

DELEGATED DECISION REPORT

HPK/2022/0382
Valid 24/06/2022

15, EAGLE PARADE,
BUXTON, DERBYSHIRE,
SK17 6EQ

CHANGE OF USE FROM
NIGHTCLUB (SUI GENERIS)
TO DENTAL PRACTICE
(CLASS E).

(FULL - MINOR)

MAIN ISSUES

- Principle of Development
- Significance of Heritage Asset
- Visual Amenity Impact
- Residential Amenity Impact
- Highway Safety

DESCRIPTION OF SITE

The application site relates to a property known as 15 Eagle Parade, Buxton SK17 6EQ which is a commercial property on the High Street of Buxton. The property is a two-storey semi-detached building with a deep length and narrow frontage. The north adjoining building is currently a supermarket with the south adjacent property hosting community support centre and other commercial uses. The existing land use comprises of a nightclub (sui generis) and this is reflected within the existing floorplans provided. The property is situated within the Buxton Conservation Area and is thus considered a heritage asset.

PROPOSAL

The application proposes the change of use from nightclub (sui generis) to dental practice (Class E) along with physical alterations to the building. The development would involve internal changes to the floorplan to facilitate treatment, waiting and storage rooms to enable the functioning of a dental practice. Externally, the fenestration will be replaced with new aluminium powder coated profiles along with five new window openings on the south elevation ground floor and seven similar windows on the first floor of the south elevation. The south roof plane will hold solar panelling.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

Policy S 1 Sustainable Development Principles
Policy S 1a Presumption in Favour of Sustainable Development
Policy S 2 Settlement Hierarchy
Policy S 6 Central Sub-area Strategy
Policy S 7 Buxton Sub-area Strategy
Policy EQ 1 Climate Change
Policy EQ 6 Design and Place Making

Policy EQ 7 Built and Historic Environment
Policy EQ 10 Pollution Control and Unstable Land
Policy CF 1 Retail and Town Centres
Policy CF 2 Primary Shopping Frontages
Policy CF 5 Provision and Retention of Local Community Services and Facilities
Policy CF 6 Accessibility and Transport

Buxton Neighbourhood Plan and Forum

National Planning Policy Framework

Section 2 Achieving sustainable development
Section 4 Decision-making
Section 7 Ensuring the vitality of town centres
Section 12 Achieving well-designed places
Section 16 -Conserving and enhancing the historic environment

Supplementary Planning Documents and Guidance

High Peak Borough Council Design Guide SPD (2018)

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2021/0386 15, Eagle Parade, Buxton, Derbyshire, SK17 6EQ change of use from nightclub (sui generis) to dental practice (Use Class: E(e) - Commercial, Business and Service) with elevational alterations Application Withdrawn 12/08/2021

HPK/2008/0165 The Spa Bar, 15 Eagle Parade, Buxton, Derbyshire, SK17 6EQ Retrospective application : outdoor seating area Planning Permission – Refused 01/05/2008

HPK/2006/0338 Ice Bar, 15, Eagle Parade, Buxton, Derbyshire, SK17 6EQ Projecting sign - change name from Ice Bar to Fever 21/06/2006

HPK/2006/0337 Ice Bar, 15, Eagle Parade, Buxton, Derbyshire, SK17 6EQ Extension under existing front canopy to make a new cloakroom and move the entrance Planning Permission – Approved 21/06/2006

HPK/0003/9430 The Gaslight, 15, Eagle Parade, Buxton, DEMOLITION OF EXISTING PORCH Planning Permission – Approved 19/12/2000

HPK/0003/9429 The Gaslight, 15, Eagle Parade, Buxton, REPLACEMENT OF EXISTING PORCH Planning Permission – Approved 19/12/2000

CONSULTATIONS

Publicity

Site Notice expiry date: 20/10/2022
Neighbour consultation period ends: 03/10/2022
Press Advert: 13/10/22

Public Comments

None

Town / Parish Comments

None

Derbyshire County Council Highways

"No highway safety comments to make to the principle of the application; however, it is noted that there is a proposal to create a parking area to the front of the site, which appears to have been used as an outside seating area previously. Whilst the fronting footway and kerbs are dropped it is unclear if the footway is constructed to the necessary standard to accommodate vehicular traffic. For the avoidance of doubt, the applicant should apply to Derbyshire County Council's Highways Hub for a S184 licence. Please attach the following advisory note to any consent granted: Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190."

Environmental Health

"I can confirm that High Peak Borough Council, Environmental Health have no observations to make concerning this application."

Asset Protection Waste Water East

"With reference to the above planning application the Company's observations regarding sewerage are as follows.

