

**BREACH OF PLANNING CONTROL AT “PAPA JOHNS”, HIGH STREET, RAYLEIGH, ESSEX**

**1 SUMMARY**

- 1.1 The Head of Planning Services reports the use of the above site for the sale of food outside permitted opening hours (outside the hours of 1100 and 2330 hours each day, including Bank Holidays) in breach of Condition 2 of approved application 99/00769/COU, which was granted at appeal on 7<sup>th</sup> June 2000.
- 1.2 Members will need to consider whether it is expedient to serve enforcement notices, etc and this function is discretionary. However, the mechanisms of such actions are statutorily controlled.

**2 INTRODUCTION**

- 2.1 This breach is occurring despite a letter to the manager requesting cessation of this breach of condition.
- 2.2 The main consideration relates to the effect of this use on residential amenity, especially during these late hours. There are potential public disorder problems centred on this issue of later opening hours, which could have a detrimental effect on the amenity of residents close to the town centre. Rayleigh Police continue to support the authority by monitoring these premises.

**3 PLANNING HISTORY**

- 3.1 Planning Permission (ref: 99/00769/COU) was refused by this Authority on 10<sup>th</sup> February 2000 for the change of use from Retail (A1), to restaurant (A3). The reasons for its refusal were the detrimental effect from the loss of A1 (Retail) shopping, contrary to SAT2 of the Rochford District Local Plan, and also the resultant highway congestion, which would be detrimental to highway safety.
- 3.2 This refusal was appealed and on 7<sup>th</sup> June 2000 this was allowed, subject to several conditions. Condition 2 stated; “The use hereby permitted shall not be open to customers outside 1100 and 2330 hours each day, including Bank Holidays”
- 3.3 A subsequent application, 02/00720/FUL, sought to vary Condition 2 of the 2000 approval to extend opening hours to midnight every day, but this was refused consent. The reason for the refusal was, “...The extension to opening hours sought would consolidate, extend and increase the detrimental impact

on amenity being experienced by both surrounding property occupiers and those more distant, by virtue of late night noise, disturbance and activity.”

#### **4 PLANNING ISSUES**

- 4.1 Following complaints, the premises were monitored on several occasions over a period of 5 months. Evidence was also supplied by Rayleigh Police who have also observed this breach of condition.
- 4.2 After the initial site visit the proprietor was notified in writing of the existence of the condition and of the implications should he continue to breach the condition.
- 4.3 Essex Structure Plan Policy TCR4 states that LPA will support retail development proposals which should “...not cause unreasonable loss of amenity to adjoining land uses”. This breach of condition is a loss of amenity for many residents who live close to Rayleigh town centre.
- 4.4 Policy SAT4 in the Rochford District Local Plan also states that “...changes of use to non-retail uses....will normally be allowed providing that this does not result in a concentration of non-retail uses and that the amenities of residential areas are not adversely affected.” Such circumstances can be identified to exist in this instance. It is therefore considered expedient to take enforcement action to secure the cessation of using premises outside the permitted opening hours of 1100 and 2330 hours.
- 4.5 Members should consider the extent of the detrimental effects on the general character of the area, in particular public order problems. In the past Police Officers have had to deal with the resultant problems of public disorder which are caused by the late opening hours of similar premises nearby in Rayleigh High Street, as referred to above. The local Police have supported the Authority's actions on similar previous occasions. It is considered that the recommended action is important for this aspect and is likely to minimise such disorder problems.

#### **5 RECOMMENDATION**

- 5.1 It is proposed that the Committee **RESOLVES**

That the Head of Planning Services be authorised to take all necessary action, including the issue of Notices and action in the Courts, to secure the remedying of the breach now reported.

Shaun Scrutton  
Head of Planning Services

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**Background Papers:**

None.

For further information please contact Catherine Blow on:-

Tel: 01702 318097  
E-mail; [catherine.blow@rochford.gov.uk](mailto:catherine.blow@rochford.gov.uk)