



created on the eastern side of the building, furthest away from the neighbouring house. Internally, this part of the building features plain floorboards with no carpeting.

### 3. Planning History:

TM/80/11366/FUL Grant with conditions 22 September 1980  
(TM/80/177)  
Change of use to restaurant.

TM/88/11739/LBC Grant with conditions 3 June 1988  
(TM/88/667)  
Alterations to enable change of use of part of first floor restaurant to 2 no. guest rooms.

TM/88/11740/FUL Grant with conditions 3 June 1988  
(TM/88/666)  
Change of use of part of first floor restaurant to 2 no. guest rooms.

TM/89/11991/LBC Grant with conditions 10 May 1989  
(TM/89/269)  
Listed Building Application: Erection of conservatory at 1st floor level.

TM/89/12006/FUL Grant with conditions 8 May 1989  
(TM/89/255)  
Erection of conservatory at 1st floor level.

TM/97/01359/FL Grant With Conditions 23 January 1998  
Retention of 3 wrought iron gates and associated gate supports.

TM/04/03715/LB Grant With Conditions 10 December 2004  
Listed Building Application: Internal and external alterations.

TM/05/03099/FL Pending Consideration  
Installation of two air conditioning units and replacement extraction flue.

TM/05/03101/LB      Pending Consideration

Listed Building Application: Installation of two air conditioning units and replacement extraction flue and two menu boards with internal static illumination.

TM/05/03103/AT      Pending Consideration

Two wall mounted illuminated menu boards and freestanding illuminated sign.

TM/05/03499/LRD      Pending Consideration

Details of floodlighting submitted pursuant to condition 1 of consent reference TM/04/03715/LB: Listed Building Application for internal and external alterations.

#### **4. Consultees:**

4.1 PC: No objections.

4.2 KCC (Highways): No objections.

4.3 DHH: Concerns regarding impact on adjoining dwelling from noise from the use of the external dining terrace and first floor dining areas. Consider it appropriate to impose a limit on the hours of use of the dining terrace to start at normal trading hours and cease at 21:00 or dusk, whichever is sooner, with the doors from the conservatory to the terrace kept closed outside these times. Although there are no objections in principle to the use of the upper floor for dining/food preparation it is considered appropriate to seek the submission of a scheme of airborne and structure borne noise insulation to the party construction with 11 High Street.

4.4 Private Reps: 23/0X/2R/0S + site and press notice.

- Two letters of objection received raising the following points:
- Noise and disturbance experienced in neighbouring properties from the use of the terrace area and also the uninsulated conservatory late into the night.
- No sound insulation installed into the party wall, floor or chimney. All sounds above quiet speech can be heard in the neighbouring property and are clearly audible to the detriment of anyone trying to sleep next door. Problem made worse by the bare floor boards as sound travels directly between the two properties along the shared joists.
- Increase use of raised terrace area leads to total overlooking and loss of privacy to the neighbouring garden which is compounded by the noise and disturbance late into the night.

- Consider that restrictions should be imposed to limit the use of the terrace to a pre-drinks only area open until 9pm, the opening of the conservatory and the upper restaurant area to 11pm, require the carpeting of the entire internal area and install appropriate acoustic attenuation measures.

## 5. Determining Issues:

- 5.1 The property is located on Aylesford High Street and is an area characterised by a mix of uses. The general principle of using the building as a restaurant was established in 1980. The principal consideration with the application is therefore the impact of the restaurant use of the upper floor of the building on the amenities of the adjacent properties.
- 5.2 Neighbours to the restaurant have objected to the use on the grounds that it has resulted in an increase in noise and disturbance experienced in their properties. Although no formal noise nuisance complaints have been received by DHH, there are concerns expressed that any application on the site should seek to address, these being the noise and disturbance experienced from the terrace area and the issue of noise transfer between buildings.
- 5.3 With regard to the issue of noise and disturbance experienced from the patio area it is considered by DHH that the imposition of restrictions on the **opening hours** of this area would mitigate some of the concerns expressed. It is however, considered impractical to seek to restrict the **use** of the area for dining purposes as it would not prevent the use of the area and the hours of use restriction would have the desired effect of limiting the impact of late night revelry on the surrounding residential dwellings.
- 5.4 The issue of noise transfer is a more difficult matter to deal with. In normal circumstances it would be appropriate to impose a suitable condition requiring an appropriate scheme of acoustic attenuation to be submitted, approved in writing and installed prior to the commencement of the use on the site. In this instance though the application is retrospective and the building is Grade II listed, so the scheme would have to be designed prior to the determination of the application to ensure that it would overcome the concerns raised and also not have a detrimental impact on the fabric of the listed building.
- 5.5 To this end details of a scheme of airborne and structure borne noise insulation to the party construction with 11 High Street have been requested from the applicants in an attempt to address the noise and disturbance experienced. To date no details have been received of noise transfer survey work, nor the design of a scheme for acoustic attenuation, although this information has been requested.
- 5.6 Given the time that has elapsed since the receipt of the application it is considered appropriate to report the current position to Members, who will note that there is no formal recommendation attached to this report. If any further information is

submitted prior to the meeting, Members will be updated in the supplementary report. Failing this the supplementary report will report an appropriate course of future action.

**6. Recommendation:**

- 6.1 That the report be noted by Members and a further recommendation made on the supplementary report in light of the receipt, if received, of details of noise transfer mitigation measures.

Contact: Robin Gilbert

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**SUPPLEMENTARY REPORTS****AREA 3 PLANNING COMMITTEE****DATED 16 August 2007**

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**Aylesford  
Aylesford****TM/06/02612/FL****Change of use of first floor accommodation to restaurant and pre-drinks area at 7 - 9 High Street Aylesford Kent ME20 7AY for Mr Paul Smith**

Private Reps: Two further letters of objection received from neighbouring residents setting out the nature of the noise and disturbance experienced. The concerns are summarised below:

- Noise pollution from the outside balcony area being used by diners. Noise and bad language can be heard across an otherwise quiet residential area.
- Noise disturbance from the conservatory area which provides no sound insulation meaning that conversations can be heard from the surrounding gardens.
- Afternoon jazz concerts add to the disturbance experienced.
- Lack of sound insulation to first floor restaurant results in direct noise transfer into the main bedroom of the neighbouring house. Given the fact the restaurant has a licence to serve food until 11pm and alcohol to 12 midnight customers regularly do not leave the premises until 1am leading to disturbance being experienced outside reasonable hours. Shared construction of the listed buildings means that the scraping of chairs etc across the bare wooden floor can be heard clearly next door. Also noise transfer through the rest of the building.
- Noise and disturbance from kitchen area when doors are open and disturbance experienced from diners leaving in the early hours.
- Loss of privacy from the use of the outdoor terrace areas leading to overlooking of adjacent garden areas.
- Use of outside areas for smoking and the resultant pollution.
- Concerns regarding refuse storage and the potential health hazard

DPTL: Further to the detail contained in the main report, correspondence has been received from the applicants updating the current position. The applicants have confirmed that they have entered into a dialogue with the neighbour in an attempt to overcome some of the concerns and that the preparation of the noise transfer mitigation report is in hand.

Following notification from the applicants that works are commencing on preparation of the report for the noise transfer mitigation measures it is considered that discussion of

**this application should be withdrawn from the Agenda tonight** to enable the submission and consultation on the report to be undertaken. Following a formal study of the proposals the application will be reported back to Committee with a formal recommendation taking on board the comments on the scheme of noise transfer measures.

**APPLICATION WITHDRAWN FROM THE AGENDA**

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