

**8 DCNC2006/3515/F - VARIATION OF CONDITION NO.2
TO ENABLE USE OF 18 LITRE DEEP FAT FRYER.
DCNC2006/1387/F AT 73 ETNAM STREET,
LEOMINSTER, HEREFORDSHIRE, HR6 8AE**

**For: Mr M Rohde per John Phipps Bank Lodge
Coldwells Road Holmer Hereford HR1 1LH**

Date Received:
3rd November 2006

Ward: Leominster South

Grid Ref:
49893, 58944

Expiry Date:
29th December 2006

Local Member: Councillor J Thomas and D Burke

1. Site Description and Proposal

- 1.1 This site near the town centre of Leominster, is situated on the northern side of Etnam Street adjacent to the entrance to the public car park. The site itself is a three storey building with the ground floor used as an Indian Take Away. There are mostly dwellings in this section of the road although there is an existing public house nearby and a church on the opposite side of the road.
- 1.2 The application is to vary a condition on a previous planning permission (DCNC2006/1387/F) which restricts the "sale of hot food to snack food by shallow frying and no sale of deep-fried food", to the proposed use of an 18 litre deep fat fryer.

2. Policies

2.1 Herefordshire Unitary Development Plan (Revised Deposit Draft):

Policy S2 - Development requirements
Policy S5 - Town centres and retail
Policy TCR1 - Central shopping and commercial areas
Policy TCR2 - Vitality and viability
Policy HBA4 - Setting of Listed Buildings
Policy HBA6 - New development within Conservation Areas

2.2 Leominster District Local Plan:

Policy A1 - Managing the Districts Assets and Resources
Policy A2 - Settlement Hierarchy
Policy A18 - Listed Buildings and their Settings
Policy A21 - Development within Conservation Areas
Policy A24 - Scale and Character of Development
Policy A31 - Employment Generating Uses Within or Around the Market Towns
Policy A32 - Development Within Town Centre Shopping and Commercial Areas

2.3 Hereford and Worcester County Structure Plan:

Policy CTC9 - Development Requirements
Policy CTC15 - Conservation Areas

3. **Planning History**

3.1 DCNC2006/0067/F - Change of use to A3 (restaurants and cafes) between hours of 8.00 am to 21.00 pm Monday to Saturday. Planning Permission granted 22nd February 2006.

3.2 DCNC2006/1387/F - Change of use to A5 (hot food take-aways) between hours of 14.00 pm - 21.00 pm Monday to Saturday. Planning Permission granted 14th June 2006.

4. **Consultation Summary**

Statutory Consultations

4.1 None required.

Internal Council Advice

4.2 The Traffic Manager has no objections.

4.3 The Chief Environmental Health Officer does not believe that the use of a small 18 litre fryer will significantly increase the odour nuisance at the premises. There is a need to ensure that no further deep fat frying equipment is added to the kitchen without prior approval. Recommends that a variation of condition 2 to allow the use of one deep fat frying device which has a maximum capacity of 18 litres and also impose a condition stating that no additional frying equipment be installed without the prior written approval of the local planning authority.

4.4 The Public Rights of Way Manager comments that the proposed development would not appear to affect public footpath no. ZC 138. Any extraction fumes from the deep fat fryer should be sited so that no danger or nuisance is caused to members of the public using the said public footpath.

5. **Representations**

5.1 The Town Council state: Recommends approval subject to extractor fans being adequate to deal with fumes generated by the equipment.

5.2 There has been a letter of representation received from Leominster Civic Trust, Westbury House, Ryelands Road, Herefordshire HR6 8NZ. The main points being:-

- a) No information as to how condition 2 is to be varied.
- b) Are new external flues proposed as building is in prominent position in Conservation Area.

5.3 There have been two letters of objection from:-

Mr W Bird, 75 Etman Street, Leominster, Herefordshire HR6 8AE

Mr & Mrs Halford, 81 Etman Street, Leominster, Herefordshire HR6 8AE

The main points being:-

- a) The original condition on a previous planning permission restricting frying methods should not be removed as reason for its imposition is still valid.
- b) There are existing strong cooking odours already being generated from the premises and by allowing deep fried food will only add to this and affect enjoyment of neighbouring dwellings.
- c) Existing environmental issues of discarded polystyrene bags left along road.

5.4 The full text of these letters can be inspected at Northern Planning Services, Blueschool House, Blueschool Street, Hereford and prior to the Sub-Committee meeting.

6. Officers Appraisal

6.1 The main issues relate to:-

- i. The effect the use of the 18 litre deep fat fryers would have on the residential amenities of neighbouring dwellings.
- ii The effect on the visual appearance and setting of the Conservation Area.

The most relevant policies with respect to these issues are Policies S2 and HBA6 of the Herefordshire Unitary Development Plan.

6.2 The applicant requires the 18 litre deep fat fryer in order to cater for a demand from his customers for particular food items, in particular chips and it is understood to have been in operation for a period of time.

