved planning policy number DS2 on Green Belt Development Criteria echo PPG2 in stating that there will be a presumption against allowing inappropriate development in the Green Belt and that permission will not be

given for the development of new buildings in the Green Belt "*except in very special circumstances*" unless the development falls within certain exceptions, which this development does not. There is a negative impact on the visual amenity of the Green Belt.

- The Property can clearly be seen to be incongruous with its surroundings
- The Property is also immediately adjacent to a Landscape Protection Area which lies to the North West. The large size and prominent position of the proposed development will result in the Property unacceptably impacting on the landscape of the area.
- The proposal would conflict with the settlement hierarchy as outlined in the draft Core Strategy 2. The priority needs to be the protection of the Green Belt and not the provision of additional employment facilities at this location.
- The site is close to Dodford Conservation Area
- The planning application is inconsistent with the previous planning decisions on the site. All previous applications have been refused.

B/2007/0498 (**2007 Application**) – refused

B/2008/0107 (**2008 Application**) – refused and appeal to Planning Inspectorate dismissed

B/2009/0756 (**2009 Application**) – not accepted for consideration under s70A of the Town and Country Planning Act 1990 on the basis that it was substantially the same as the 2007 Application and 2008 Application

- The current Application proposes not to completely remove the pitched roof on the Fockbury Road elevation to conform with the Planning Permission, but only to reduce the height of the pitched roof by a small amount, leaving all four skylights in place, and hardly altering the outline of the Property. Given the minimal proposed amendment to the Property, it is difficult to contemplate how this Application could result in any result other than a refusal to grant planning permission.
- The current application is inconsistent with the enforcement notice served and results in a further amendment of it.
- The proposal made in this Application would permit the retention of the store, ancillary room and WC (albeit with a flat roof above rather than a pitched roof) whereas the compromise negotiated with GVA Grimley last year required the complete removal of these additional rooms. It would appear to demonstrate an entirely inconsistent approach by the Council if this Application were to be granted planning permission, when it is so substantially different from the solution negotiated with the previous proprietor's representative.

The site and its surroundings

The application site lies on the north side of the Kidderminster Road at the junction with Fockbury Road, Dodford and lies within designated Green Belt. The car showroom is currently empty and comprises a large paved curtilage onto the front on Kidderminster Road.

Proposal

The development proposes the regularisation of the Car Showroom through an amendment to the roof of the east elevation. The context of the application will be explained in detail below.

Relevant Planning History

B/2009/0756	Resubmission of proposals for a new car showroom. Application Returned 14.10.2009.
B/2008/0107	Resubmission of planning application 07/1182, amendments to 04/0890 to design of new car showroom. Refused: 07.10.2008. Appeal dismissed 14.07.2009.
B/2007/1182	Replacement of flat roof with pitched, tiled roof over east wing. Withdrawn: 03/12/2007
B/2007/0498	Amended car showroom and shop. Refused by Committee 20/07/2007
B/2004/0890	Car showroom and village shop – resubmission of B/2003/0932. Granted: 14.10.2004.
B/2003/0932	Proposed car showroom, work shop and village shop. Refused: 17/11/2003.
B/2002/0812	Alternative showroom and workshop with workshop. Granted: 03/10/2002.
B/2002/0386	Alternative showroom and workshop with toilets. Withdrawn: 08/05/2002.
B/2000/0189	Projecting icons and shop sign. Advertisement Consent Granted: 19/04/2002.

Notes on Planning History

The site has a complex planning history and Members should be mindful of the refusal of two previous applications and dismissal of an appeal. The site is the subject of ongoing enforcement action, which is being held in abeyance, pending the decision made on this planning application. The planning history on the site is a significant material consideration in determining this application.

