

BREACH OF PLANNING CONTROL AT ‘TASTE OF RAJ’, 8, EAST STREET, ROCHFORD, ESSEX.

1 SUMMARY

- 1.1 To consider the report of the Head of Planning Services on the use of the above site for the sale of food for consumption off the premises, (that is, a take-away service) in breach of Condition 4 of approved application CU/0040/94/ROC.
- 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 long history of refusals and appeals as explained below.
- 2.2 The main consideration relates to the effect of this use on highway safety where the road concerned is of limited width in the Rochford Town Centre.

3 PLANNING HISTORY

- 3.1 Planning Permission was approved on 19 May 1994 for the change of use from Estate Agent (A2) with office over, to restaurant (A3) with first floor flat. Condition 4 stated; “No part of the premises shall be used for takeaway services, that is, the sale of food and drink for consumption off the premises.” The reason for this condition was in the interests of amenity and highway safety.
- 3.2 A subsequent application, F/0206/96/ROC sought to remove condition 4 of the 1994 approval but was refused consent. The reason for refusal was, “... the subsequent use of 8 East Street for hot food takeaway services would, if permitted, result in an increase in the amount of short term parking taking place within the highway at a point where East Street narrows, causing unacceptable obstructions to other road users to the detriment of highway safety together with an increase in the number of visitors to the site resulting in an increase in the general level of disturbance to nearby and adjoining residents to the detriment of the general character of the area as a whole.”
- 3.3 This refusal was upheld by an Inspector on appeal stating that, “whilst he did not consider the operation of a takeaway service would be detrimental to the local amenity, the implications of removing condition 4 would have serious adverse effects by causing both traffic hazards and inconvenience to other road users.”

- 3.4 On 27 July 2000, an application seeking to vary condition 4 to allow a home delivery service was approved for a limited period, 00/00385/FUL, and this was approved once more on 30 August 2001 without conditions (01/00540/FUL).
- 3.5 On 12 November 2002, a further application, 02/00765/FUL, which also sought to remove condition 4 of the 1994 approval was refused consent for the reason; “The proposal will give rise to short term on-street parking taking place in the vicinity where the road bends, starts to narrow and other accesses join it. Short term on-street parking at this point may well give rise to interference and obstruction to other road users to the detriment of general highway safety.”

4 PLANNING ISSUES

- 4.1 Following complaints, a planning officer visited the premises on two occasions. On the first occasion he was given a takeaway menu and, on the second, he bought a takeaway meal which was provided in insulated boxes which were packed inside a paper carrier bag.
- 4.2 Both before and after this visit, the proprietor had been notified both verbally and 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 T4 states that proposed developments may be considered in relation to their effects on highway safety, inconvenience to traffic and effects on the transport system. Such circumstances can be identified to exist in this instance. It is therefore considered expedient to take enforcement action to secure the cessation of the sale of hot food for consumption off the premises on the grounds of serious adverse affects of traffic hazards and inconvenience to other road users.

5 RECOMMENDATION

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

That the Head of Planning Services be authorised to take all necessary action to secure the remedying of the breach now reported.

Shaun Scrutton
Head of Planning Services

Background Papers: None.

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