Planning Practice Guidance and section H of the Building Regulations 2010 detail surface water disposal hierarchy. The disposal of surface water by means of soakaways should be considered as the primary method. If this is not practical and there is no watercourse is available as an alternative other sustainable methods should also be explored. If these are found unsuitable, satisfactory evidence will need to be submitted, before a discharge to the public sewerage system is considered.

Please note for the use or reuse of sewer connections either direct or indirect to the public sewerage system the applicant will be required to make a formal application to the Company under Section 106 of the Water Industry Act 1991. They may obtain copies of our current guidance notes and application form from either our website (www.stwater.co.uk) or by contacting our Developer Services Team (Tel: 0800 707 6600).

Suggested Informative Severn Trent Water advise that although our statutory sewer records do not show any public sewers within the area you have specified, there may be sewers that have been recently adopted under, The Transfer Of Sewer Regulations 2011. Public sewers have statutory protection and may not be built close to, directly over or be diverted without consent and you are advised to contact

Severn Trent Water to discuss your proposals. Severn Trent will seek to assist you obtaining a solution which protects both the public sewer and the building.”

Conservation Officer

I'm hesitant to allow PV panels in C areas in general, because I think it'll be opening the flood gates as it were. There are no others in this vicinity. I find them quite unsightly and 'visual litter' in historic settings. The closest ones are in Lismore Grove, a residential cul-de-sac. If they are absolutely necessary and can be hidden, then this will mitigate any potential impact. I'm sure the annotation that they will 'power the practice' on drwg 2022-2715-02 is quite optimistic, it seems more likely that they wish to be less reliant on the grid. I could add this as a condition re: obscuring them as much as poss.

In agreement with parking/markings. A single or double? priority access bay on the front would be pertinent for less abled car users. Remainder to park elsewhere.

OFFICER COMMENTS

Principle of Development

The application seeks consent for the change of use of the whole of the premises (ground floor and first floor) from sui generis (nightclub) to a Class E (dental practice).

Policy S 2 'Settlement Hierarchy' states that 'Development will be directed towards the most sustainable locations in accordance with the following settlement hierarchy' the section Market Towns includes Buxton stating that it along with the other sited are 'defined as 'Market Towns' and will be the main focus for housing, employment and service growth, consistent with maintaining and where possible enhancing their role, distinctive character vitality and appearance'.

It continues under the title 'Town and Local Centres':

"The Council will seek to maintain and enhance the vitality and viability of town centres and local centres as defined on the Maps in accordance with their function, role and scale based on the following hierarchy:

- *Main Town Centres: Buxton and Glossop.*
- *Small Town Centres: Chapel-en-le-Frith, New Mills and Whaley Bridge*
- *Larger Villages and Harpur Hill Local Centre*
- *Other Settlements*

New retail, leisure or office development should be focused within the town centres or local centres in accordance with Policies CF1 and CF2.”

Policy CF 1 'Retail and Town Centres' states that 'The Council will seek to maintain and enhance the vitality and viability of town centres and local centres as defined on the Policies Map in accordance with their function and scale as identified in Policy S2 (Settlement Hierarchy) and identified development needs. Concerning Buxton the Policy states *"proposals within the Primary Shopping Area will be supported subject to their accordance with other relevant Local Plan policies."*

Policy CF 2 Primary 'Shopping Frontages' seeks to maintain a balance of active retail uses within the main town centres of Glossop and Buxton. The Policy states "In the primary shopping frontage area, proposals for changes of use to A1 retail will be supported. Changes of use proposals from A1 retail to other town centre uses will only be permitted where it will not create a concentration of non-shopping uses and result in an unacceptable change in the retail character of the immediate area or have an adverse effect on the vitality or viability of the town centre." The existing land use is sui generis and considered as part of the evening economy, not retail. The proposed scheme as a dental practice will be a daytime service. Whilst this is not strictly a retail use, there would be no retail net loss to the town centre as a result of this proposed change.

Policy CF 5 'Provision and Retention of Local Community Services and Facilities' states that 'The Council will seek to maintain and improve the provision of local community services and facilities. This will be achieved by: ...Resisting proposals involving the loss of community assets and facilities (including ...village shops and post offices...) unless it can be demonstrated that the existing use is no longer financially or commercially viable and there are no other means of maintaining the facility, or an alternative facility of the same type is available or can be provided in an accessible location. If permission is granted for a change of use or redevelopment, preference will be given to premises remaining in some form of community or employment use so long as this does not result in traffic, amenity, environmental or conservation problems. In this case, the application site is located within the Main Town Centre as identified on the policies map and is greater than 200m². Furthermore, the proposal is not considered to fall within the definition of 'Community services and facilities' in reference to Policy CF 5.

The Local Plan policies concentrates on enhancing and protecting local town and village centres and seeking to retain specific uses; outside of these areas it seeks broadly to avoid the creation of new, larger town centre uses such as those greater than 200m², which is not applicable in this instance. In this case the existing use as sui generis (nightclub) would not be protected under policy CF5.

