

**PLANNING  
COMMITTEE**

31st October 2012

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**APPEAL OUTCOME REPORT FOR INFORMATION**

**APPEAL MADE AGAINST REFUSAL TO GRANT PERMISSION FOR DEVELOPMENT OF LAND WITHOUT COMPLYING WITH A CONDITION SUBJECT TO WHICH A PREVIOUS PLANNING PERMISSION WAS GRANTED**

**PLANNING APPLICATION DETAILS: 2012/049/S73**

<b>PROPOSAL</b>	<b>VARIATION TO CONDITION 1) APPLIED TO PERMISSION 2010/135/COU WHICH STATES THAT PREMISES SHALL NOT BE OPEN FOR CUSTOMERS OUTSIDE THE FOLLOWING HOURS: 11.00 TO 23.30 ON MONDAY TO SATURDAYS 12:00 TO 18.00 ON SUNDAYS</b>
<b>LOCATION</b>	<b>LITTLE INDIA, 1207 EVESHAM ROAD, ASTWOOD BANK</b>
<b>WARD</b>	<b>ASTWOOD BANK &amp; FECKENHAM</b>
<b>DECISION</b>	<b>DECISION MADE BY OFFICERS UNDER DELEGATED POWERS 13TH APRIL 2012</b>

The author of this report is Steven Edden, Planning Officer (DM), who can be contacted on extension 3206 (e-mail: [steve.edden@bromsgroveandredditch.gov.uk](mailto:steve.edden@bromsgroveandredditch.gov.uk)) for more information.

**Background**

The bungalow at 1207 Evesham Road gained planning permission for partial change of use to a restaurant in 2006. A subsequent proposal, reference 2010/135/COU granted on appeal, allowed the remainder of the bungalow to be converted from residential to incorporate a bar and waiting area ancillary to the use of the restaurant granted in 2006.

During consideration of the earlier appeal, Officers asked the Inspector to consider imposing a planning condition (in the case of the appeal being allowed), which would state that the premises should not be open for customers outside the hours of 11.00 to 23.30 on Monday to Saturdays and 12.00 to 18.00 on Sundays. An identical condition was attached to the original application for partial change of use to a restaurant, granted in 2006. During consideration of the 2010 appeal, the Inspector agreed that such a condition should be imposed in the interests of protecting nearby residential amenities.

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Discussion

The appellant sought to vary Condition 1 (2010/135/COU) so as to allow the business to trade between 11.00 hours and 23.30 hours on Sundays (as well as on Mondays to Saturdays), or alternatively for the condition to be removed.

The Inspector noted that the eastern side of Evesham Road was primarily residential in character and was also outside the defined district centre. He also noted that the appeal site was located in very close proximity to residences both to the immediate north and south of the site. He considered that a restaurant use in such close proximity to residential uses, together with the close proximity of the adjacent car park would be likely to generate significant noise in terms of vehicle movements, the closing of vehicle doors and conversations held outside the restaurant by customers. The Inspector agreed with Officers that it would be reasonable to consider Sunday as a traditional 'day of rest' when it would be expected that noise and disturbance from the appeal premises is for a reduced period, thus giving the occupiers of adjacent properties a reasonable opportunity to enjoy quiet periods of relaxation on that day when the restaurant is not open to customers.

The Inspector considered that the original condition was reasonable and necessary in order to protect the living conditions of the occupiers of neighbouring residential properties in terms of noise and disturbance.

Appeal outcome

The appeal was DISMISSED on 14th September 2012. Costs were neither sought nor awarded.

Further issues

None

Recommendation

**The Committee is asked to RESOLVE that the item of information be noted.**