6.3 The 18 litre deep fat fryer is only small and whilst there is potential for additional odour nuisance to neighbours it is not considered that it will significantly increase the odour nuisance at the premises. As such it is considered that the residential amenities of the occupants of neighbouring dwellings will not be adversely affected by the use of the deep fat fryer.

6.4 Furthermore the use of the 18 litre deep fat fryer does not require any additional flues or vents to be provided at the premises other than that which has already been in use at the premises. Consequently there are no external alterations required at the building and as such the setting of the Conservation Area will not be affected.

6.5 In conclusion it is considered that the use of the deep fat fryer at the premises is acceptable and will have no adverse impact on neighbours and the Conservation Area and it is in accordance with planning policies.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 - There shall be no more than one deep fat frying device which has a maximum capacity of 18 litres in use at the premises and no additional deep fat frying equipment should be used or installed at the premises without the prior written approval of the local planning authority.

Reason: In the interests of the residential amenities of existing residential properties in the locality.

Informatives:

- 1 - N15 - Reason(s) for the Grant of PP/LBC/CAC

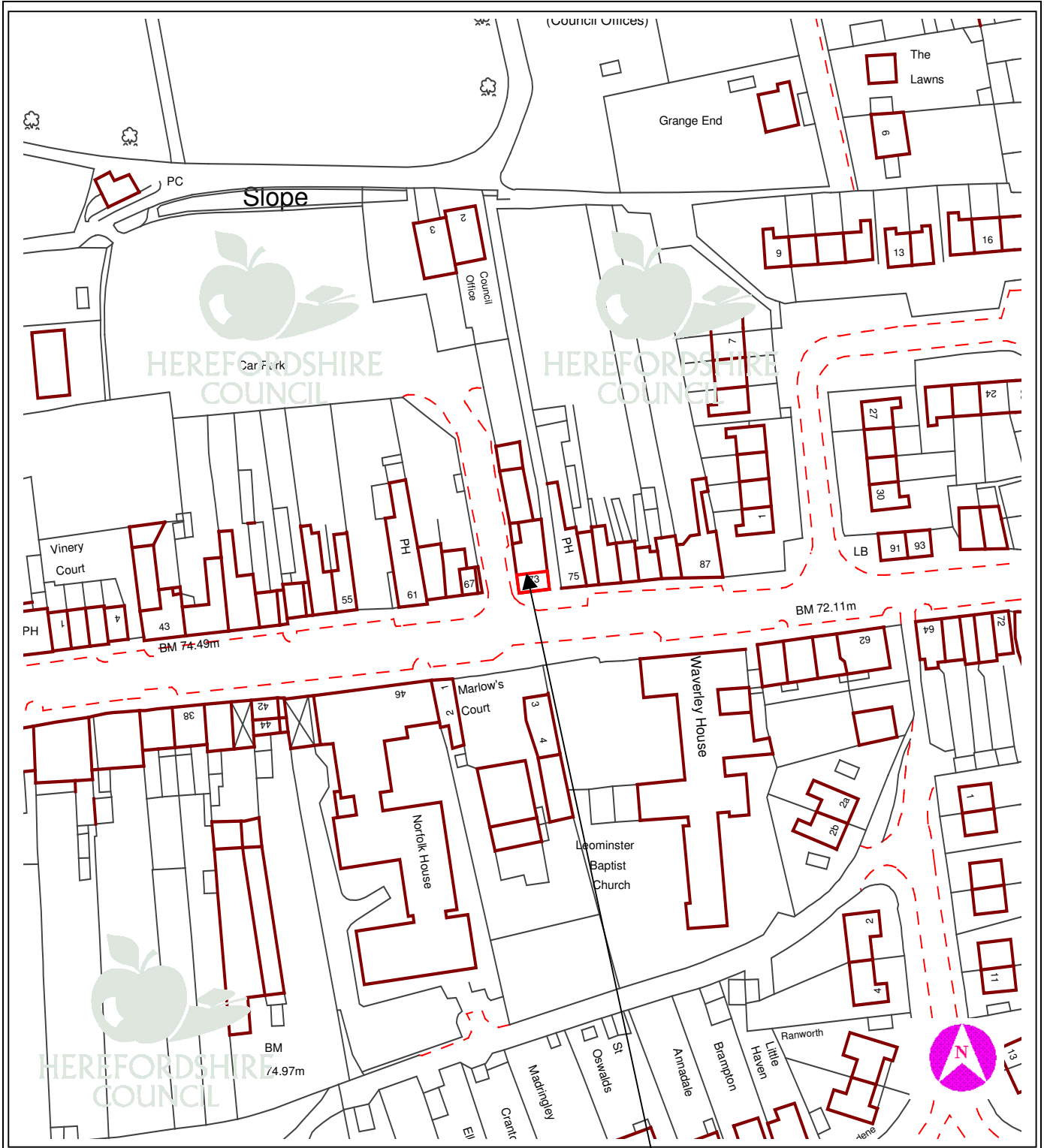
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2006/3515/F

SCALE: 1 : 1250

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