

DELEGATED DECISION REPORT

HPK/2020/0552
Valid 04/02/2021

85 SPRING GARDENS
BUXTON

**CHANGE OF USE OF THE
REAR OF A FAST FOOD
RESTAURANT TO A 1 BED
DWELLING**

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Flood Risk
- Design & Conservation
- Amenity
- Parking Provision and Highway Safety

DESCRIPTION OF SITE

The application relates to the first floor of an annexed building (separate planning unit) that is connected to and stands to the rear of No.85 Spring Gardens, Buxton, within the Town Centre and within the Conservation Area as defined on the Local Plan Proposals Map (2016).

The front portion of the building (not part of the application) that fronts Spring Gardens was - at the time at which the application was submitted - formerly a fast food fried chicken restaurant and is now in use as a Coffee Shop. The Existing Floor Plans shows that the building subject of the application spans two storeys and is currently in use as storage. The rear elevation fronts the large public car park with the side elevation fronting a narrow pedestrian passage that connects Spring Gardens with the car park.

The side elevation is shown to contain a single first floor window with three separate entrance doors at ground floor level.

PROPOSAL

The application seeks the change of use of a part of the ground floor (serving a hallway and entrance) and the first floor of the building to a one bedroom dwellinghouse. The Floor Plans show the dwelling to be made up of a ground floor entrance covering an area of 10sqm, including a flight of stairs which leads to the first floor which contains a single bedroom that has a floor area of 9.0m²; an open plan living kitchen area, and a shower room, all of which is accessed via a flight of stairs served by one of the entrance doors that exists on the side elevation.

The Elevation Plans shows that the existing first floor window will be replaced with a smaller window that fronts the car park.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

Section 38(6) of the Planning and Compulsory Act 2004 requires proposals to be determined in accordance with the Development Plan taking into consideration any material considerations relevant to the determination of the application.

The Local Development Plan for this site comprises the High Peak Local Plan (2016). Adopted Supplementary Planning Guidance documents and the National Planning Policy Framework (NPPF) are also material considerations in determining applications.

High Peak Local Plan 2016

S1	Sustainable Development Principles
S1a	Presumption in Favour of Sustainable Development
S2	Settlement Hierarchy
S3	Strategic Housing Development
S7	Buxton Sub-area Strategy
EQ6	Design and Place Making
EQ10	Pollution Control and Unstable Land
EQ11	Flood Risk Management
H1	Location of Housing Development
H3	New Housing Development
CF6	Accessibility and Transport

National Planning Policy Framework 2019

Achieving Sustainable Development	Chapter 2
Delivering a Sufficient Supply of Homes	Chapter 5
Promoting Sustainable Transport	Chapter 9
Making Effective Use of Land	Chapter 11
Achieving Well Designed Places	Chapter 12
Meeting the Challenge of Climate Change and Flooding	Chapter 14
Conserving and Enhancing the Natural Environment	Chapter 15

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/0002/0914	New Shop Front, Internal Alterations And Rear Canopy Over Yard (Approved 16/04/1984)
HPK/0002/4907	Change of Use from Butchers Shop to a Restaurant (Approved 12/12/1986)
HPK/0002/06512	Conversion of Living Accommodation to Two Self Contained Flats (Approved 16/05/1988)
HPK/0003/4330	New extract ducting to rear of property (Approved 05/07/1995)
HPK/2001/0050	Signs (Approved 13/06/2001)

HPK/2001/0147	Proposed extract system new flat roof parapet wall and alterations (Approved 03/07/2001)
HPK/2002/0081	Change of Use from flat to restaurant, expansion of existing KFC business (Approved 14/03/2002)
HPK/2020/0548	Advertisement Consent for 2No. Fascia sign and 1No. Projecting sign (Approved 16/04/2021)

CONSULTATIONS

Publicity

Site Notice expiry date: 11th February 2021
 Neighbour consultation period ends: 2nd March 2021
 Press Advert: 11th March 2021

Public Comments

None

Town / Parish Comments

N/A

AES Waste

No objections

Lead Local Flood Authority

No comments to make

Environmental Health

No objections subject to conditions

Derbyshire County Council Highways

No objections

OFFICER COMMENTS

Principle of Development

The application seeks consent for the change of use of an existing building at first floor level from storage associated with an existing Coffee Shop, a former fast food fried chicken restaurant to a one bedroom dwelling.

The site lies within the Buxton Hardwick Conservation Area and within Flood Zones 2 and 3. As such, the application must demonstrate compliance with Policy EQ7 (Built and Historic Environment) and EQ11 (Flood Risk) together with relevant restrictive policies contained under Chapter 14 (Climate Change and Flood Risk) and Chapter 16 (Conservation and Enhancement of the Historic Environment), underpinned by Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

The general principle of new residential accommodation at the site is supported by strategic Local Plan (LP) policies S1, S2, S3 and S7 which together seek to direct the majority of new housing to the larger Market Towns at the top of the settlement hierarchy, which includes Buxton.

