

9 DCNC2008/1668/F - VARIATION OF CONDITION 3 OF PLANNING PERMISSION NC2006/1387/F, TO ALLOW OPENING OF PREMISES TO CUSTOMERS BETWEEN THE HOURS OF 8AM TO 11PM MONDAY TO SUNDAY AT 73 ETNAM STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8AE.

For: Mr Eng How Teoh per Direct Planning Ltd, Riverbank House, 95-97 High Street, St Mary Cray, Orpington, BR5 3NH.

**Date Received: 26 June 2008 Ward: Leominster South Grid Ref: 49892, 58950
Expiry Date: 21 August 2008**

Local Member: Councillor RC Hunt

1. Site Description and Proposal

- 1.1 The site lies to the south east of Leominster's town centre and is situated on the northern side of Etnam Street adjacent to the entrance to the public car park.
- 1.2 The building is three storey with its ground floor used as a Chinese take-away and residential accommodation above. This part of Etnam Street is predominantly residential, although there is a public house nearby and a church directly opposite.
- 1.3 The proposal seeks to vary a condition imposed on an earlier planning permission which limits the opening hours of the premises to 8am until 9pm Monday to Saturday and not at any time on Sundays or Bank Holidays. As proposed the premises would be open between 8am until 11pm every day. The application makes no mention of Bank Holidays.

2. Policies

Herefordshire Unitary Development Plan:

DR2 - Land use and activity
TCR2 - Vitality and viability
TCR15 - Hot food take away outlets

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 - Approved 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 - Approved 14th June 2006.

- 3.3 DCNC2006/3515/F - Variation of condition no.2 of DCNC2006/1387/F to enable use of 18 litre deep fat fryer - Refused 3rd January 2007

4. Consultation Summary

Statutory Consultations

- 4.1 No statutory consultations required.

Internal Council Advice

- 4.2 Head of Planning & Transportation - No objection

- 4.3 Public Rights of Way Manager - No objection

- 4.4 Head of Environmental Health & Trading Standards:

"I am not aware of any complaints that the Environmental Health department has received regarding this premise.

Although the extension of hours may give rise to increased odour and noise levels in the evening, I do not believe this would be significant enough to object to this variation, especially considering condition 2 of the previous permission and the town centre location of this premise. EH have powers under the Environmental Protection Act 1990 should a nuisance be being caused."

5. Representations

- 5.1 Leominster Town Council - Recommend refusal

- 5.2 Four letters of objection have been received from the following:

- Mr Bird, 75 Etnam Street, Leominster
- Mr & Mrs Halford, 81 Etnam Street, Leominster
- Mr Pinhorn, 85 Etnam Street, Leominster
- Vivienne Pearson, 77 Etnam Street, Leominster

- 5.3 In summary the points raised are that an increase in opening hours will give rise to longer periods of nuisance caused by odours, noise and traffic.

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

6. Officer's Appraisal

- 6.1 The only issue relevant to this proposal is whether the proposal will give rise to a detriment in the residential amenity of nearby properties.

- 6.2 Notwithstanding the comments from local, the Environmental Health Officer advises that there have not been any complaints in respect of odour or noise emanating from the premises and on this basis she does not raise an objection to the proposal.

- 6.3 A recent application on South Street for a take away was permitted with a condition with opening hours similar to those applied for in this case. This application would give

some parity with other similar businesses in the town. Whilst it is acknowledged that there are differences between the two in terms of their location and relation to residential dwellings, South Street being much closer to the centre of town, the absence of any formal complaints to Environmental Health suggests that the current situation is not giving rise to any significant nuisance. The extension of opening hours to 11.00pm is unlikely to result in any significant change to this situation and therefore the proposal is acceptable and is recommended for approval.

RECOMMENDATION

That planning permission be granted 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. F04 (Restriction on hours of opening (restaurants and hot food takeaways))**

Reason: To safeguard the amenities of the locality and to comply with Policy DR1 of Herefordshire Unitary Development Plan.

