

DELEGATED DECISION REPORT

HPK/2024/0318
Valid 24/07/2024

103 GREEN LANE
BUXTON

VARIATION OF CONDITION 3
RELATING TO HPK/2021/0122

(FULL - MINOR)

MAIN ISSUES

- Principle of development
- Amenity
- Nutrient neutrality

DESCRIPTION OF SITE

The application relates to No.103 Green Lane, Buxton, a detached two storey property constructed predominately of a traditional stone with elements of render that has previous historic ties with Poole's Cavern and the visitor centre. An associated car park, lies a short distance to the south-east.

The site lies within the Buxton College Conservation Area and is covered by an Article 4 Direction. The site is bounded to the west by No.103a Green Lane; a recently constructed two storey dwelling which has a greater height than the host property.

PROPOSAL

The application seeks to vary condition 3 of the planning permission HPK/2021/0122, which approved the use of the property for office accommodation. Condition 3 of the permission reinforced the use as only office use and specifically Class E (g) (i) and no other purposes. This application seeks to vary condition 3 to enable the kitchen of the premises to be used for cooking and preparing food that will be sold at Poole's Cavern.

RELEVANT LOCAL AND NATIONAL PLANNING POLICIES

High Peak Local Plan 2016

S1 Sustainable Development Principles
S1a Presumption in Favour of Sustainable Development
S2 Settlement Hierarchy
S7 Buxton Sub-area Strategy
EQ6 Design and Place Making
EQ7 Built and Historic Environment
E1 New Employment Development
CF 6 Accessibility and Transport

National Planning Policy Framework

Section 2: Achieving Sustainable Development
Section 6: Building a strong, competitive economy

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2021/0122 – Change of use of 103 Green Lane from residential to office accommodation – Approved 12.08.21

CONSULTATIONS

Publicity

Site Notice expiry date: 02.09.24
Neighbour consultation period ends: 02.09.24
Press Advert: 22.08.24

Public Comments

3 objections have been received from residents of neighbouring properties which raise the following concerns:

- Condition 3 was imposed to protect residential amenity – this proposal runs counter to this and there is no justification for the change.
- The proposal is contrary to original permission, the use is not class E.
- It is out of character for the area, will have a detrimental effect on the local neighbours and the proposed limited use of the kitchen facility is clearly a first step to a more wholesale change of use at a later date.
- A commercial kitchen will need to have an extraction system installed, venting outside the building.
- How will the food be moved to the main Poole Cavern building?
- Likely to be increased vehicular movements with proposed use.
- Small office that was vacated in Poole's Cavern would be ideal place to prepare soup and scones.
- Concern over food hygiene

Environmental Health

Any concern I had would depend on use the kitchen was put to, if its domestic kitchen volumes, then there is little issue. If they are planning on running an Indian takeaway then we need to think about the matter further. For **ALL** commercial kitchens I do ask that the EMAQ Proforma is completed at application stage, as it gives us a much better idea regarding impact on amenity.

We have suggested the following condition in the past, which would limit impact and be consistent with a domestic type setting (home baking etc).

1. COOKING EQUIPMENT

There shall be no gas-powered cooking equipment at the premises. All cooking equipment shall be powered by electricity and the total power consumption of all cooking equipment within the kitchen shall not exceed 14KW.

Derbyshire County Council Highways

The Design, Access and Heritage Statement submitted with the application refers to 6-8 staff being located within no. 103 Green Lane with parking provision being located within the Poole's Cavern visitor centre car park; it is noted that there are no specific details of employee numbers in the application form.

It is clear that no.103 can only accommodate one parked vehicle, therefore, parking provision within the existing visitor centre would be beneficial to avoid the additional staff from having to park on the road. It would be useful if the applicant can identify on a plan the parking spaces which will be reserved for the additional staff and to indicate the pedestrian access between the visitor centre and no. 103 Green Lane.

OFFICER COMMENTS

Principle of Development

The site lies within the built-up area boundary of Buxton, one of the larger Market Towns that sit at the top of the settlement hierarchy under Local Plan (LP) Policy S2. Buxton is identified as being a location where new housing, employment and service growth will be supported.

The site also lies within the College Conservation Area and therefore the application is subject to LP Policy EQ7, relevant restrictive policies contained under Chapter 16 of the NPPF relating to heritage conservation, which are underpinned by Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

Proposed Use

The property is currently undergoing renovation and refurbishment works to enable it to be used as office accommodation which was permitted by HPK/2021/0122. It will be used by the Buxton Civic Association for administrative purposes.

The application proposes using the kitchen for cooking and preparing food which will be sold at the café at Poole's Cavern Café. Condition 3 of the permission restricted the use of the premises to office use and specifically Class E (g) (i) and no other uses. The proposed use is considered to be a commercial cooking use which does not fall within the same use class and therefore an application has been made to vary the condition.

The application relates to the kitchen of the premises which is a modest in size and has a floor area of approximately 13 sq.m. The remainder of the premises, ground and first floor, will be used for office accommodation.

During the course of the application, the applicant was asked to provide additional information to explain how the use would operate, particularly in the context of concerns raised by objectors about the scale of the operations.

