

21 DCNC2006/1387/F - CHANGE OF USE TO A5 (HOT FOOD TAKE-AWAYS), BETWEEN HOURS 14.00-21.00 MONDAY TO SATURDAY 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:

**Ward: Leominster
South**

Grid Ref:

5th May 2006

49893, 58945

Expiry Date:

30th June 2006

Local Member: Councillors R Burke and J P Thomas

1. Site Description and Proposal

- 1.1 The site is within the market town of Leominster, within the central shopping and commercial area and the Conservation Area. This is also adjacent to a Grade II Listed Building.
- 1.2 Earlier this year the site received permission for an extension to opening hours for A3 use from 8 am to 2 pm to 8 am to 9 pm Monday to Saturday, conditional not to serve deep fried food.
- 1.3 This application is to use these permitted hours but to change for A3 restaurant/café use to a A4 hot food Take Away.

2. Policies

2.1 Leominster District Local Plan

A2 – Settlement Hierarchy
A18 – Listed Buildings and their Settings
A21 – Development within Conservation Areas
A24 – Scale and Character of Development
A28 – Development Control Criteria for Employment Sites
A31 – Employment Generation Uses within or around the Market Towns
A32 – Development within Town Centre Shopping and Commercial Areas
A72 – Parking within or adjacent to central shopping and commercial areas
A73 – Parking Standards and Conservation

2.2 Herefordshire Unitary Development Plan (Revised Deposit Draft)

S1 – Sustainable development
S2 – Development requirements
S4 – Employment
S5 – Town centre and retail
DR2 – Land use and activity

TCR1 – Central shopping and commercial areas
TCR6 – Non-retail uses
T11 – Parking provision
T12 – Visitor parking areas
HBA4 – Setting of Listed Buildings
HBA6 – New development within Conservation Areas

2.3 National Policies

PPG15: Planning and the Historic Environment

3. Planning History

NC2006/0067/F - Change of use to A3 (restaurant/cafe) between hours of 8am to 2100 hours Monday to Saturday. Approved 22.2.06.

NC2005/0983/F - Change of use to A3 between hours of 8am to 2pm Monday to Saturday. Approved 15.6.05.

88/1004 - New shop front. Approved 25.1.89.

88/0540 - Conversion of existing building into 2 dwellings. Refused 03.10.88.

88/0253 - Change of use to licensed betting office. Approved conditionally 23.5.88.

87/0561 - Conversion of existing dwellings to 3 flats for residential use. Approved conditionally 16.11.87.

81/0276/O - Creation of a vehicular access and erection of a garage. Withdrawn 1.6.81.

81/0003/A - Erection of a flat wooden sign board (non-illuminated). Approved 27.5.81.

4. Consultation Summary

Statutory Consultations

4.1 None required.

Internal Council Advice

4.2 Transportation Manager: Objection. The Transportation Manager states that:

'No parking available, and resulting congestion from informal parking would prejudice highway safety. More information in 2006/0067/F.' However, there was no objection from the Transportation Manager in the previous application.

4.3 Public Rights of Way Manager: No objection. 'Proposed change of use to A5 (hot food takeaway) would not appear to affect the Public Footpath ZC138, which runs along Dukes Walk, and we have no objection to this application.'

4.4 Environmental Health Manager: No response at the time of typing the report.

4.5 Conservation Manager: No objection to change of use as long as external elevations are not affected by the new use. However, would welcome an improvement to side elevation.

5. Representations

5.1 Town Council: Recommends approval.

5.2 Objections have been received from:

- Mr & Mrs Halford, 81 Etnam Street, Leominster HR6 8AE

Issues include

- 1) Amenity issues – noise
- 2) Safety issues - vandalism

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 The key issues in this case are as follows:

6.2

- 1) Neighbours' amenity
- 2) Appropriateness of application proposal
- 3) Highway safety
- 4) Setting of Listed Buildings

Loss of neighbours' amenity

6.3 Neighbours' objections are on the grounds of loss of amenity. This is obviously of considerable concern to them, including possible noise, cooking smells and extra activity in the vicinity of No. 73 from 8am onwards. The Enforcement Officer has been informed of the objection regarding concerns on potential breach of condition that the sale of hot food shall be restricted to snack food only by shallow frying, and that there shall be no sale of deep-fried food. It is recommended that this same condition would be attached to any potential approval that this application might receive.

Appropriateness of application proposal

6.4 Use as a restaurant/café already exists between the hours of 8am to 2100 hours Monday to Saturday on site so use for the site for such use is not in question. The issue here is whether there should be change purely to a hot food takeaway within the existing hours of opening. It is noted that there might be some difference in accessing the premises due to the nature of it being a takeaway, not purely for a restaurant facility. However, in your officer's opinion, the hours of use between 8am to 2100 hours within this town centre position are considered acceptable. In addition the Etnam Street Car Park is alongside the premises.

Highway safety

6.5 The Transportation Manager points out that no parking is available. However, the site is just around the corner quite literally from the Etnam Street Car Park. A refusal on this ground therefore is not considered appropriate in this location, neither is it considered feasible to defend any subsequent appeal should this aspect be used as a reason for refusal. In your Officer’s opinion highway safety concerns cannot be substantiated should there be an appeal.

Setting of Listed Building

6.6 The current use is not considered to be of detriment to the adjacent Listed Building and the Conservation Manager has no objection to the proposed use either. It is not considered therefore that there is any additional impact upon the setting of the adjacent Listed Building.

6.6 The proposal is therefore recommended for approval subject to conditions.

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 - The sale of hot food shall be restricted to snack food only by shallow frying and there shall be no sale of deep-fried food.**
Reason: In the interest of residential amenity.
- 3 - The change of use hereby permitted shall only be open to customers between the hours of 8am and 9pm Monday to Saturday only, and not at any time on Sundays, Bank or Public Holidays.**
Reason: In the interest of the amenities of existing residential properties in the locality.

Informative:

- 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: DCNC2006/1387/F

SCALE : 1 : 1250

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

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