The principal is acceptable, subject to further material considerations below.

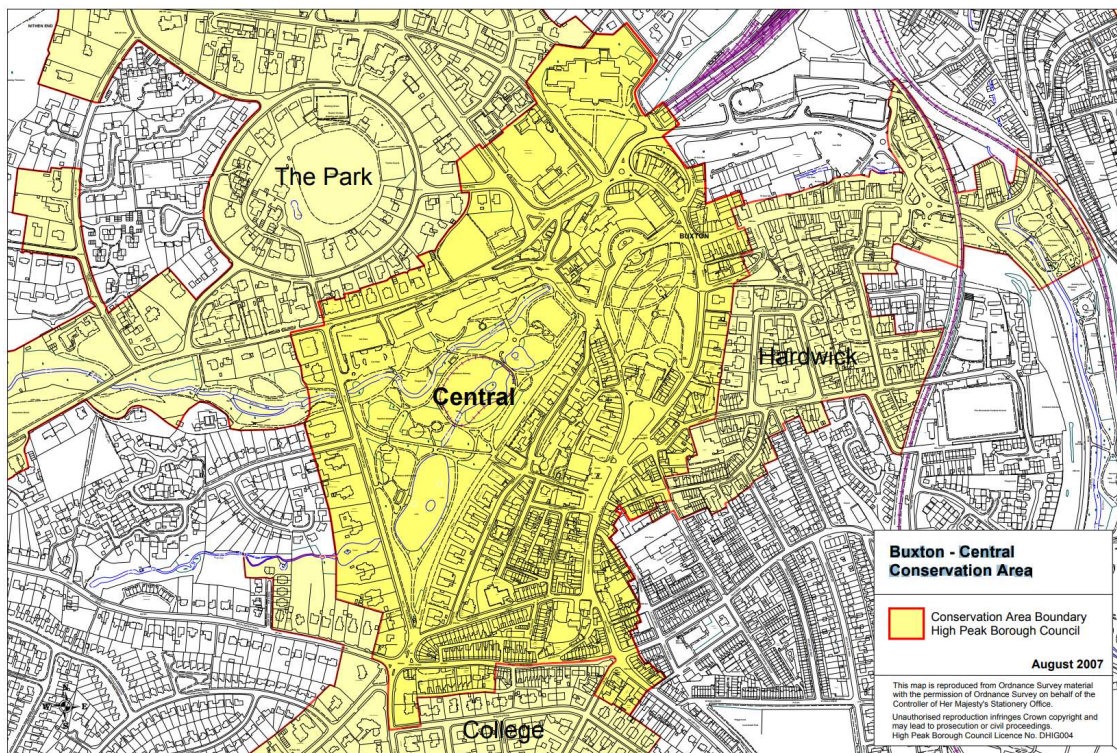
Significance of Heritage Asset

The NPPF states, in relation to heritage assets, that: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Any harm to, or loss of, the significance of a designated heritage asset (From its alteration or destruction, or from development within its setting), should require clear and convincing justification."

Chapter 16 of the National Planning Policy Framework at paragraph 190 sets out that the local planning authority should identify and assess the particular significance of any heritage asset. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Paragraphs 199-208 sets out the framework for decision making relating to heritage assets and this assessment take account of the relevant considerations in these paragraphs.”

The property is situated within the Buxton Central Conservation Area and benefits from the Buxton Conservation Areas Character Appraisal (2007). By virtue of being sited within a conservation area, the proposal site is a part of the wider heritage asset and thus Policy EQ 7 applies which states: “The Council will conserve heritage assets in a manner appropriate to their significance. This will consider 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.” The Conservation Area map can be seen below.



The proposal site forms part of a larger commercial property which is situated within the Buxton Central Conservation Area and is in a highly visible location. The existing property was utilised as a nightclub (sui generis) and has not benefitted from any recent repair or renovation works.

The application proposes the change of use to dental practice (Class E). The development would involve internal changes to the floorplan to facilitate treatment, waiting and storage rooms to enable the functioning of a dental practice. Externally, the fenestration will be replaced with new aluminium powder coated profiles along with five new window openings on the south elevation ground floor and seven similar windows on the first floor of the south elevation. The south roof plane will hold solar panelling.

Due to the elongated nature of the proposal site which slots itself between the south adjacent building and the adjoining northern supermarket, there are limited public views towards its south side elevation where the majority of these proposed alterations would occur. The alterations themselves are considered reflective of the existing design and scale of existing features on the property, notably the use of aluminium framing and similar windows to what are present at the front elevation. The Conservation Officer has raised concern regarding the introduction of solar panels to the south roof elevation, however, to carry out this type and quantum of development within conservation area can now be considered permitted development under the relevant legislation and thus the impact of this element to the application is negligible and not considered unacceptable in this instance.

