

**REPORT TO THE DEVELOPMENT CONTROL
COMMITTEE**

Report No.

Date of Meeting	25th February 2009
Application Number	08/02800/COU
Site Address	31 Church Street, Calne
Proposal	Change of Use to include A5 (Takeaway)
Applicant	Mr J Chi
Town/Parish Council	Calne Town Council
Grid Ref	399831 170859
Type of application	Change of Use

Reason for the application being considered by Committee

This application has been submitted to the Committee for decision under the scheme of delegation in force after the 8th April 2002 because 5 letters of objection have been received

Summary of Report

This application proposes the change of use of a restaurant to a restaurant with takeaway facility. The change of use to restaurant from a conservative club was granted under permission 07/02220/COU.

The issues are:

- Effect on amenity
- Effect on Conservation Area.
- Effect on parking and highway safety.

Officer Recommendation

Planning Permission be GRANTED subject to the conditions

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Proposal and Site Description

This application proposes the change of use of a restaurant to a restaurant with takeaway facility. The original application for a restaurant (07/02220/COU) was allowed specifically excluding takeaway, which is in another use class (ie A5). The site is an existing restaurant within Calne Conservation Area and proposes no external changes to the building.

Planning History		
Application number	Proposal	Decision
07/02220/COU	Change of Use from Class D2 to A3 and internal alterations	Permitted
07/02221/FUL	Re- instatement of 2 windows in East elevation.	Permitted
07/02504/FUL	Extract flue	Withdrawn
08/00460/FUL	Provision of ventilation grill	Withdrawn

Consultations

Calne Town Council strongly objected to this application making reference to Local Plan Section BD2(i)

Wiltshire County Council Highways have no objections given that there is an existing restaurant on site and the site is situated close to the town centre with public car parking available. They do not consider that the change of use to a takeaway will lead to a significant effect on the existing level of on street carparking.

Environmental Health has no adverse comments. However, the licensing team inform them that the premises licence allows the China Wok to sell hot food and drink until 11pm.

Representations

5 letters of objection that have been received.

Summary of key points raised:

- Creeping nature of development and subsequent effect on neighbours.
- The restaurant was approved on the specific understanding that takeaway would be excluded.
- Noise and smokers on street adjacent to residential properties.
- Noise and pollution from HGVs delivering to the property.
- There are already 2 takeaways.
- Restricted parking.
- The smell filtration system is insufficient and it is noisy.
- The plans include opening until 2am at weekends.

Planning Considerations

Principle of development

The original application for a restaurant (07/02220/COU) was allowed specifically excluding takeaway, which is in another use class (ie A5). However, the impact of allowing a takeaway at this location must be assessed on its merits.

Impact on amenity

Environmental Health has not objected to the application. There are already another 2 takeaways within approx 100m of the application site. Competition is not a planning matter and cannot be used as a reason for refusal.

The disturbance objected to by local residents cannot be exclusively tied to the takeaway uses and is common in all town centre locations. The takeaway can be restricted in its hours of opening to reflect that of the restaurant. It is not considered that any increase in disturbance would be so significant as to warrant a refusal.

Highways and Parking

Highways do not object and a refusal cannot be sustained on highways matters.

Overall there are insufficient planning reasons to justify a refusal and it is considered that the proposal complies with policies C3 and NE18 of the North Wiltshire Local Plan 2011. Policy BD2i is not considered to be the correct policy to apply in this case.

Recommendation and Proposed Conditions/Informatives

Planning permission be GRANTED subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out strictly in accordance with the approved plans subject to such minor amendments to the development as may be approved in writing under this condition by the local planning authority.

Reason: To ensure that the development is implemented in accordance with this decision in the interests of public amenity, but also to allow for the approval of minor variations which do not materially affect the permission.

3. Prior to the commencement of the development hereby permitted, details of the extraction and treatment of odours shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the first use of the development. Any approved extraction unit shall not exceed 15min Laeq40db Nor Noise rating curve 35 when measured at any boundary adjacent to any residential property.

Reason: To prevent loss of amenity.

4. There shall be no sale of hot food to be consumed off the premises before 09:00 or after 23:00 on any day and not at all on Sundays or Bank Holidays.

Reason: In the interests of the amenity of the area.

Reason for Decision

Overall there are insufficient planning reasons to justify a refusal and it is considered that the proposal complies with policies C3 and NE18 of the North Wiltshire Local Plan 2011.

Appendices:	<ul style="list-style-type: none">• NONE
Background Documents Used in the Preparation of this Report:	<ul style="list-style-type: none">• 2.02, 4.02, 4.04, 5.01