

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Development and Conservation Control Committee 1st March 2006
AUTHOR/S: Director of Development Services

**S/2397/05/F – Great Shelford
Change of Use from Restaurant (Class A3) to
Restaurant and Take-Away (Classes A3 and A5) at
52-54 Woollards Lane for W S Leung**

**Recommendation: Refusal
Date for Determination: 10th February 2006**

Conservation Area

Site and Proposal

1. The application site is occupied by a Chinese restaurant located on the north side of Woollards Lane, some 50 metres to the east of its junction with High Street/Church Street. To the west is a detached dwelling set 5 metres back from the road whilst to the east is a building occupied by an estate agency. Beyond the northern boundary of the site is a public car park, the access to which is about 20 metres to the east.
2. The full application, submitted on 16th December 2005, seeks to change the use of the premises from a restaurant (Class A3 only) to a mixed restaurant/take-away use (Classes A3 and A5). The application form states that the opening hours of the take-away element would be 10.30 am – 8.00pm.

Planning History

3. **S/0371/99/F** – Planning permission granted for change of use of the property from a shop to restaurant. This was subject to a condition preventing a take-away use operating from the premises for the following reason:
 - The establishment of a take-away facility alongside and opposite residential properties would be to the detriment of the amenities at present enjoyed by occupiers of those properties by virtue of noise and disturbance caused by the stopping, starting and manoeuvring of vehicles on Woollards Lane principally in the evenings when the area is otherwise quiet.
4. **S/2307/00/F** – An application to remove the above condition, in order to allow a take-away facility, was refused as the intensification in the use of the site would be detrimental to the amenities of adjoining residents. The application was then dismissed at appeal, with the Inspector stating that the condition attached to the original consent was necessary to protect the living conditions of neighbours and that this harm could not be overcome by restricting the hours of use of the take-away facility to early evening hours.

Planning Policy

5. **Policy ES6** of the South Cambridgeshire Local Plan 2004 states that the Council will seek, by means of planning conditions, to minimise the impact of noise and pollution arising from any new commercial activities.
6. **Policy EN30** of the South Cambridgeshire Local Plan 2004 requires development in Conservation Areas to preserve or enhance the character and appearance of the area.
7. Planning Policy Guidance (PPG) 24, "Planning and Noise" comments that commercial developments, such as "fast food restaurants" pose particular difficulties, not least because associated activities are often at their peak in the evening and late at night. Disturbances that can be caused by traffic and associated car parking should not be underestimated.

Consultations

8. **Great Shelford Parish Council recommends refusal stating:**

"The planning permission for a restaurant, granted in 1999, had a condition stating that the premises should not be used for the sale or delivery of food consumption off the premises. The owner appealed against the refusal of the District Council in 2001 to remove the condition. This appeal was dismissed on the grounds that the use of the restaurant as a take-away would increase noise and disturbance which would be harmful to the living conditions of neighbours, and a condition restricting the hours of opening would not protect these living conditions. We do not believe circumstances have changed and therefore the application should be refused in line with the inspector's decision."
9. **The Chief Environmental Health Officer** objects, stating that the facility would have a detrimental effect on the enjoyment of nearby residential properties, particularly during evening periods.
10. **The Conservation Manager** raises no objections on the basis that no changes to the external appearance of the building are proposed.

Representations

11. Four objections have been received from Nos. 14 and 56 Woollards Lane, No.88 High Street and via an email (with no listed address). The main points raised are:
 - a. The original permission was subject to no take-away facility;
 - b. Traffic movements and noise would increase outside normal trading hours;
 - c. There are a number of residential properties nearby and the proposed use would result in noise and disturbance to occupiers of these properties;
 - d. Take-away customers would not use the nearby public car park and would park on Woollards Lane instead;
 - e. There would be noise disturbance to No.56 from cooling fans and equipment. Garden fencing erected around the extractor fan equipment has fallen down and not been replaced;
 - f. The proposal would result in increased litter and cooking odours;
 - g. There are already take-away facilities in Little Shelford and Sawston;
 - h. Property values in the area will fall.

Planning Comments – Key Issues

12. The key issues to consider in the determination of the application are:
 - a. Residential amenity; and
 - b. Impact upon the character and appearance of the Conservation Area.
13. An application for a take-away use on this site has previously been refused and dismissed at appeal for neighbour amenity reasons. In dismissing the appeal, the Inspector stated that a take-away use would significantly increase coming and going of customers by car (especially in the evening) and that, although there is a public car park nearby, customers would be much more likely to park in front of the premises. The noise from closing car doors, car radios, stopping/starting of engines and congregation of customers waiting for food was considered to be unduly harmful to the living conditions of nearby residents, and to exacerbate noise problems associated with the use of the building as a restaurant. He also stated that a take-away use would generate significant customers even in the early evening and therefore preventing late night opening would not overcome the neighbour amenity problems.
14. There has been no material change in circumstances since the above decision and I therefore see no reason to take a different view in this instance. Although, the application form states that the take-away facility would cease at 8pm, the Inspector clearly considered that the harm caused by the use could not be overcome by restricting opening hours.
15. The application does not propose any external changes to the building and there would therefore be no harm to the character and appearance of the Conservation Area.

Recommendation

16. Refusal:

The proposed take-away facility would result in an intensification of use of the site which, by reason of noise and disturbance associated with car parking and manoeuvring, closing car doors, car radios and the congregation of people outside the building, would be detrimental to the amenities enjoyed by neighbouring properties, particularly during evening periods. Consequently, the proposal would be contrary to Policy ES6 of the South Cambridgeshire Local Plan 2004, in that the disturbance to neighbours cannot be overcome by restricting the hours of operation of the use, and to Planning Policy Guidance 24 'Planning and Noise' which refers to the difficulty in controlling traffic noise together with other general disturbance such as engines starting, car doors shutting and customers voices.

Background Papers: the following background papers were used in the preparation of this report:

- PPG 24 ('Planning and Noise')
- South Cambridgeshire Local Plan 2004
- Planning Application refs: S/2397/05/F; S/2307/00/F (including appeal ref: APP/W0530/A/01/1068443) and S/0371/99/F

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