

**15 DCNC2005/2480/F - CHANGE OF USE FOR FRONT SECTION OF GROUND FLOOR FOR USE AS A LICENSED RESTAURANT AT 18 BURGESS STREET, LEOMINSTER, HEREFORDSHIRE, HR6 8DE**

**For: Leominster Properties Ltd per James Morris Associates Stocks Tree Cottage Kings Pyon Herefordshire HR4 8PT**

**Date Received:**  
**28th July 2005**

**Ward:**  
**Leominster South**

**Grid Ref:**  
**49529, 59113**

**Expiry Date:**  
**22nd September 2005**

Local Member: Councillors R Burke and J P Thomas

**1. Site Description and Proposal**

- 1.1 18 Burgess Street is located within Leominster's Central Shopping and Commercial Area and within the Conservation Area.
- 1.2 This application proposes to change the use of the front section of the ground floor of this new vacant unit for use as a licensed restaurant.
- 1.3 The property is part of a new mixed development, incorporating eight residential flats and two commercial units, originally intended for use as retail outlets.
- 1.4 The property is accessed from Burgess Street and via the passageway to the east side of the building, which leads to the rear of the Job Centre.
- 1.5 Burgess Street offers both a mix of residential and commercial uses, including solicitors, hairdressers, retail units, residential and two restaurants, one of which provides a takeaway service.

**2. Policies**

**2.1 Leominster District Local Plan**

A1 – Managing the District's Assets and Resources  
A21 – Development within Conservation Areas  
A28 – Development Control Criteria for Employment Sites  
A31 – Employment Generating Uses within or around The Market Towns  
A32 – Development within Town Centre Shopping and Commercial Areas  
A54 – Protection of Residential Amenity

**2.2 Hereford and Worcester County Structure Plan**

CTC 9 – Development Criteria

**2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft)**

TCR1 Central Shopping and Commercial Areas  
TCR2 Vitality and Viability  
HBA6 New Development in the Conservation Areas

**3. Planning History**

90L89 – Redevelopment and refurbishment of site to provide residential and commercial premises for let with associated access and parking on site between New Street and Burgess Street, Leominster. Approved 18.1.1991.

**4. Consultation Summary**

Statutory Consultations

4.1 None required.

Internal Council Advice

4.2 Traffic Manager – No objection.

4.3 Conservation Manager – No objection.

4.4 Environmental Health Manager – Recommends a scheme of noise attenuation measures and that the applicant contacts the Food Safety Team of the Environmental Health Department to ensure the building complies with the requirements of the Food Safety Act 1990 and related regulations.

**5. Representations**

5.1 Leominster Town Council – Recommends approval.

5.2 Two letters of objection received from residents at 20 and 22 Burgess Street, Leominster, expressing concerns regarding the following:

Restaurant opening hours  
Potential food smells from extractor fans  
Parking  
Litter  
Noise

5.3 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 This application proposes a change of use of a new building originally proposed as a retail unit for use as a restaurant (A3). The application does not indicate a takeaway use (A5) and therefore under the 2005 Use Class Order, further permission would be required for such a use.

- 6.2 The building is located within the Central Shopping and Commercial Area of the town where policies in the local Development Plans support commercial uses. Burgess Street, although within the defined shopping area, is not allocated as having a Primary Shopping Frontage nor is it within a Principal Shopping Street, therefore there are no restrictions concerning the number of A3 uses (for the sale of food for consumption on the premises) within the street. Burgess Street currently has two eating establishments, one an Indian Restaurant with takeaway facilities and the other a café with daytime opening hours. Both properties are located with a few yards of the application site.
- 6.3 Burgess Street is defined by distinctive mixed uses in accordance with sustainable development policies. By providing A3 uses within the town centre, it is hoped to encourage activity outside shopping hours, bringing life back into the town centre after dark. Potential problems such as noise can be minimised by ensuring that sufficient noise attenuation measures exist. The property is a new build and would have been constructed to high standards. The Building Control Officer for Leominster advised that Sound Testing was still required on the property and that an appropriate level of sound insulation would be required to comply with Part E of the Building Regulations. With regard to food smells from the kitchen, a condition is suggested to ensure that Environmental Health approve the proposed extraction and ventilation units.
- 6.4 Parking provision would be available to customers in the adjacent Central car park and with double yellow lines along Burgess Street, parking should not cause problems to local residents.
- 6.5 The issue of potential litter problems is not a material planning consideration.
- 6.6 The concern of the third parties has been taken into account and it is considered that the amenity currently enjoyed by the occupants of adjacent dwellings would not be diminished due to strict control of potential noise from within the restaurant and of fumes and smells from the kitchen.
- 6.7 It is considered that the proposed use is appropriate to the location and the proposal should be supported.

## **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 - F32 (Details of floodlighting/external lighting )**

**Reason: To safeguard local amenities.**

- 3 - Before any fixed ventilation, refrigeration or other noise penetrating plant is used on the premises, the applicant shall submit for the prior approval of the Local Planning Authority a scheme of noise attenuating measures. The approved scheme shall be implemented before the first use of the development to which it relates commences and shall be retained for the duration of use. The scheme should identify any nearby residential properties that may be affected by noise**

from any fixed ventilation, refrigeration or other plant in accordance with BS4142.