The applicant has explained that it is proposed that the kitchen space would be used two or three times per week during the peak periods of the business for advanced preparation of cakes, soups and scones (the food would not be immediately heading for sale, but be available later). It would be used during the day, largely between 10am and 4pm. The kitchen will be used solely as a professional kitchen and has been fitted out to a commercial specification with cooking and preparing areas and extractor system. Doors will restrict access to other staff, and surfaces will be readily cleanable with use of catering standard aluminium preparation areas.

The administration staff will have a kettle and microwave elsewhere in the building, leaving this 'new' facility purely for our professional catering staff.

With regards to deliveries, the car park at Poole's Cavern for deliveries and goods will be transferred on foot through our grounds, within appropriate containers.

With the benefit of this additional information from the applicant it is clear that the proposed use is a low key commercial catering use, its use is solely to support the café at Poole's Cavern, it will not be intensively used and as such the impact of the proposal on the site and the locality can only be minimal. Matters relating to food hygiene would be dealt with by separate legislation, and by the Councils Environmental Health Team.

The use is considered compatible with the remainder of the building, which is in office use, given the scale of operations and limited size of the kitchen facilities. It is acknowledged that Green Lane is a residential area and the use of the building for offices purposes was accepted by planning permission HPK/2021/0122 on the basis of offices being considered an appropriate use in a residential locality. The proposed commercial catering use will be a secondary use to the primary use of the building as office accommodation, it is limited in scale primarily by the size of the kitchen. As such it is not considered to be of a scale that make it unacceptable in a residential area as its primary use as office would prevail.

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 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.

The application has been accompanied by a Heritage Assessment that assesses the historic significance of the building and its former relationship with the Cavern.

The proposal, which relates to the variation of condition 3, will not involve any physical external alterations or extensions to the building, the only minor alteration is an extractor flue, which runs internally and terminates with an integral tile vent in the roof slope. Therefore its impact is considered de minimis and would have no effect on the visual character of the conservation area.

Amenity

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.

Paragraph 135 of the NPPF states that planning should create places with a high standard of amenity for existing and future users.

Objectors have raised concerns that their residential amenity will be disturbed by proposals particularly by potential coming and goings, hours of usage and potential emissions (noise and smell). Further information was sought from the applicant and they have provided details of the extractor system that has been installed at the premises, which has been routed internally and a point in the roof plane to avoid disturbance to the neighbouring property.

The applicant also provided further details on the intensity of the use. It is evident that the use will supplement the main café use at Poole's Café and it will not be used intensively. Whilst it would not be reasonable to condition hours of use, as such a condition would be difficult to enforce, the use itself is limited by the size of the kitchen.

Environmental Health has suggested a condition prohibiting gas powered cooking equipment. The applicant has already installed a gas cooker at the premises and in any event it is considered that the condition would not meet the statutory tests for conditions, particularly the necessary and reasonable tests.

Officers are satisfied that the commercial kitchen use will remain an ancillary use to the main use of the premises as an office. However, to ensure that the kitchen is solely used in connection with the adjacent Poole's Cavern visitor centre, condition 3 should be amended as follows:

The kitchen shown on plan RLMI089/7 is hereby permitted to be used for commercial catering purposes solely in connection with the Poole's Cavern visitor centre and for no other commercial cooking purposes whatsoever. The remainder of the building shall be used solely for purposes of office accommodation (Class E (g) (i)) and for no other purposes in Class E of the Town and County Planning (Use Classes Order) 1987 (as amended).

As such, it is considered that the proposed use would not result in any adverse harm to neighbouring residential amenity, in accordance with LP Policy EQ6 and paragraph 135 of the NPPF.

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. Suitable off-street parking provision should be provided in accordance with guidelines set out under Appendix 1 of the Local Plan.

Objectors have raised concerns about the potential comings and goings from the new use. The applicant has explained that they will continue to use the drive and car park at Poole's Cavern for car parking and deliveries and goods will be transferred on foot through their grounds. This approach seems reasonable given the scale of operations and the immediate proximity of both premises and the availability of car parking at Poole's Cavern. The proposals are considered acceptable with regards to highway considerations and policy CF6 has been satisfied.

Nutrient Neutrality

Since the initial application, the Council has been notified that the site, along with a large part of Buxton now falls within an area where development proposals have the potential to affect water quality in the River Wye. 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 proposal to vary condition 3 to permit commercial cooking and preparation of food at the premises is considered acceptable, given the scale of the operations which are limited by the existing kitchen size which amounts to just 13 sq.m. The remainder of the building will remain in office use. A condition is recommended to ensure that the use is used solely in connection with the adjacent Poole's Cavern visitor centre.

To conclude the proposals satisfy local plan policies: S1, S1a, S2, S7, EQ6, EQ7, E1 and CF6 and the National Planning Policy Framework.

OFFICER RECOMMENDATION : **Approve**

Case Officer: Rosie Dinnen

Recommendation Date: 18.10.24

X 

Signed by: Jane Colley Signature

On behalf of High Peak Borough Council