**DELEGATED DECISION REPORT**

---

| | | |
|---|---|---|
| **HPK/2023/0453**<br>**Valid 25/10/2023** | **1 GREEN LANE**<br>**BUXTON** | **APPLICATION FOR REMOVAL OR VARIATION OF A CONDITION 5 FOLLOWING GRANT OF HPK/2018/0544 TO EXTEND THE OPENING HOURS TO 21.00 HOURS**<br><br>**(FULL - MINOR)** |

---

**MAIN ISSUES**

- Principle of development
- Residential amenity

**DESCRIPTION OF SITE**

The application relates to a ground floor shop unit which is part of a three storey property on the eastern side of Green Lane. It is an end terrace property of a larger block which wraps around the corner of Green Lane and London Road. The site lies within the built-up area boundary of Buxton and is also located within the Buxton Central/College (Extension) Conservation Area.

**PROPOSAL**

The application seeks to vary condition 5 of planning permission HPK/2018/0544 which limited the opening hours to 08:00 to 18:00 on any day. The application seeks to extend the opening hours to 21:00 hours.

**RELEVANT LOCAL AND NATIONAL PLANNING POLICIES**

**High Peak Local Plan 2016**

S 1 Sustainable Development Principles
S 1a Presumption in Favour of Sustainable Development
EQ 6 Design and Place Making
EQ 7 Built and Historic Environment
EQ10 Pollution Control and Unstable Land
CF 1 Retail and Town Centres
CF 6 Accessibility and Transport

**National Planning Policy Framework**

## SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2018/0544 - Change of use to cook hot food.- Approved 30/10/19
HPK/2018/0545 - Sign on door with name of shop and also with a cup of coffee and images of hot and cold food – Refused 16/10/2019.
HPK/2018/0360 – Retrospective planning permission sought for new ground floor window in office – Approved 02/10/2018.
HPK/2006/0807 – Change of use to A1 (shops) – Approved 14/12/2006

## CONSULTATIONS

### Publicity

Site Notice expiry date: 14.12.23
Neighbour consultation period ends: 14.12.23
Press Advert: 16.11.23

### Public Comments

None received.

### Environmental Health

Query whether conditions 3 and 4 from HPK/2018/0544 have been discharged.

### Derbyshire County Council Highways

No comments/concerns raised.

## OFFICER COMMENTS

### Principle of Development

The premises has recently been taken over by business called Manc Chef which sells pies and desserts. Planning permission HPK/2018/0544 permitted the use of the premises to cook and sell hot food, which the current use is considered to fall within.

The application does not seek to change the use of the premises but simply to alter the hours of operation, which were restricted to 08:00 to 18:00 on any day, to permit opening until 21:00 hours.

It is noted that the site is within a conservation area but the proposal to vary the hours of operation will not have any impact of the integrity of the heritage asset.

**Residential Amenity**

The impact on residential amenity is the main consideration for this application which seeks to vary the hours of operation and whether permitting later opening hours would be harmful.

Policy CF1 states that proposals that would create a concentration of evening economy uses (A3, A4 and A5) that would give rise to social and environmental issues will not be supported. There is not currently a concentration of evening economy uses in the surrounding area which is why the HPK/2018/0544 sought to limit the hours of opening until 18:00 to protect residential amenity.

However, neighbouring properties were consulted and a site notice displayed at the property and no comments were received objecting to the proposed change in hours. Given the premises is being currently operated by a business that sells pies and desserts its potential impact on residential amenity in terms of noise, smell and litter will be minimal compared to traditional takeaway business which tend to operate into the early hours of morning, especially on a weekend. It was noted during a site visit that the premise currently displays the hours of opening on the shop door which indicated that it currently open four days a week Wednesday through to Saturday and is closed Sunday, Monday and Tuesday. Therefore, in the context of the existing use, the request to vary condition 5 of HPK/2018/0544 to permit opening until 21:00 hours seems reasonable.

Should in future the premises be vacated and occupied by another business selling hot food, they would need to operate within the approved hours. Restricting the hours until 21:00 may limit the potential future occupiers but is considered appropriate given the site is not within a busy commercial area and is surrounded by residential properties. In the absence of any objection in principle from the Environmental Health Officer it is not considered that a refusal on amenity grounds could be sustained.

The Environmental Health Officer has noted that conditions 3 and 4 required details of odour extraction and noise report for the proposed extract ventilation system to be submitted and approved. There are no records of these conditions having been formally discharged. Therefore, these conditions will be reimposed on the new decision notice requiring details to be submitted within three months of the planning permission being granted.

The proposal is considered acceptable in the context of local plan policies EQ6 and EQ10 which seek to safeguard residential amenity and minimise potential source of pollution.

**CONCLUSION / PLANNING BALANCE**

Subject to the conditions referred to above, there is considered to be no adverse impact on nearby residential amenity. Accordingly the application complies with all the relevant local plan policies as set out above. In the absence of any material considerations to indicate otherwise it is recommended for approval.

**OFFICER RECOMMENDATION :** **Approve with conditions**

**Case Officer: Rosie Dinnen**
**Recommendation Date: 02.01.2024**

X 

Signed by: Ben Haywood

**On behalf of High Peak Borough Council.**