



**3. Planning History (most relevant):**

- 3.1 TM/04/00743/FL Approved 28.05.2004  
Change of use from retail electricity/tv shop to retail tea room/gift shop.

**4. Consultees:**

(A) TM/05/01353/FL:

- 4.1 KCC (Highways): No objections to vary the opening hours or continue Sunday opening.
- 4.2 PC: No objections.
- 4.3 DHH: No objections to the changes to conditions 3 & 4. In relation to condition 2 no perceived problem so long as the food is simply heated in a microwave as stated by the applicant. A condition is recommended prohibiting the cooking of food without express permission being sought and obtained from the LPA. The applicant should also be advised that heating of foods may still cause odour problems and that steps to abate any such problem may be necessary.
- 4.4 Private Reps: 11 + Site & Press Notices/0X/1R/0S. One letter received and the following comments made: No objections in principle to variation of condition 2 but queries raised about possible odours and further extension of restaurant hours.
- No objections to change in opening hours of the tea shop but raise concerns about how this relates to opening hours of other premises such as Sainsburys.
  - Major concerns about the opening of the tea garden for the extended opening hours due to loss of amenity through noise pollution. It is requested that the tea garden opening hours are restricted to Monday to Saturday only to start with, based on the original opening hours. It may then be possible to open the tea garden on Sundays after a 6 month period.

(B) TM/05/01355/RD:

- 4.5 KCC (Highways): No objections to the details.
- 4.6 PC: No objections provided neighbours have no objections.
- 4.7 DHH: Requests that the use of the tea garden be a temporary permission for 12 months to enable the impact of this change (upon local residents) to be more fully assessed. The condition prohibiting the playing of amplified music be reiterated.
- 4.7.1 This is a trade premise and as such would be required to comply with the Duty of Care regulations applicable to trade waste.

4.7.2 No objection to clean wheely bins being moved through the restaurant area (not the kitchen) once a week for commercial collection. The bins should be of sound construction and small enough to be washed and disinfected regularly as required by Food Hygiene legislation. There is no regulation saying that food waste once removed from the preparation and serving areas should not be re-introduced. The bins will simply be moved through the restaurant, with no more potential for introducing contamination than the wheeling of a pushchair.

4.8 Private Reps: 9/0X/2R/0S. Two letters of representation have been received, raising the following issues:

- Collection of rubbish from large sulo bins at front of property could result in obstruction of pavement and danger for pedestrians.
- Conflict between removal of waste through the shop where food is being prepared and served.
- Noise pollution from the tea garden and loss of amenity for neighbours.
- Need to limit the number of people using the tea garden and means of enforcing such restriction.
- Need to protect the character of the Conservation Area.
- Current opening hours should be maintained whilst tea garden is on trial.
- Proposed staircase should be the subject of an application.

## **5. Determining Issues:**

5.1 The principle of using the premises as a tea rooms is established under the extant permission. The issues now under consideration are whether the changes to the range of food and the hours of operation are acceptable, and whether the requested tea garden and refuse storage arrangements are acceptable having regard to the amenities of neighbours.

5.2 The proposed increase in the range of food and drink being prepared at the premises, as outlined by the applicant, should not present a problem provided that only pre-prepared items are re-heated in a microwave and that no cooking takes place of hot food "from scratch".

5.3 The changes to the opening hours are relatively minor and in my view represent reasonable opening times for such a facility. The latest proposed opening time would be 6pm in the week and on Saturdays with 5pm on Sundays. I do not consider that there need to be separate opening times for the garden area or that the garden should only be used after the new opening hours have been in place

for 6 months. This would make the operation of the business difficult to manage and enforce, in my view. It should be remembered that the principle of having a tea garden has already been established.

