

10 DCCE2007/3147/F - PROPOSED CHANGE OF USE FROM RETAIL UNIT AND PRIVATE MEMBERS CLUB TO A3 RESTAURANT USE. PART 48, ST. OWEN STREET, HEREFORD, HEREFORDSHIRE, HR1 2PU**For: Bindi (London) Ltd per Daniel Forrest, Satchmo, 2 Broomy Hill, Hereford, HR4 0LH****Date Received: 9th October, 2007****Ward: Central****Grid Ref: 51341, 39784****Expiry Date: 4th December, 2007**

Local Member: Councillor MAF Hubbard

1. Site Description and Proposal

- 1.1 No. 48 St Owen Street is a two storey 17th Century Grade II Listed Building with a two storey 19th Century extension to the rear situated on the junction of St Owen Street and Cantilupe Street. The application site comprises the premises facing Cantilupe Street which were formerly used as a retail unit known as 'Four Seasons' on the ground floor and the first floor which was formerly occupied as a private members club known as 'The Liquid Lounge'. Both of these units have been recently vacated. The site is located within a designated Secondary Shopping Frontage within the Central Shopping and Commercial Area and also lies within the Hereford City Conservation Area as designated in the Herefordshire Unitary Development Plan 2007. In the wider locality, there are existing properties in St Ethelbert Street, Cantilupe Street and in St Owen Street.
- 1.2 This application seeks planning permission for the change of use of the existing ground floor retail unit and the first floor Members Club to a restaurant (Class A3).

2. Policies

2.1 Herefordshire Unitary Development Plan 2007:

S1	-	Sustainable development
S2	-	Development requirements
S5	-	Town centres and retail
S6	-	Transport
DR2	-	Land use and activity
DR4	-	Environment
TCR1	-	Central shopping and commercial areas
TCR2	-	Vitality and viability
TCR4	-	Secondary shopping frontages
TCR6	-	Non-retail uses (Classes A2 and A3)
HBA3	-	Change of use of listed building
HBA6	-	New development within conservation areas

3. Planning History

- 3.1 DCCE2007/2686/F - Proposed change of use from retail unit to A3 use and use in conjunction with the A3 use to the side and above. Withdrawn 27th September, 2007.
- 3.2 DCCE2006/0034/V - A proprietary club open to members only. Approved 1st March, 2006.
- 3.3 DCCE2005/3148/L - Raise the flooring in mens' toilets by 22mm, removal of a plasterboard partition wall and reinforcement of existing. Approved with conditions 21st November, 2005.
- 3.4 DCCE2005/2976/U - Continued use of property as members club. Withdrawn 10th November, 2005.
- 3.5 HC980071LD - Internal alterations for proposed use as restaurant. External redecoration. Approved with conditions 28th May, 1998.
- 3.6 HC980070PF - Change of use of ground floor to restaurant. Approved with conditions 29th May, 1998.

4. Consultation Summary

Statutory Consultations

- 4.1 None.

Internal Council Advice

- 4.2 Traffic Manager: No objection.
- 4.3 Conservation Manager: No objection.
- 4.4 Environmental Health Manager: 'I am aware that there have been concerns raised about disturbance and noise nuisance to neighbours due to the use of the premises as a private members club and I am of the opinion that the proposed use is unlikely to have a detrimental effect on the situation. I have no objection to this proposal but would suggest that conditions requiring prior approval of any ventilation system and externally mounted refrigeration units. Although the noise insulation of the building could be improved I am of the opinion that it would be desirable but it is not imperative. Should noise nuisance be identified once the restaurant is in operation, the local authority is provided with powers contained within the Environmental Protection Act 1990, which are separate and independent of the planning process, to require that the nuisance is abated'.
- 4.5 Forward Planning Manager: Comments awaited.
- 4.6 Licensing Manager: No comment.

5. Representations

- 5.1 Hereford City Council: Comments awaited.

5.2 Sixteen letters of objection have been received the main points raised are:

1. Environmental disturbance;
2. Noise nuisance;
3. Late night anti-social behaviour; and
4. Lack of parking facilities.

5.3 Support in principle is also expressed in two letters received from The Castle Street & District Resident's Association and Richard Branczik of 1 Cantilupe Street subject to safeguards in respect of the residential amenity of the area.

