
Site Address:	63A London Road, Cowplain, Waterloooville, PO8 8UJ		
Proposal:	Application for Lawful Development Certificate relating to the use of the building as a takeaway food outlet (Use Class A5).		
Application No:	APP/14/00125	Expiry Date:	02/04/2014
Applicant:	Mr F Yeong	Team:	Team 2
Agent:		Case Officer:	Stephen Cantwell
Ward:	Cowplain		

Recommendation: **GRANT A CERTIFICATE OF LAWFUL USE**

1 Site Description

The application site is located on the west side of London Road, Cowplain, within a terrace of two storey, flat roofed, properties in the defined shopping area - the site falls within a primary frontage area. It comprises a ground floor Chinese takeaway, named 'Good View' with first floor accommodation above, possibly residential. It is located between a pharmacy and estate agents.

2 Planning History

93/58242/ADV -Non-illuminated board sign in ground floor shop window pp 26/5/93
NB/ Applicants were Mr & Mrs Yeong

06/58242/CU - Conversion of first floor offices to 2 Nos 2 bed flats - *Withdrawn But applicants again Mr & Mrs Yeong*

3 Proposal

- 3.1 This is an application for a Certificate of Lawful Use relating to the Existing use of the ground floor of 63A London Road, Cowplain as a hot food takeaway (Class A5). The application claims the property has been used for this purpose continuously for a period in excess of 10 years and has submitted supporting information.

4 Policy Considerations

Policy considerations are not relevant when determining Certificate of Lawful Use applications - they are a matter of fact based on evidence.

5 Statutory and Non Statutory Consultations

Environmental Health Manager, Community Group - No objection to this application. the premises has been a Chinese takeaway for at least 30 years if not considerably longer. There is a Food Premises Registration form attached to our record received by the Council dated 17 February 1992 (when we went paperless).

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 5

Number of site notices: At least one site notice exists - check the number.

Statutory advertisement: Not applicable.

Number of representations received: 0

7 Planning Considerations

7.1 The onus of proof is on the applicant when submitting an application for a Certificate of Lawfulness. As such the main consideration in deciding whether to issue a Certificate in this case is:

(i) Evidence Submitted

7.2 As a Certificate of Lawful Use, this application has to be determined on the evidence submitted and it must be shown that on the balance of probabilities the site has been used as a hot food takeaway for a continuous 10 year period, i.e. since March 2004.

7.3 The applicants, Mr & Mrs Yeong, state that they purchased the property in 1989 and have run their Chinese takeaway business from the property since 1972. The evidence submitted includes:

1/ A business bank account statement dated May 1997 in the name of 'Trading as Goodview Chinese Takeaway'

2/ A VAT Registration Certificate from HM Customs and Excise dated 04 September 2000 registering 'Goodview takeaway' as a Trade classification 55303 business - take-away food shop

3/ A copy of an old takeaway menu dated July 1992

7.4 HBC's own records - in the form of the planning history above, and the Environmental Health's food premises registration - support the fact that the ground floor of 63a London Road has indeed been used as a hot food takeaway for at least 20 years. Together with the evidence submitted with this application, it is accepted that on the balance of probabilities the site has been used as a hot food takeaway for a continuous period in excess of 10 years.

7.5 The Town and Country Planning Uses Classes Order, 1987, as amended, identifies Hot Food takeaways as Class A5. It is therefore appropriate to issue a Certificate of Lawful Use for an Existing A5 use.

8 Conclusion

8.1 On the balance of probability the evidence is clear that the application site has been used as an A5 hot food takeaway for a continuous 10 year period since 2004 and therefore the Certificate should be issued.

9 RECOMMENDATION:

That the Executive Head of Planning and Built Environment be authorised to **GRANT A CERTIFICATE OF LAWFUL USE** for application APP/14/00125

For inclusion in decision notice

Havant Borough Council, as Local Planning Authority, certifies that on 05 February 2014 the use described in the First Schedule to this Certificate in respect of land described in the Second Schedule was lawful within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended) for the following reason:

Use of the ground floor of 63A London Road, Cowplain as a hot food takeaway outlet (Class A5) began more than 10 years before the date of the application.

FIRST SCHEDULE:

This certificate relates to the following use:

Use of 63A London Road, Cowplain as a hot food takeaway outlet (Class A5), as described in the written particulars, plans and other documents submitted with your application - those documents being application form dated 04/02/14 and received 05/02/14; NatWest business bank account statement dated 13 May 1997; Certificate of Registration for Value added tax from HM Customs and Excise dated 04 September 2000; copy of old menu dated July 1992; and 1:1250 site location plan OS map.

SECOND SCHEDULE:

This certificate relates to the ground floor of land at 63A London Road, Cowplain as outlined by a red line on the 1:1250 site location plan.