- 5.4 The original consent only permitted Sunday opening for a year. The applicants also wish to continue operating on a Sunday because they perceive that this has proved to be successful with local people and visitors. I can see no objection to the continued use of the indoors part of the premises on Sundays on a permanent basis.
- 5.5 When the original application to use the premises as a tearoom was considered last year it was concluded that under the previous use the rear amenity space could have been used for commercial purposes. It was found that the introduction of a tea terrace at the rear would be unlikely to cause unacceptable harm to residential amenity. A condition was however imposed requiring the submission for approval of details of the siting of the patio and number of tables and chairs. The drawing shows 4 tables with seating for up to 24 people. In my view this would represent an intensive use of the relatively restricted rear amenity space. I would suggest that a total of three tables and 12 chairs would represent a more acceptable level of use. In order to assess the impact of this facility it is also suggested that one year consent is imposed regarding the tea garden arrangements in order that the situation may be reviewed in the light of experience regarding the impact on neighbours' amenity. Given that the tea garden has not, as yet, been brought into use, this would result in the same "trial period" as envisaged under the original permission.
- 5.6 Lastly details have been provided of the refuse storage arrangements, again as required by a condition attached to the original permission. These show an area at the end of the garden for the storage of the refuse bins. These details are acceptable in amenity terms and should not harm the character of the Conservation Area or the amenities of neighbours. With regard to concerns expressed by neighbours about hygiene and collection issues, I can advise that the DHH is generally happy with the submitted details. The hygienic operation of the food preparation area and movement of the refuse storage containers would appear to be the responsibility of the applicant. Whilst it is recognised that the temporary siting of the refuse bins on the front pavement is not ideal and may present a hazard for pedestrians, this is likely to be a relatively short duration, once a week, and is not dissimilar to arrangements that occur in numerous other locations, especially in older parts of settlements. In my opinion, the degree of harm caused is not such as to justify rejecting the proposed arrangements.
- 5.7 The neighbours have also made reference to the introduction of an external spiral staircase to serve the upper floor. This proposal did not form part of the original application and is not being determined. The applicant should be aware that should they wish to install a replacement staircase to the first floor then this would need to be the subject of a fresh application for planning permission.

**6. Recommendation:**

(A) TM/05/01353/FL:

6.1 **Grant Planning Permission** as outlined in the letter dated 17.04.2005, received 03.05.2005 subject to the following conditions:-

1 The use hereby permitted shall be limited to that applied for only as a teashop serving hot and cold beverages, cold food and the items specified in communications dated 12.05.2004 and 17.04.2005 for consumption on the premises only and for no other use within Class A3 of the Town & Country Planning (Use Classes) Order 1995.

Reason: In the interests of residential amenity.

2 The hours of use of the business shall be limited to 9.30am-6.00pm Monday to Saturday and 10.00am –5.00pm Sunday only and at no other time unless approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

3 No music shall be played in the garden/patio area at any time.

Reason: In the interests of residential amenity.

4 The use of the garden area in connection with the teashop hereby approved shall be limited to a period of one year from the date of commencement of use of the tea garden. The applicant should give notice in writing to the Local Planning Authority of the date of commencement of use of the tea garden and thereafter the use shall cease.

Reason: In order that the full impact of the use can be fully assessed in the interests of the amenity of adjoining residential properties.

5 The siting of the tea garden/patio area and the number of tables and chairs shall only be carried out in accordance with the details approved under reference TM/05/01355/RD.

Reason: To safeguard the amenity of adjoining residential properties.

Informative:

1 The permission hereby approved does not purport to grant planning permission for the spiral staircase shown on the submitted drawing.

(B) TM/05/01355/RD:

6.2 **Approve details** as outlined in the letter dated 17.04.2005 received 03.05.2005 subject to the following condition:

- 1 At no time shall there be more than three tables and a total of 12 chairs be set out within the identified tea garden area.

Reason: In the interests of the residential amenities of the occupants of the adjacent properties.

Informative:

- 1 The permission hereby approved does not purport to grant planning permission for a spiral staircase shown on the submitted drawing.

Contact: Hilary Johnson