- (i) Application B2004/0890 was granted permission on 14th October 2004. The Council received complaints from the neighbouring property (Country Forge) in respect of the development at Cross Roads garage. A resubmitted version B/2007/0498 was refused by Members on 20th July 2007 because it was considered that the amended scheme would be of a greater size, scale and bulky appearance than the previous approval which would constitute inappropriate development in the Green Belt.

- (ii) Application B/2007/1182 was formally withdrawn shortly before the Planning Committee Meeting on 3rd December 2007. This application appeared to be identical to the previous application B/2007/0498 which was refused and appropriate means of action was authorised by Members to secure the removal of the unauthorised structures. A Planning Contravention Notice was served on the 21st July 2008.
- (iii) Application B/2008/0107 was received on the 04th February 2008 and the application was not determined until 7th October. This scheme was largely the same scheme which had been considered previously by Members and refused consent.
- (iv) The applicant appealed the Council's decision to the Planning Inspectorate and an Informal Hearing into the matter was held on 15th July 2009. In his report, the inspector considered that the building represented inappropriate development in the Green Belt which resulted in a loss of its openness. The appellants assertion that the proposal would generate employment, provide a community shop and represented an enhancement of the appearance of the site were not considered to amount to very special circumstances to justify inappropriate development in the Green Belt.

An enforcement notice was served on 01st December 2009. The applicant's business then went into receivership and the enforcement fell to be complied with by the receivers. The notice was varied on 19th May 2010 in accordance with agreed amendments between the Council and the consultants working on behalf of the receiver. The amendment related to Paragraph 5 (b) of the Notice which now reads:

“Remodel and reduce in size the building so that it complies with the appearance, structure and dimensions as shown on the plans attached at Appendix 2”

For reference, Appendix 2, as shown on the presentation refers to the drawing received from GVA Grimley (representing the receivers for the property) Ref. 07 @1:100 dated Feb 2010. There were nine months given for compliance. This amendment was agreed by Members on 29th March 2010.

Relevant Policies

WMSS QE3.
WCSP SD8, SD9, D28, D38, D39, T1.
BDLP DS1, DS2, DS3, DS13, TR8.
Others PPS1, PPG2, PPG13, PPG18.

Assessment

Members should note that the main consideration in determining this application are whether the plans proposed in drawing Ref: 503101 are satisfactory in terms of enabling compliance with the terms of the enforcement notice dated 19th May 2010. There are photomontages provided to demonstrate the various options for the site.

Green Belt

The site is situated in the Green Belt and therefore PPG2, policies D28 and D39 of the Worcestershire Structure Plan (WCSP) and Policy DS2 of the adopted Bromsgrove District Local Plan (BDLP) will apply to the development. Previous applications and the appeal on B/2008/0107 have confirmed that the structure (as built) amounts to inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful and should only be allowed, where the harm, by reason of inappropriateness and other harm is clearly outweighed by circumstances which amount to very special circumstances to justify the proposal.

Very Special Circumstances

The applicant has presented a case for very special circumstances with the planning, design and access statement presented with the application. These are as follows:

- ❖ Very special circumstances were accepted by Members in application B/2004/0890 and the majority of the building falls within the scope of this permission.
- ❖ The proposals reduce the mass of the rear of the building in the area where the original approval has been granted for a single storey workshop with a flat roof, where a pitched roof had been introduced.
- ❖ The only objection to the alteration proposed is whether it reduces the mass of the building sufficiently to remove the material effect upon the openness of the Green Belt as the materials and design are broadly in keeping with the original
- ❖ The reduction in the height of the roof of the rear wing meets the requirements of para 8.7 of the BDLP, para 3.8(b) of PPG2 and does not conflict with the five purposes of Green Belt as set out in paragraph 1.5 of PPG2.

The appeal summary decision concluded that substantially greater floorspace had been added on the first floor, necessitating a higher roof and that this additional visual bulk had an adverse impact on the openness of the Green Belt.

