

**PLANNING  
COMMITTEE**

27th April 2011

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**APPEAL OUTCOME REPORT FOR INFORMATION**

**APPEAL MADE AGAINST REFUSAL OF PLANNING PERMISSION AND  
AGAINST AN ENFORCEMENT NOTICE**

**PLANNING APPLICATION DETAILS: 2010/135/COU**

**ENFORCEMENT NOTICE DETAILS: 2009/229/ENF**

<b>PROPOSAL</b>	<b>CHANGE OF USE OF FRONT SECTION OF BUNGALOW FROM RESIDENTIAL TO INCORPORATE BAR AND RECEPTION AREA (RETROSPECTIVE)</b>
<b>LOCATION</b>	<b>SPICE FUSION, 1207 EVESHAM ROAD, ASTWOOD BANK</b>
<b>WARD</b>	<b>ASTWOOD BANK &amp; FECKENHAM</b>
<b>DECISION</b>	<b>PLANNING DECISION MADE AT COMMITTEE ON 20TH JULY 2010</b>

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

**Discussion**

The case related to a bungalow which gained planning permission for partial change of use to a restaurant in 2006. Under that consent, the front of the property was to remain in residential use. On balance, Officers considered that the change of use of the front of the bungalow to restaurant use would not be of detriment to the character of the area, nor materially harm nearby residential amenity, taking into consideration, the earlier approval in 2006. At Committee however, Members refused planning permission against the advice of officers for the following reasons:

1. The loss of the residential unit to the front of the building would have a harmful effect on the character and appearance of the streetscene in this residential location by the creation of and the appearance of an A3 use, and as such the proposal would be contrary to Policy B(BE).13 of the Borough of Redditch Local Plan.
2. The use of the whole building for A3 purposes would be likely to result in additional harmful impacts such as noise and disturbance on the adjacent residential properties which would be unacceptable and therefore the proposal is considered to be contrary to PPS24 (Noise) and Policy B(BE).13 of the Borough of Redditch Local Plan.

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Given that the planning application was retrospective, an enforcement notice was served requiring the cessation of the unauthorised use of the building as an A3 use and to re-instate the area to a residential use.

Officers sought to defend these reasons through their written representations to the Planning Inspector.

The Inspector considered that in terms of visual impact, by changing the front of the premises to an A3 use, views into the site would not cause any material harm to the character and appearance of the area. He also stated that there was no evidence to suggest that the level of use of the car parking area had increased as a result of the intensification of the restaurant use.

Following his night time inspection, the Inspector found that the level of lighting to illuminate the premises was no more intensive than found at nearby residential properties. This, together with what the Inspector considered to be only a limited increase in intensification / comings and goings from the site, led him to consider that the proposals would not harm the character of the area.

The level of noise generated from the appeal site was not considered to be of detriment to residential amenity given the intensification of use, which he believed was not material. During his evening visit, the Inspector commented that he could not hear the extraction system or smell any foods. He concluded that the proposal would not be of detriment to the amenities enjoyed by occupiers of nearby houses stating that there would be no conflict with the provisions of the development plan.

## **Appeal outcome**

The planning appeal was ALLOWED and the Enforcement Notice was quashed. Costs were neither sought nor awarded.

## **Further issues**

In allowing the appeal, the Inspector attached planning conditions restricting hours of opening at the premises to between 1100 to 2330 hrs Mondays to Saturdays, and to between 1200 to 1800 hrs on Sundays. Other conditions limit the use to A3 (restaurant use) only and ask that a scheme for the installation of equipment to control the emission of odours be submitted to the LPA and for the use to be implemented in accordance with that scheme. The adherence to these conditions will be monitored by your Officers.

## **Recommendation**

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