

**9 DCCE2006/2001/F - VARIATION OF CONDITION 3
PLANNING PERMISSION CE2004/4148/F. TO EXTEND
OPENING HOURS. THE TRADITIONAL, 139 QUARRY
ROAD, HEREFORD, HEREFORDSHIRE, HR1 1SX**

**For: Mrs. S. Humphries, 61 Huntsmans Drive, Kings
Acre, Hereford, HT4 0PN**

Date Received: 29th June, 2006 Ward: Tupsley Grid Ref: 52428, 40033

Expiry Date: 24th August, 2006

Local Members: Councillors Mrs. M.D. Lloyd-Hayes, Mrs E.A. Taylor and W.J. Walling

1. Site Description and Proposal

1.1 This application seeks permission to vary Condition 3 of planning permission DCCE2004/4148/F, approved on the 9th March, 2005. This previous application secured permission for the change of use of a vacant health centre (Use Class D1) into a takeaway fish and chip shop (Use Class A5 under the provisions of the new Use Classes Order 2005) retaining the residential accommodation at first floor. Condition 3 attached to this permission restricted opening hours as follows:

'The use hereby permitted shall not be open to customers between 9.45pm and 11.30am or 1.45pm and 4.45pm on Mondays to Fridays; 9.45pm and 12.00pm on Saturdays and at no time on Sundays.'

The condition was attached to safeguard the amenities of the locality. This application seeks to vary this restriction to allow opening hours as follows:

- Monday: 4.45pm – 9:45pm
- Tue - Fri: 12:15pm – 9:45pm
- Sat/Sun arrangements unchanged.

1.2 The application site is located in a prominent position close to the junction of Ledbury Road and Quarry Road and forms the end unit in a small parade of retail units, all of which have residential accommodation over. A lay-by parking area serving the parade of shops is found to front of the parade. The site forms part of a designated Local Shopping Centre with the surrounding area being an Established Residential Area.

2. Policies

2.1 Hereford and Worcester County Structure Plan:

CTC9 - Development Requirements

2.2 Hereford Local Plan:

H12 - Established residential areas – character and amenity
H21 - Compatibility of non-residential uses
S13 - Local shopping centres

2.3 Herefordshire Unitary Development Plan (Revised Deposit Draft):

S1	-	Sustainable development
S2	-	Development requirements
DR2	-	Land use and activity
TCR13	-	Local and neighbourhood shopping centres
TCR15	-	Hot food takeaway outlets
T11	-	Parking provision

3. Planning History

- 3.1 CE1999/2179/F - Change of use of ground floor shop to A3 hot food takeaway. First floor to remain in residential use. Refused 22nd September, 1999.
- 3.2 CE2000/3342/F - Change of use of ground floor to natural health centre. Approved 6th February, 2001.
- 3.3 CE2004/4168/F - Change of use of building from a health centre to a fish and chip shop. Refused 1st November, 2004.
- 3.4 CE2005/4168/F - Change of use of building from a health centre to a fish and chip shop. Approved 9th March, 2005.

4. Consultation Summary

Statutory Consultations

- 4.1 None.

Internal Council Advice

- 4.2 Environmental Health and Trading Standards Manager: I have considered the proposed extension of opening times and it is my opinion that this will not result in any significant increase in any odours experienced nor disturbance to neighbours.
- 4.3 The Traffic Manager: No objection to the grant of planning permission.

5. Representations

- 5.1 Hereford City Parish Council: No objection.
- 5.2 Local Residents: Five letters of objection have been received from the following sources:
- Mr. R. Darke, 142 Quarry Road
 - Mr. D. Harbour, 180 Quarry Road
 - Mrs. P. M. Williams, 182 Quarry Road
 - K. and K. Prosser, 170 Ledbury Road
 - S. Anderson, 178 Ledbury Road

The comments raised can be summarised as follows:

1. The shop would be open at the time of day when school children are walking home, encouraging unhealthy eating.

2. The parking and access arrangements are completely unacceptable.
3. The cooking smells and noise (from the extraction unit) are completely unacceptable and significantly adversely impact upon the residential amenities of neighbouring properties.
4. The hours will increase the regularity of noise and nuisance caused by staff taking breaks to the rear of the unit.
5. The altered hours will increase litter and untidiness.
6. The previous condition ensured that the shop was closed between 1.45pm and 4.45pm which was sensible as this is the busiest and most hazardous time of the day with regards to children and traffic. I also means the shop is closed as children walk home from school, reducing their accumulation.

6. Officers Appraisal

- 6.1 In this instance the start point is the extant permission and its associated restrictions, which establish the principle of the use of this premise as a fish and chip shop. The assessment of this proposal must therefore be based upon the implications of the variation of opening hours only, rather than concerns over the actual existence of the unit.
- 6.2 The proposed change to the restrictive condition will have the effect of allowing the unit to open through the afternoon where previously the unit would be closed between 1.45pm and 4.45pm weekdays. The unit would, however, open 45 minutes later on a weekday morning, and be closed on a Monday until 4.45pm. The unit is not proposed to be open later in the evening.
- 6.3 Having regard to the proposed changes noted above it is considered that the activities associated with this unit are unlikely to alter significantly from that currently permitted. The unit is currently open over what would be considered a lunchtime, and it is doubtful that youths/children are likely to cause greater disturbance walking home from school and calling into the unit, than if they either go home and then return, or indeed if they loiter awaiting the opening of the unit. The opening of the unit throughout the afternoon is more likely to reduce actual activity levels to a lower level over a longer period, compared to the current high concentration of activity within a short time period.
- 6.4 On balance it is not considered that the amenity issues associated with the variation of the condition in question are of such concern that a refusal of planning permission would be sustainable.