The original permission granted in B/2004/0890 was for a strictly single storey arrangement to the east elevation with only limited first floor accommodation in the centre of the building. It should also be noted that the enforcement notice has been varied as outlined above and the scope of the notice reduced in terms of the works required to achieve compliance.

Objection

Members should note the comments raised in the detailed objection above and I would concur with the view that planning decisions need to be consistent taking all material considerations into account.

Dodford Conservation Area

This issue has been raised in the objection received. Dodford Conservation Area lies to the north and I do not consider that the proposal would have any impact over and above the present situation.

Landscape Protection Area

The Landscape Protection Area lies a considerable distance to the west of the application site and I do not consider that this proposal would have any detrimental impact, given the scale of what has already been developed on the site and the context of the immediate area.

Emerging Core Strategy

I do not consider that this proposal would either directly or indirectly conflict with the emerging Core Strategy.

Green Belt/Very Special Circumstances

I concur with the view of the objector that the car showroom is inappropriate development in the Green Belt and a case for very special circumstances has been outlined above. It is for Members to consider whether the case put forward amounts to a very special circumstance. It is important to carefully consider the planning history, the plans in respect of the enforcement notice and the plans put forward with this application.

Consistency with previous decisions

This issue is also raised by the objector. Previous applications on the site have been refused and an appeal has been dismissed. Formal Enforcement action has been instigated. Whilst the terms of the Enforcement Notice have been varied, this application would result in a further amendment of the terms of the notice. The issues in respect of the site are covered in the tables below:

<u>Height Comparisons</u> (Fockbury Road elevations: rear)			
B/2004/0890 (Original Consent)	As built	Amended enforcement notice	Current Proposal
3.7m	7.2	3.7m	6.0m

Terms of Enforcement Notice	Planning Application	Does the planning application fulfil the terms of the Enforcement Notice	Justification for amendment
Remodel and reduce in size the building so that it complies with the appearance, structure and dimensions as shown on plans at Appendix 2 (Ref:	Amendment to the roof of the east elevation	Not entirely. Roof will be reduced by approx 1.2m. Front section complies with terms of notice. Rear section should be flat	The applicant has stated that the flat roof above the rear section would leave the corrugated gable of the garage exposed and the proposed amendment in this application would

Drawing 07@1:100, dated Feb. 2010.	roof. The wall and hipped roof above are 2.3m above the allowed flat roof.	obscure this view. (There are photographs presented to demonstrate this change)
------------------------------------	--	---

The proposed amendment to the roof of the east elevation would result in this application would partially comply with the terms of the enforcement notice. Members should note that the amended enforcement notice plans would comply closely with the 2004 approval and this proposed amendment is still substantially higher than that approved or later agreed for the rear section of the building. I would not attach significant weight to the argument regarding the exposure of the corrugated gable of the garage. The view of this building would be much less than the amended photographs presented by the applicant would suggest and there would be very limited views of this given the close proximity of Fockbury Road to the building. Therefore the harm to the visual amenity of the Green Belt would be very minor as a result of the view of this building.

The amendment being considered in this application would also result in the retention of additional floorspace on the first floor which was specifically identified as inappropriate in the appeal decision on B/2008/0107. The points raised in the objection in terms of consistency with previous decisions are valid.

Conclusion

I do not consider that partial compliance with the terms of the enforcement notice to be a consistent approach either in terms of the previous decisions on the site or in terms of remedying the breach of planning control. PPG18 (Enforcing Planning Control) advises that enforcement action always needs to be commensurate with the breach of planning control to which it relates. However, the terms of the enforcement have already been varied to allow for reasonable compliance with the breach of control and the harm to the Green Belt identified in the applications and appeal. I do not consider that there are very special circumstances which exist that justify a further amendment and taking all the above matters into account, permission should be refused.

RECOMMENDATION that **DELEGATED POWERS** be granted to the Head of Planning and Regeneration Services to determine the application upon the expiry of the publicity period on 25.05.2011.

MINDED TO REFUSE