

DELEGATED DECISION REPORT

HPK/2023/0113 VALID 12/04/2023	ONE STOP STORES, MELANDRA CASTLE ROAD, GAMESLEY, GLOSSOP, DERBYSHIRE, SK13 6UQ	VARIATION OF CONDITION 7 RELATING TO HPK/2022/0428, OPENING HOURS (FULL - MINOR)
-----------------------------------	---	---

MAIN ISSUES

- Principle of Development
- Design Considerations
- Impact upon Residential Amenity
- Highway Safety

DESCRIPTION OF SITE

The application site lies within the settlement boundary for Gamesley, which lies within the Glossopdale Sub Area as defined by the Local Plan policies map. The site relates to a vacant retail unit within a block of two retail premises. The surrounding area is predominantly residential in character. To the rear of the site is a car park, with recreational land opposite. Online mapping indicates an area TPO covering part of the site, although no trees are present on the site.

PROPOSAL

Planning permission is sought for to vary condition 7 attached to planning permission HPK/2022/0428. Condition 7 relates to opening hours and states:

The use hereby permitted shall only take place between the hours of:

*0700 - 2200 Mondays to Saturdays,
0900 – 2200 on Sundays, Bank and Public Holidays.*

The use shall operate in strict accordance with the approved hours and shall not be varied unless otherwise agreed, by planning application, to the Local Planning Authority.

Reason: To ensure that the amenity of residential properties is not adversely affected.

It is proposed that the opening hours be varied to:

*12.00 noon - 11.00pm Sunday - Thursday
12.00 noon - 1.00am Friday - Saturday.*

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan (Adopted 2016)

- S1 Sustainable Development Principles
- S1a Presumption in Favour of Sustainable Development
- S2 Settlement Hierarchy
- S4 Maintaining and Enhancing an Economic Base
- S5 Glossopdale Sub-area Strategy
- EQ1 Climate Change
- EQ6 Design and Place Making
- E4 Change of Use of Existing Business Land and Premises
- CF1 Retail and Town Centres
- CF6 Accessibility and Transport

Supplementary Planning Guidance/Documents

High Peak Design Guide (2018)

National Planning Policy Framework

Section 6: Building a strong and competitive economy
Section 8: Promoting healthy and safe communities
Section 9: Promoting sustainable transport
Section 12: Achieving Well-designed Places

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2015/0637 - Proposed elevational alterations to existing unoccupied Public House – Approved – 20/01/16

HPK/2015/0640 - Proposed Use Class A1 Extension to existing unoccupied Public House – Approved – 26/01/16

HPK/2016/0379 - Retrospective application for the installation of 3 air conditioning units at the rear of the store, an ATM set within the front elevation and new glazed shop front system protected with a roller shutter – Approved – 19/09/16

HPK/2022/0428 - Change of use from shop-A1 to takeaway Pizza Shop-Sui Generis – Approved – 10/02/23

CONSULTATIONS

Publicity

Site Notice expiry date: 06/06/23
Neighbour consultation period ends: 17/05/23
Press Advert: N/A

Public Comments

4 letters of objection received:

Completely unsuitable opening hours for local residents
Bedrooms face the car park
Noise from cars
Rubbish
Cumulative noise with OneStop deliveries early morning
Highway safety/danger issues

Petition containing 25 names opposing the development

One letter of support:

Site has massive car park and not near any houses

Town / Parish Comments

None received

Derbyshire County Council Highways

No highway safety comments to make

Environmental Health

Objection. Conditions 3, 4 and 5 of approval HPK/2022/0428 are all pre-commencement conditions intended to protect against loss of amenity due to noise, odour and fumes from the premises. I can't find any evidence that these conditions have been discharged. Without the assessment reports required by these conditions I do not have sufficient information to inform my comments regarding this application. It is recommended that the application is refused.

OFFICER COMMENTS

Principle of Development

The principle of development has been granted under the original planning permission for the change of use to a takeaway (sui generis), Ref: HPK/2022/0428. It is not necessary to revisit the principle of the use in this s.73 application. The proposal relates to the varying of opening hours, as such, the main issue in this instance would be the impact on the amenity of any nearby sensitive land uses.

Amenity

Policy EQ6 requires development achieve a satisfactory relationship to adjacent development and not cause unacceptable effects by reason of visual intrusion, overlooking, shadowing, overbearing effect, noise, light pollution or other adverse

impacts on local character and amenity. This reflects paragraph 130 f) of the NPPF which seeks to ensure that development proposals deliver a high standard of amenity for existing and future users.

The surrounding area is predominantly residential with numerous properties having windows facing towards the car park of the premises. The closest properties are those in Hurdlow Green and Langsett Green some 30m to the south east and north east/east of the application site. As such there are noise and odour sensitive uses surrounding the application site which could be affected by noise/activity generating uses at the site.

No suggested opening hours were contained within the original application HPK/2022/0428. Given the sensitive nature of surrounding land uses the LPA attached a condition restricting opening hours to 10pm on a daily basis. These opening hours were considered to be reasonable and consistent with the adjacent OneStop shop.

It is now proposed to increase the evening opening hours at the shop to 11pm, on Sunday to Thursday, and 1am on Friday and Saturday.

The granted use of the site is one which would generate vehicular movements, either by take-away delivery vehicles or visitors of the premise, while there is the potential for visitors to gather and congregate around the shop. Operating at such late hours, in close proximity to neighbours would be at a time when residents could reasonably expect peace and quiet. Therefore, it is considered that the increase in operating hours, particularly on the Friday and Saturdays, has the potential to result in an adverse effect on the living conditions of nearby residents. The cumulative effect with early morning deliveries at the One Stop is also noted.

Environmental Health, have raised an objection to the proposed opening hours as they have insufficient information regarding noise and odour matters for the extraction installations at the site and can not assess the impact of the proposed variation to operating hours. While these are generally technical issues, and may be acceptable, it is agreed that such information would be important prior to making their assessment, particularly having regard to ambient noise levels etc.

This application contains very little justification for the increase in opening hours to demonstrate that they would be acceptable. It is suggested that the cumulative hours proposed are less than what has been granted. While this may be correct, the proposed hours are for a time when residents could reasonably expect minimal noise and disturbance.

Other Matters

Matters relating to highways would not be affected by the proposed variation of opening hours and such considerations are acceptable. No objections have been raised by DCC Highways, as the site has suitable access and parking.

Matters relating to litter have been reviewed under the original consent with conditions attached accordingly. Any conditions, providing they still meet the tests for conditions, would be reattached on any further approval.

No design issues would arise from the variation of condition.

CONCLUSION / PLANNING BALANCE

It is considered that the proposals would have an unacceptable effect on the living conditions of residents and would conflict with the policies contained within the Development Plan and guidance within the NPPF and, as such, it is recommended that the application be refused.

OFFICER RECOMMENDATION: REFUSE

Case Officer: Declan Cleary

Recommendation Date: 06/06/2023

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council