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

6. Officer's Appraisal

6.1 The main issues for consideration in the determination of this application are as follows:

- a) Principle of development
- b) Impact of the proposed use on residential amenity
- c) Highway and parking issues

Principle of Development

6.2 The site falls within the designated Secondary Shopping Frontage and Central Shopping and Commercial Area where Policies S5, TCR1 and TCR2 of the Herefordshire Unitary Development Plan 2007 seeks to protect and enhance the vitality and viability of Hereford City Centre. Policy TCR4 states that non-retail use (Class A2-5) uses will be permitted provided that the proposal would not detract from the shopping character frontage of the area. It is noted that this part of St Owen Street is predominantly characterised by a mixture of daytime and night time business uses including retail, a pub, restaurants with the use of upper floors for residential purposes. In this instance, taking into account the historic use of the premise and the established mixed commercial character of the street, it is considered that the introduction of an additional restaurant would provide an opportunity to promote the vitality of the area that would not be detrimental to the shopping and commercial character of the area. In respect of this, it is considered that the change of use of this building to a restaurant use can be supported as a matter of principle.

Impact on Residential Amenity

6.3 It is clear from the significant number of objection letters received in response to this application that noise, litter, odour and nuisance relating to vehicular traffic coming and going and the perceived threat of late night anti-social behaviour are serious concerns associated with this particular use. Against these concerns it is advised that the Licensing Manager and the Environmental Health Manager have not objected to the proposed use subject to conditional controls.

6.4 The agent has advised that the intended opening hours would be between 0800 hours and 2400 hours (midnight) Mondays to Sundays. However, the last hot meal order would be served by about 2130 hours. Such an approach is intended to offer sufficient time for customers to enjoy their meal before closing and also reduce the potential for

additional disturbance late at night or nuisance in the vicinity. The Licensing Manager has confirmed that the proposed opening hours would not be significantly different to the hours granted to the previous use of the premise as the previous licence allowed that use to close at 2300 hours on Sunday to Thursday and 2400 hours (midnight) on Friday and Saturday. Although the proposal would extend the opening hours by one hour from Sunday to Thursday, having regard to the nature of the proposed restaurant use, it is not considered that this modest extension would have any significant material impact on the amenity of neighbouring properties in the vicinity. In the light of residents genuine concerns in respect of the amenity impact of the proposed use, and notwithstanding the requirements to obtain a premise license it is considered appropriate to restrict opening hours to 2400 (midnight) as suggested by the applicant.

- 6.5 The Environmental Health Manager has considered the proposal and raises no objection having regard to the previous use of the building. He comments that the proposal is unlikely to have any impact on the amenity of neighbouring properties in terms of disturbance, odour emission and noise nuisance. The agent has indicated that there would be no loud music played within the premise. The Environmental Health Manager has confirmed that should any noise nuisance to be identified in the future, this issue can be effectively controlled under the Environment Protection Act 1990. It is considered that subject to conditions requiring detail of the specification of the extraction system there will be no harmful impact on local amenity from noise or odours.

Highway Safety and Parking Issues

- 6.6 Interested parties have raised concerns about insufficient parking leading to on-street parking in the area. However, the site is in a sustainable location being within walking distance of the town centre. Furthermore, there a number of public car parks in the locality and parking is restricted in front of the premise. The Highway Engineer has not objected to the proposal. On this basis, it is considered that there is no objection regarding highway or pedestrian safety.

Conclusion

- 6.7 In conclusion, and taking all the matters raised, it is considered that the proposed restaurant use would not be detrimental to the shopping and commercial character of the area or the amenity of nearby residents. The proposal is in accordance with the relevant planning policies, subject to appropriate conditions, the proposal represents an acceptable development.

RECOMMENDATION

That planning permission be approved subject to the following conditions:

- 1. A01 (Time limit for commencement (full permission)).**

Reason: Required to be imposed by Section 91 of the Town and Country Planning Act 1990.

- 2. F37 (Scheme of odour and fume control).**

Reason: In order to ensure that fumes and odours are properly discharged and in the interests of the amenities of residential property in the locality.

3. F38 (Details of flues or extractors).

Reason: In the interests of the amenity of the area.

4. F39 (Scheme of refuse storage).

Reason: In the interests of amenity.

5. The use hereby permitted shall not be open to customers outside the hours of 0800 hours and 2400 hours (midnight) Mondays to Sundays.

Reason: To safeguard the residential amenities of the locality.

