

APPLICATION NO PA/2014/1230

APPLICANT Mr L Ahmed, The Khyber Restaurant Ltd

DEVELOPMENT Planning application to vary condition 3 on planning permission 1999/0220 to allow Sunday opening for the hours between 4pm and 9.30pm

LOCATION 1 Church Street, Epworth

PARISH EPWORTH

WARD Axholme Central

CASE OFFICER Andrew Law

SUMMARY RECOMMENDATION Refuse permission

REASONS FOR REFERENCE TO COMMITTEE Support by Epworth Town Council

POLICIES

National Planning Policy Framework: Paragraph 14 outlines a presumption in favour of sustainable development.

Paragraph 19 states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Significant weight should be placed on the need to support economic growth through the planning system.

North Lincolnshire Local Plan: Policy DS1 (General Requirements)

Policy S5 (Development in Crowle, Epworth, Kirton-in-Lindsey, Frodingham Road and Ashby High Street District Shopping Centres)

Policy S9 (Restaurants and Hot Food Takeaway Establishments)

Policy HE2 (Development in Conservation Areas)

North Lincolnshire Core Strategy: Policy CS1 (Spatial Strategy for North Lincolnshire)

Policy CS2 (Delivering More Sustainable Development)

Policy CS5 (Delivering Quality Design in North Lincolnshire)

Policy CS6 (Historic Environment)

CONSULTATIONS

Highways: No objection.

Environmental Health: The site is immediately adjacent residential properties and has generated complaints of noise relating to the comings and goings of patrons, patrons gathering outside and noise from cars. Extending the opening hours to allow opening on Sundays would result in an adverse impact on the occupiers of adjacent residential properties by way of increased incidents of noise and disturbance. There is also the potential for odour and litter from the premises. The proposal is therefore contrary to policy S9 of the North Lincolnshire Local Plan.

TOWN COUNCIL

Support the application – no reason given.

PUBLICITY

Neighbouring properties have been notified by letter, and site and press notices posted. Two letters have been received objecting on the grounds that there are existing issues with noise and disturbance from the restaurant and that Sunday is the only evening in the week with any sort of peace and quiet.

ASSESSMENT

The application site is The Khyber Restaurant located on Church Street, Epworth. The property is located within the development boundary for Epworth and is in the defined town centre; the property is also located within the conservation area. Whilst the surrounding area is largely commercial in nature there are residential properties in evidence, including the properties immediately adjacent to the site. The restaurant is currently prevented from opening on Sundays by a planning condition. This application seeks planning permission to vary condition 3 of planning permission 1999/0220 to allow the restaurant to open between the hours of 4pm and 9.30pm on Sundays.

There have been several previous planning applications to allow Sunday opening (PA/2001/0763, PA/2004/0147 and PA/2006/0728), all of which have been refused due to concerns over the impact on the amenity of neighbouring properties. In 2006 (PA/2006/1409) planning permission was granted to allow Sunday opening on Christmas Eve and New Year's Eve 2006 only.

The main issue to consider in the determination of this application is whether the proposed variation of condition will result in an unacceptable impact on the amenity of neighbouring residential properties.

Condition 3 of 1999/0220 prevents the business opening to customers before 9am or after 11pm from Monday to Thursday, before 9am or after 11.30pm on a Friday and Saturday, and not at all on Sundays. This condition was imposed in order to protect the amenity of neighbouring residential properties and similar conditions have been imposed on other planning permissions in the vicinity of the site.

The application site lies towards the edge of the small retail centre for Epworth, close to other ground-floor commercial uses. There are other hot food uses in the centre, some of which are relatively close to the site. There are also residential uses in the area, including dwellings and flats above commercial properties. Whilst this is a commercial area, the level of activity in this area on Sundays is likely to be appreciably less than during the rest of the week and there is likely generally to be little commercial activity taking place in the vicinity of the application site on Sunday evenings at present. The occupiers of nearby dwellings

are entitled to expect a lessening in general activity and a decrease in ambient noise levels at this point in the week. The proposed Sunday opening times would significantly add to the limited activity in this area on Sundays with a consequent increase in noise and disturbance to the detriment of the living conditions of nearby residents.