LP Policy H1 supports housing development on unallocated sites within the built-up area boundary of the towns and larger villages, and promotes the effective reuse of land by encouraging housing development including the redevelopment and change of use of existing buildings on all sites suitable for such purposes.

Having regard to the above policy context, the principle of development is supported in the event that the application can demonstrate compliance with all relevant policies relating to Flood Risk and Heritage Conservation, notwithstanding all other material considerations.

Flood Risk

LP Policy EQ11 refers to Flood Risk Management and requires all applications to demonstrate that the proposed development will not give rise to any unacceptable increase in flood risk either onsite or elsewhere in the Borough. Chapter 14 of the NPPF contains the relevant policies relating to flood risk and climate change.

The site lies within Flood Zones 2 and 3. The application has been accompanied by a Flood Risk Assessment which has subsequently been reviewed by the Lead Local Flooding Authority (LLFA). The LLFA have no comments to make regarding the application. They do however recommend that consultation be carried out with the Environment Agency. However, and in this case, the vast majority of the living accommodation will be provided at first floor, with only storage and access to the flat provided at ground level. If flooding does occur it will not affect the living conditions of future occupants. Therefore, taking into account the details provided in the FRA, which include recommendations to incorporate flood resilience measures and a subscription to the EA warning system and standing advice from the EA, is considered that potential flood risk is not a significant threat to the use of the building for habitable purposes. Accordingly the development complies with LP Policy EQ11 and Chapter 14 of the NPPF.

Design and Conservation

Section 72(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character and appearance of that area

LP Policy S1 sets out a number of sustainability principles which all new development proposals should incorporate in order to make a positive contribution towards the sustainability of communities and to protect, and where possible enhance the environment.

LP Policy EQ6 states that all development should be well designed to respect and contribute positively to the character, identity and context of High Peak's townscapes, in terms of scale, height, density, and layout.

LP Policy EQ7 has regard to the Built and Historic Environment. It states that the Council will conserve heritage assets in a manner appropriate to their significance. This will take into account the desirability of sustaining and enhancing their significance and will ensure that development proposals contribute positively to the character of the built and historic environment in accordance with sub area strategies S5, S6 and S7.

Paragraph 127 of the NPPF states amongst other things that decisions should ensure that developments will add to the overall quality of the area; are visually attractive as a result of good architecture; and are sympathetic to the surrounding built environment.

Paragraphs 193-196 of the NPPF set out how a Local Planning Authority should assess the significance of a heritage asset and how to assess the potential impact of a development proposal on that asset. Where a proposal will lead to substantial harm or total loss of a designated heritage asset, local planning authorities should refuse consent unless there are substantial public benefits that outweigh that harm. Where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits.

The proposals seek to use the first floor of an existing building connected with the retail unit fronting Spring Gardens to a one bedroom flat, with no new physical development involved aside from the introduction of replacement fenestration on the rear elevation. No comments have been received from the Conservation Officer at the time of writing this report. It is nevertheless considered that the introduction of a smaller modest first floor window to the rear elevation will be read within the context of neighbouring rear elevations of retail units and the large car park, and will not result in any adverse impacts to the overall setting of the Conservation Area.

The application is thus considered to preserve the character and appearance of the building the street scene, and wider conservation area, in accordance with LP Policies S1, S7, EQ6 and EQ7, restrictive policies relating to heritage conservation under Chapter 16 of the NPPF, and Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Amenity

LP Policy H3 refers to new housing development and requires all new development to comply with minimum standards set out under the Nationally Described Space

Standards (NDSS) published by DCLG (2015) in order to provide a high quality of amenity for future occupiers.

LP Policy EQ6 requires all new development to have a satisfactory relationship with existing land and buildings to protect the amenity of the area. Aspects of residential amenity include impacts such as a loss of sunlight, overshadowing and overbearing impacts, loss of outlook, and loss of privacy.

LP Policy EQ10 seeks to ensure that people and the environment are protected from adverse impacts relating to issues including air pollution, noise, light pollution or any other nuisance or harm to amenity, by securing appropriate mitigation by way of planning conditions and obligations.

The High Peak Residential Design Guide SPD requires extensions and alterations to preserve the residential amenity of neighbouring properties, having regard amongst other things to the relationship between existing and proposed development, the positioning of windows, and changes in land levels.