RECOMMENDATION:

That planning permission be granted subject to the following conditions:

- 1, **A01 (Time limit for commencement).**

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

2. **The use hereby permitted shall only be open to customers between 4.45pm and 9.45pm on Mondays; 12.15pm and 9.45am Tuesday to Fridays; 12.00pm and 9.45pm on Saturdays and at no time on Sundays.**

Reason: To safeguard the amenities of the locality.

- 3. The permission hereby granted is an amendment to planning permission DCCE2004/4168/F and, otherwise than is expressly altered by this permission, the conditions attached thereto remain.

Reason: For the avoidance of doubt.

Informatives:

- 1. N03 (Adjoining property rights).
- 2. N15 (Reasons for the grant of permission).

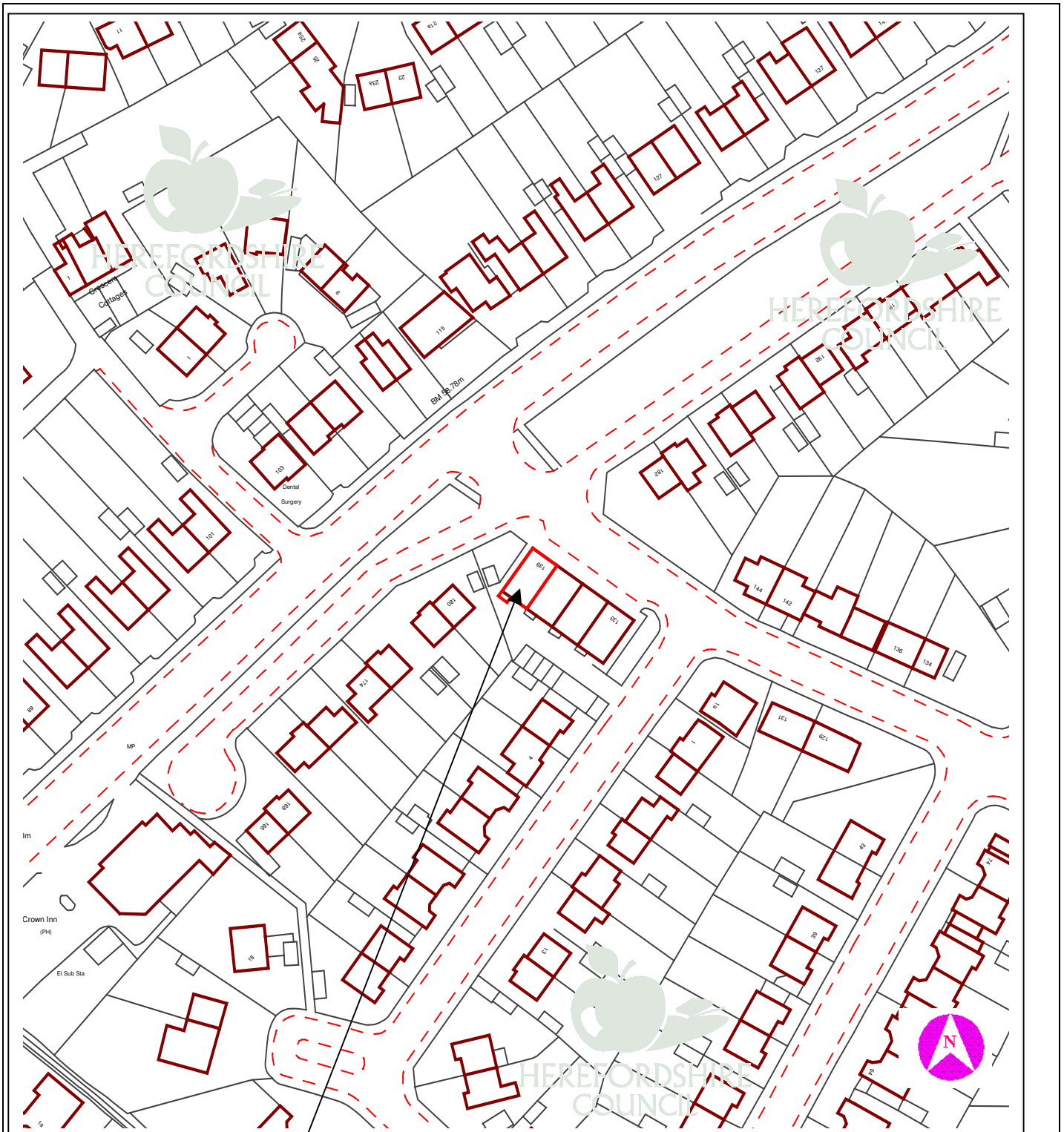
Decision:

Notes:

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Background Papers

Internal departmental consultation replies.



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APPLICATION NO: DCCE2006/2001/F

SCALE : 1 : 1250

SITE ADDRESS : The Traditional, 139 Quarry Road, Hereford, Herefordshire, HR1 1SX

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