Informatives:

- 1. N15 - Reason(s) for the Grant of Planning Permission**
- 2. N19 - Avoidance of doubt - Approved Plans**

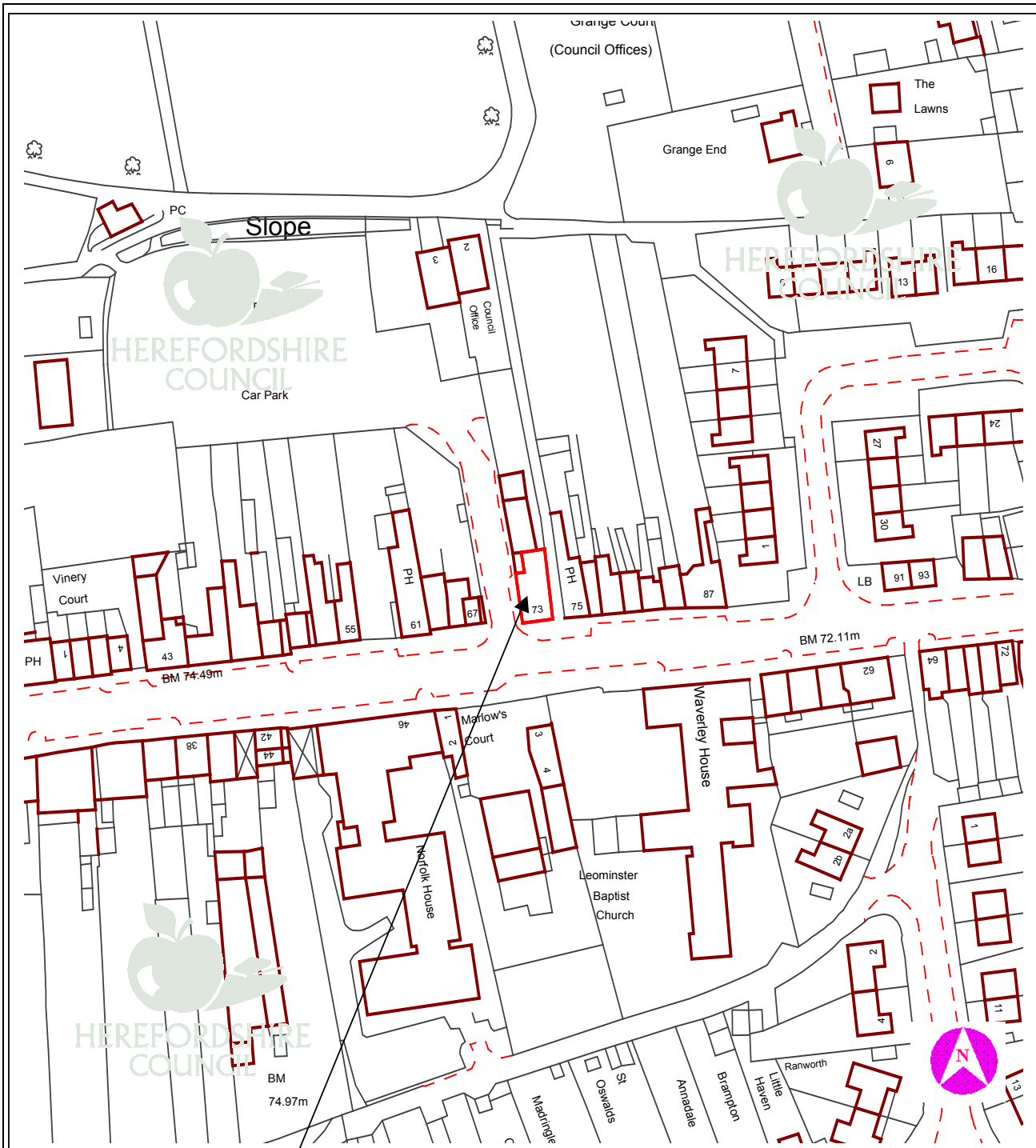
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCNC2008/1668/F

SCALE : 1 : 1250

SITE ADDRESS : 73 Etnam Street, Leominster, Herefordshire, HR6 8AE

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