The overall changes to the heritage asset are not substantive and are considered to have less than substantial harm to the significance of the heritage asset. It is the solar panel which has the most potential to harm the character of the conservation area. However, the public benefit of renovating this historic building in a way which is reflective of the established character and into a commercial unit, which will serve the wider public with a use which compliments the retail function of this part of the town centre, in accordance with the requirements of the Local Plan, outweigh the lesser harm.

In conclusion, it is considered that the proposed development would not result in the harm or loss to the significance of the heritage asset but would provide an enhancement in its conservation in line with the Conservation Area and would thus comply with Policy EQ 7 Built and Historic Environment from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in Section 16 of National Planning Policy Framework.

Design

Numerous alterations are proposed to the external and internal fabric of the building. Additional windows would be created on the south elevation along with the replacement of existing fenestration and blocking off of an external door together with the introduction of solar panels. These elements are considered acceptable in their design, scale and material as they respect the existing character of the building and the wider conservation area. Internally, alterations are proposed to change the layout from a nightclub with ground and first floor areas to a dental practise comprised of treatment, office and waiting rooms along with personal amenities. The layout is considered reasonable and necessary to allow for the proper function of the Class E use.

Overall, it is considered the siting, scale, design, and construction materials of the proposals are appropriate. Accordingly, the proposal thereby accords with Policies EQ6 and EQ7 from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework.

Amenity

It is not considered that the scheme would have any significant adverse residential Amenity impact in accordance with Policies EQ 6 and EQ 10 Pollution Control and Unstable Land from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework. The uses to the

south of the site are in commercial use and therefore any additional light pollution from the new windows would not harm any residential amenity.

Highway Safety

The proposed development is situated within the town centre of Buxton and is thus considered a sustainable and accessible location for employees and patients of the dental use. Two off road parking spaces are proposed to the front of the building for disabled persons, following the removal of an unsightly timber fence. No other off road parking would be provided, although there are a number public car parks within close vicinity of the site. Highways have not objected to the proposed development but requested that the applicant is notified of the following:

“It is noted that there is a proposal to create a parking area to the front of the site, which appears to have been used as an outside seating area previously. Whilst the fronting footway and kerbs are dropped it is unclear if the footway is constructed to the necessary standard to accommodate vehicular traffic. For the avoidance of doubt, the applicant should apply to Derbyshire County Council's Highways Hub for a S184 licence. Please attach the following advisory note to any consent granted:

Pursuant to Section 184 of the Highways Act 1980 and Section 86(4) of the New Roads and Streetworks Act 1991 prior notification shall be given to the Department of Economy, Transport & Environment at County Hall, Matlock regarding access works within the highway. Information, and relevant application forms, regarding the undertaking of access works within highway limits is available via the County Council's website http://www.derbyshire.gov.uk/transport_roads/roads_traffic/development_control/vehicular_access/default.asp, e-mail highways.hub@derbyshire.gov.uk or telephone Call Derbyshire on 01629 533190.”

In conclusion it is considered that the proposals do not raise any highway safety concerns or adverse impact on the local road network in compliance with Policy CF 6 Accessibility and Transport from the High Peak Local Plan (Adopted April 2016) and relevant National Policies found in National Planning Policy Framework.

Nutrient Neutrality

The site lies within the catchment of the River Wye which forms the Peak District Dales Special Area of Conservation (SAC). The Council has been notified that action must be taken to address exceedances of phosphorus in the River. As such, the Council cannot grant consent for development unless it can rule out “likely significant effects” on the SAC. A Habitats Regulations Assessment (HRA) will be required when the plan or project creates a source of water pollution or has an impact on water quality and when it is within the catchment of the SAC. Initially, a screening assessment will be required to consider if “likely significant effects” (alone or in-combination) on the SAC can be ruled out. If not, this will be followed by an “Appropriate Assessment” where the impact of the plan or project is considered in detail.

Screening Assessment

The proposal is not directly connected with or necessary for the conservation management of a European site. The proposal will not increase overnight stays or surface water run-off from the site. Therefore it will not risk having a significant negative effect on the SAC either on its own or in combination with other proposals and therefore it is not necessary to carry out an Appropriate Assessment.

CONCLUSION / PLANNING BALANCE

The application proposes the change of use from nightclub (sui generis) to dental practice (Class E) along with physical alterations to the building. For the reasons given above, it is considered that the development comprises sustainable development and meets the relevant policy tests of the adopted Local Plan and NPPF.

OFFICER RECOMMENDATION: APPROVE subject to conditions

Case Officer: James Banks

Recommendation Date: 13/01/2023

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council