Informatives:

- 1. N03 - Adjoining property rights.**
- 2. N08 – Advertisements.**
- 3. N15 - Reason(s) for the Grant of PP/LBC/CAC.**
- 4. N19 - Avoidance of doubt.**

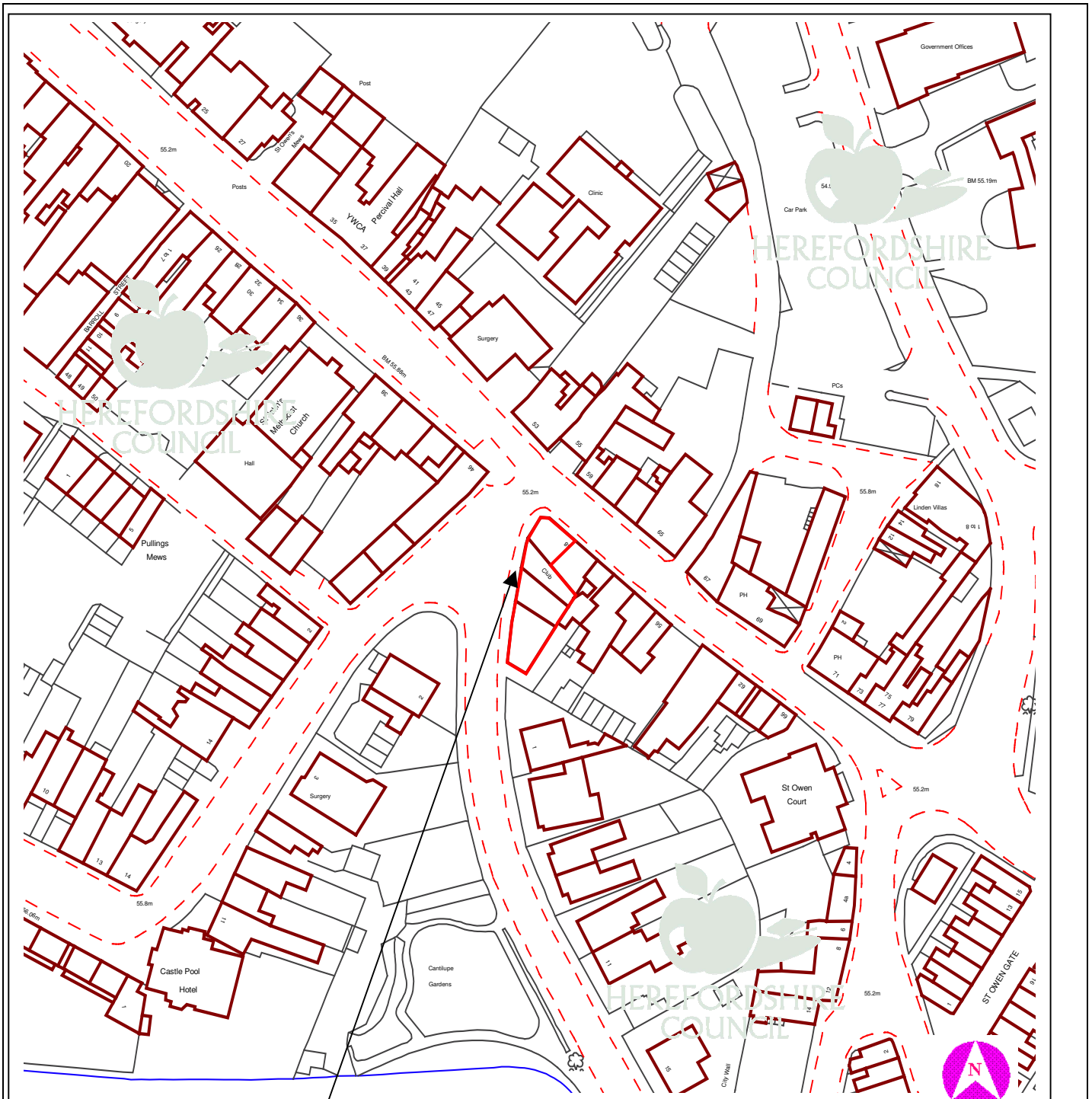
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2007/3147/F

SCALE : 1 : 1250

SITE ADDRESS : Part 48, St. Owen Street, Hereford, Herefordshire, HR1 2PU

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