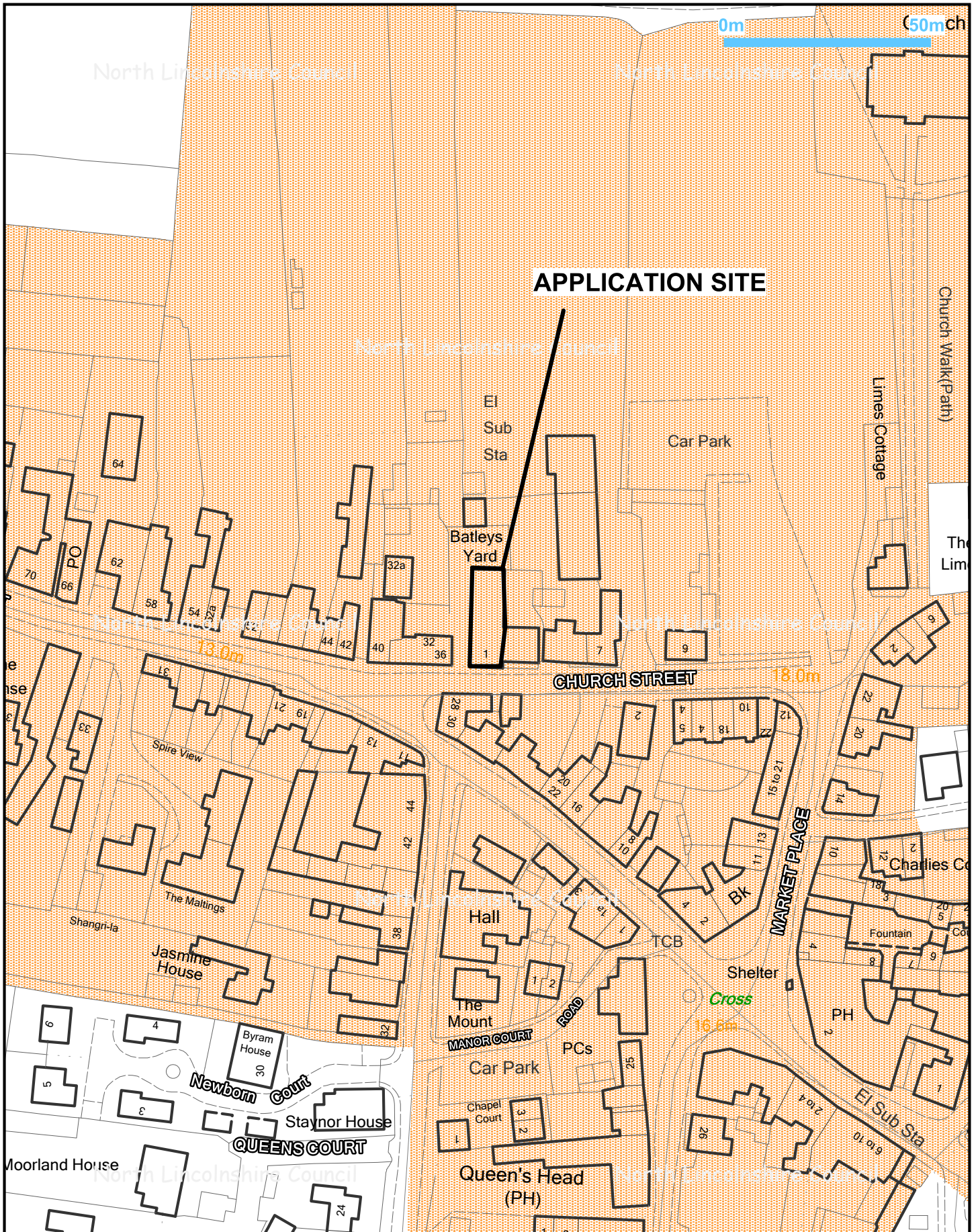
The council's Environmental Health department has been consulted and has confirmed that they have a record of noise complaints with regard to the application site. This corroborates the objections from neighbouring properties that there are existing issues of noise and disturbance resulting from the premises. Whilst a certain level of disturbance is to be expected in a commercial area such as this throughout the week, and particularly on a Friday and Saturday evening, local residents are entitled to expect a lessening of activity at this time on a Sunday. The advice from the Environmental Health department is that allowing this property to open on Sunday evenings would have an adverse impact on the occupiers of adjacent residential properties by virtue of increased noise and disturbance. For this reason the application is recommended for refusal.

RECOMMENDATION Refuse permission for the following reasons:

The proposal fails to comply with policy S9 (Restaurants and Hot Food Takeaways) of the North Lincolnshire Local Plan because allowing the business to open on Sundays would have an unacceptable impact on the amenity of neighbouring residential properties by virtue of increased noise and disturbance.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraphs 186 and 187 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



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