



Applicant:
Hou Tang

Ref. No. DMPN/2019/0895
Made valid on: 1 August 2019

DECISION NOTICE

Description and location of development: Certificate of Lawfulness for the existing use as a Chinese takeaway (Use Class A5) to ground floor with associated first floor office, storage, staff changing and w/c facilities at 62-64 High Street, Melbourne, Derby, DE73 8GJ

Decision made: In exercise of its powers as the Local Planning Authority under the Town and Country Planning Act 1990 and related subordinate legislation, South Derbyshire District Council hereby certifies that on 1 August 2019 the use/operations/matter described in the First Schedule to this Certificate in respect of the land specified and edged red on the plan attached in the Second Schedule to this Certificate **was/were lawful** within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

- . The evidence supplied by the applicant has demonstrated that, on the balance of probability, that 62-64 High Street has been converted and occupied as a hot food takeaway (Use Class A5) for a continuous period in excess of 10 years.

Chris Nash

Authorised Officer of the Council

Date: 1 October 2019

FIRST SCHEDULE

Certificate of Lawfulness for the existing use as a Chinese takeaway (Use Class A5) to ground floor with associated first floor office, storage, staff changing and w/c facilities

SECOND SCHEDULE

62-64 High Street, Melbourne, Derby, DE73 8GJ



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You are advised of the following matters:

Scope of this decision: This certificate is issued solely for the purpose of section 191 of the Town and Country Planning Act 1990 (as amended). It certifies that the use/operations/matter/works specified in the First Schedule taking place on the land described in the Second Schedule was/were lawful on the specified date and, thus, was not/were not liable to enforcement action under section 172 of the 1990 Act on that date.

This certificate applies only to the extent of the use/operations/matter described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use/operations/matter which is/are materially different from that/those described or which relate to other land may render the owner or occupier liable to enforcement action.

The effect of the certificate is also qualified by the provision in section 192(4) of the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

Right of appeal to the Secretary of State: if you are aggrieved by the decision of your local planning authority to refuse permission or consent for your proposal or to grant it subject to conditions, then you can appeal to the Secretary of State under Section 195 of the Town and Country Planning Act 1990, subject to the following:

- if this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, any appeal must be made within 28 days of the date of this notice;

- if an enforcement notice is subsequently served relating to the same or substantially the same land and development as in your planning application, any appeal must be made within 28 days of the date of service of the enforcement notice, or within 6 months (12 weeks in the case of a householder or minor commercial appeal, the latter as defined by Part 1 Article 2 of the Town and Country Planning (Development Management Procedure) Order 2015) of the date of this notice, whichever period expires earlier;
- if this is a decision on an application for consent to cut down, top, lop, uproot or otherwise destroy a tree or trees protected by a tree preservation order, or for a decision on a lawful development certificate for proposed works to a listed building, any appeal must be made within 28 days of the date of this notice;
- if this is a decision on an application for advertisement consent, any appeal must be made within 8 weeks of the date of this notice;
- if this is a decision on an application for householder or minor commercial development (the latter as defined by Part 1 Article 2 of the Town and Country Planning (Development Management Procedure) Order 2015), any appeal must be made within 12 weeks of the date of this notice;
- in all other cases, except for a decision on a lawful development certificate for an existing or proposed use or development, any appeal must be made within 6 months of the date of this notice.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

Appeals must be made using a form which you can get online at www.gov.uk/planning-inspectorate or from the Planning Inspectorate at Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. The Secretary of State need not consider an appeal if it seems to them that the Local Planning Authority could not have granted planning permission or consent for the proposal or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order. In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based their decision on a direction given by the Secretary of State. If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. Further details can be found online at www.gov.uk/planning-inspectorate.

Street naming and numbering: the applicant and/or developer is reminded of the Council's responsibility to issue official addresses for all residential and business premises within South Derbyshire. All new addresses are allocated in line with our street naming and numbering guidance available at www.southderbyshire.gov.uk and you are advised to engage with the Council as soon as possible to enable the issuing of any street and property names/numbers to be created by this development. Any number and/or property name that is associated with identifying individual properties must be displayed in a clear, prominent position that can be read from the roadside. It is the developer's responsibility to erect the appropriate signage once the building(s) is/are ready for occupation. There are two types of the name plate the Council uses: Type A carries the Council's crest, whilst Type B does not. You are advised that the Types are usually expected in the following locations:

- Type A: on classified (A, B and C) roads, at junctions with classified roads, and at the commencement of local distributor roads (roads acting as through routes within developments);
- Type B: intermediate name plates along local distributor roads, on collector roads (roads which run within a development providing access and linking small access roads and access ways), on access roads (roads serving a small number of houses which may also have a surface shared by pedestrians and vehicles), and access ways which have a different name from their access road; all unless at a junction with a classified road (where Type A will be expected instead).

Enquiries: Any correspondence or enquiries concerning this decision should be sent to planning@southderbyshire.gov.uk quoting the above reference number.