Reason: To safeguard local amenities.

**8 - E04 (Restriction on hours of opening )**

The use hereby permitted shall not be open to customers outside the hours of 8.00 am and 11.00 pm Sundays to Thursdays and 8.00 am and 12.00 midnight Fridays and Saturdays.

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

**9 - E02 (Restriction on hours of delivery) (8.00am to 5.00pm on Saturdays)**

Reason: To safeguard the amenities of the locality.

**Informatives:**

- 1 - The applicant is advised to contact the Food Safety Team of the Environmental Health Department of Herefordshire Council to ensure the building complies with requirements of the Food Safety Act 1990 and related regulations.**
- 2 - The applicant should ensure that sound testing in accordance with Part E of the Building Regulations is undertaken to ensure appropriate levels of sound insulation between the restaurant and adjacent residential properties.**
- 3 - N01 - Access for all**
- 4 - N08 - Advertisements**
- 5 - N15 - Reason(s) for the Grant of PP/LBC/CAC**

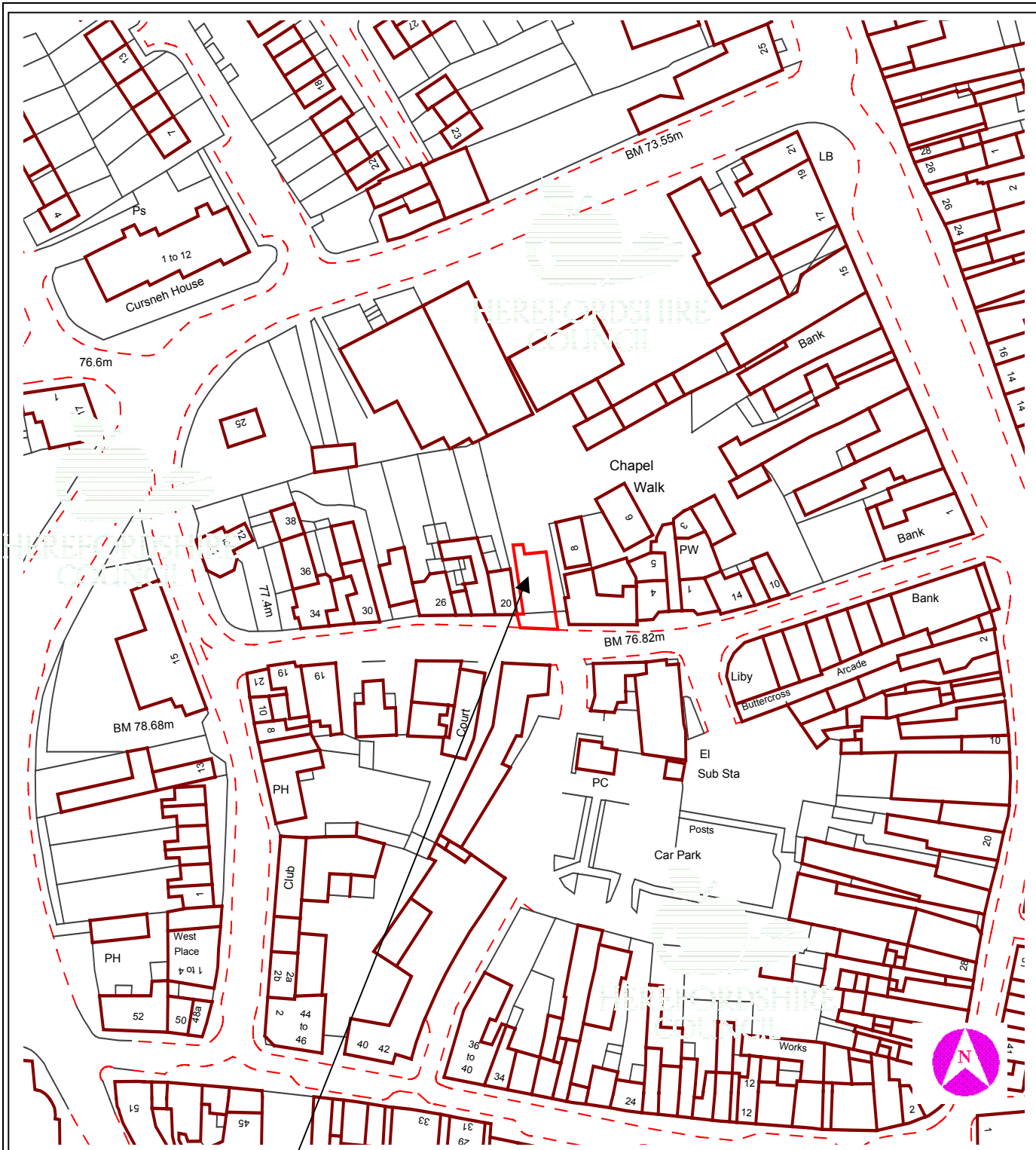
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DCNC2005/2480/F

**SCALE :** 1 : 1250

**SITE ADDRESS :** 18 Burgess Street, Leominster, Herefordshire, HR6 8DE

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