

**Bromsgrove District Council
Planning Committee**

**Committee Updates
4th June 2018**

16/1090 Coach House, Priory Road

No Updates

18/00346/FUL Unit 75, Basepoint Business Centre

No Updates

18/00366/FUL New Road Dental Surgery, 68 New Road

No Updates

18/00412/FUL Bentley House Farm, Copyholt Lane

Additional information was received by the applicant on Friday 1st June 2018 and circulated via email to members. This information included the operational information of the business and a letter from Harrison Clark Rickerbys Solicitors advising on the use of a condition to restrict vehicular movements to the site.

Officers have been guided by the following when considering the applicant's suggestion that it would be appropriate to impose a condition requiring collection or delivery of the dogs to this site by a van or mini-bus, instead of private car:

o Sections 70 and 72 of the Town and Country Planning Act 1990 which sets out the power to impose conditions and the purposes for which those reasons should be imposed. A restriction such as suggested by the applicants would be within the parameters of section 72.

o The NPPF which includes:

"(203) Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

(206) Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects."

o The table entitled 'Key Questions' in the National Planning Policy Guidance which includes in respect of the test of enforceability;

"Would it be practicably possible to enforce the condition? Unenforceable conditions include those for which it would, in practice, be impossible to detect a contravention or remedy any breach of the condition, or those concerned with persons over which the applicant has no control."

In respect of the officer's statement referenced in Harrison Clark Rickerby's statement,. The full e-mail states:

"I take your comments on board, however we would not have the resources at the Local Authority to monitor the business to this extent. In any event, given the condition would be fundamental to making the location acceptable would it be reasonable to enforce. Should the bus no longer become viable this could result in the loss of the entire business onsite. Conditions should not be used to make an otherwise unacceptable development acceptable."

The officer accepts that the last sentence is not in accordance with the NPPF advice above and it does not appear in the committee report but the main substance of the e-mail is her concern about the practical difficulties of enforcing a condition which is central to making this application sustainable

It seems that the satisfactory operation of this proposal is predicated on the effective enforceability of these conditions. The officer is concerned that it would take very close monitoring of this rural site and the applicant's business to ensure that no customers deliver the dogs in cars. This will include attempting to differentiate between customers' and employees' cars. In this regard, it is not possible that the LPA can practicality ensure compliance with these unorthodox conditions including preventing owners delivering their dogs to the site or ensure that the minibus is operating on any given day.

Ultimately the decision as to whether such a condition would be enforceable is a planning judgment that members may make, having regard to the appropriate guidance. If members are inclined to request that officers investigate enforcement of this condition any further, they should bear in mind that there is a separate recommended refusal based on Green Belt grounds.

Having regard to the details submitted, the officer's recommendation remains as per the report.