Paragraph 127 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Paragraph 180 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, and in doing so should (amongst other things) mitigate and reduce to a minimum potential adverse impacts resulting from noise – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

NDSS Standards state that for a one bedroom, one person one storey dwelling, a minimum of 37sqm² should be provided where a shower room is provided instead of a bathroom which includes 1sqm² of storage.

The proposed flat shows the main living area at first floor level to span an area of 33sqm² with a further 10sqm² provided at ground floor level anticipated to be storage space. Whilst technically spanning two storeys, it is considered that the proposed internal layout is compliant with NDSS standards and thus LP Policy H3 given that the ground floor does serve the entrance hallway and stairs which do form part of the overall flat, subject to an occupancy condition that restricts the use of the dwelling for a single person at all times.

The building subject of the proposed residential use does not adjoin any other residential property. The rear elevation fronts the large Spring Gardens car park and currently contains a first floor window. The initial Proposed Elevation Plans showed the introduction of a ground floor window however it was found that this was in error. The correct Elevation Plans show that the existing first floor window is serving the bedroom and a new window will be installed at first floor on the rear elevation serving the kitchen/lounge area on the side elevation.

The first floor bedroom window would overlook the large public car park and would not be materially different to a bedroom window overlooking a typical residential

street. The same applies to the first floor window serving the kitchen. It is therefore concluded that the amenity of any future occupier or neighbouring property will not be adversely affected with regard to overlooking or loss of privacy, loss of sunlight or overbearing impacts, in accordance with LP Policy EQ6 and paragraph 127 of the NPPF.

Lastly with regards to impacts relating to noise and disturbance and the relationship to the ground floor use (coffee shop), discussions have been ongoing between the applicant, Officers and Environmental Health Officer with regards to a suitable noise insulation scheme. This has culminated in a Ceiling Plan (Ref: 105.34/03.1 Rev 01) being submitted and reviewed by the Environmental Health Officer.

Revised comments have been received that demonstrate that subject to a compliance condition, the proposed scheme satisfies the necessary noise attenuation requirements and makes the proposed use compatible with surrounding uses in accordance with LP Policies EQ10 and paragraph 180 of the NPPF.

Having regard to the above it is considered that the proposed development will not result in any adverse harm to the amenity of neighbouring properties or the general public, subject to appropriate conditions as recommended by the Environmental Health Officer.

Highway Safety

LP Policy CF6 seeks to ensure that development can be safely accessed in a sustainable manner and that all new development is located where it can be satisfactorily accommodated within the existing highway network. Off street parking should be provided in accordance with Appendix 1 of the Local Plan.

Paragraph 108 of the NPPF states that in assessing applications for development, a safe and suitable access should be achieved for all users. Paragraph 109 goes on to state that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The site lies within a highly sustainable location in the centre of Buxton with excellent pedestrian connections to public transport links, everyday shops, services and facilities and an adjacent public car park. As such, it is considered in this case that there is no requirement for the applicant to provide any off-street parking provision, particularly given the lack of objection from the highway authority.

As such, it is considered that whilst there is a degree of conflict with LP Policy CF6 and parking guidelines, the degree of conflict would not be such that it warrants a reason to refuse permission, having regards to the scale of the proposals and the characteristics of the site.

CONCLUSION / PLANNING BALANCE

LP Policy S1a reflects the presumption in favour of sustainable development set out within the National Planning Policy Framework (NPPF). It states that planning

applications that accord with relevant policies in the Local Plan will be approved without delay.

Paragraph 11 of the NPPF sets out the presumption in favour of sustainable development. For decision taking, this means approving development proposals that accord with an up-to-date development plan without delay; or, where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission, unless:

- the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

The application seeks consent for the change of use of an existing building that stands to the rear of and in connection with an existing Coffee Shop that fronts Spring Gardens. The principle of reusing an existing building that lies within the town centre of Buxton within easy access of services and facilities is actively supported having regard to local and national planning policy.

The external changes to the building are negligible and will not result in any material change to the character and appearance of the building, wider street scene or conservation area, thereby demonstrating compliance with LP Policy EQ7, restrictive policies relating to heritage conservation under Chapter 16 of the NPPF and Section 72 of the Act 1990.

Appropriate conditions relating to occupancy and noise attenuation will ensure that the proposed use is compatible with surrounding land uses and neighbouring properties. The lack of parking provision is not considered to warrant a reason for refusal in this instance given the highly sustainable location of the site.

In conclusion, the application in its revised form is considered to constitute a sustainable form of development and in line with LP Policy S1a and paragraph 11 of the NPPF is recommended for approval subject to appropriate conditions.

OFFICER RECOMMENDATION : Approve with Conditions

Case Officer: James Stannard

Recommendation Date: 13^h July 2021

X *J. Colley*

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council