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**Variation of Condition No. 2, 3 & 6 of Planning Permission
HPK/2023/0477**

**Deacons Bank
9 Market Street
Chapel en le Frith
High Peak
SK23 0HL**

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This application seeks to vary condition no's 2, 3 & 6 of planning permission HPK/2023/0477 to 'Enlarge the Planning Unit of the Existing Restaurant set within a Listed Building to Include Land to the Rear. Landscaping Works Including Steps, Raised Decking, Patio & Detached Store Room' at Deacons Bank in Chapel-en-le-Frith

2. The development hereby permitted shall be carried out in accordance with the following approved plans: DB/PL/01/A PLANNING PLANS Rev A dated 24.01.24; PLANNING ELEVATIONS DB/PL/02

Reason:- For the avoidance of doubt and in the interests of proper planning, in accordance with the National Planning Policy Framework.

3. The store room hereby permitted shall not be first brought into use until all of the external walls have been rendered and painted in a colour to match that of the external walls of the existing building.

Reason:- In the interests of visual amenity and the character and appearance of the area in accordance with Policy EQ6 of the High Peak Local Plan 2016 and the National Planning Policy Framework.

6. No sound-amplifying equipment, loudspeaker, public address system shall be installed/operated or music played within the development hereby approved.

Reason:- To ensure the retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area, in accordance with Policies EQ6 of the High Peak Local Plan 2016.

It is proposed to amend the conditions to read as:

2. The development hereby permitted shall be carried out in accordance with the following approved plans: DB/PL/01/B PLANNING PLANS Rev B dated 04.12.24; DB/PL/02/A 2. PLANNING ELEVATIONS Rev A dated 04.12.24

3. The store room hereby permitted shall be finished in cedar timber cladding. This must be maintained for the life of the development unless otherwise agreed in writing with the Local Authority.

6. No sound-amplifying equipment, loudspeaker, public address system shall be operated or music played within the development hereby approved before the hours of 12am or after 10pm.

Condition No's 2 & 3

Retrospective planning permission granted under HPK/2023/0369 for the 'Erection of freestanding Garden Room to beer garden land to rear of existing Public house' at the neighbouring property of 3 Market Street, which along with the appeal site is positioned within the Chapel en le Frith conservation area approved the use of cedar timber cladding boards.

The Heritage Statement and Design and Access Statement supporting the application stated 'The proposed garden room structure is to be Cedar Clad and finished with a single ply flat roof with membrane finish. It is felt that the use of cedar cladding will allow the structure to age naturally and better blend in with its surroundings.'

It was also deemed that 'As the proposed garden room is situated on existing land to the rear of the site it is not felt that the structure will have any negative affect on the heritage of the surrounding area. It was decided that a more modern looking structure is more suitable for this development in order to maintain a direct visual comparison between the existing building and the new structure rather than attempt to create a pastiche of the area's existing heritage'

High Peak Borough Councils Conservation Officer responded to the statutory consultation by 'objecting to the lack of assessment by the applicant on the character of the conservation area, impact on nearby listed buildings and by virtue of the scale and design of the retrospective outbuilding the officer is concerned there will be visual impact imposed on the setting' and 'encourage(s) revisions of the project or withdrawal.' Dated 23.10.2023

The planning officers delegated report went on to say that 'Notwithstanding the sparse assessment, following a site inspection it is considered that whilst it is generally desirable for buildings to reflect the material finish of the host building, in this case the cedar finish is designed to weather and has the appearance of a traditional ancillary storage building located to the rear of a business premises. The NPPF requires the balancing of visual change to the conservation area and the public benefit of the proposal, especially to secure the optimum viable use of this established business premises.'

Planning officer site photographs are used in the delegated report to support the statement 'Granted the structure is within the conservation area but there is no visual detriment caused viewing from within or from outside the conservation area, from the public realm.'



Photo from park – Taken from delegated report



Photo toward bowling green – Taken from delegated report

However, this is contradicted with the use of the planners' own site photograph taken from within the conservation area.



view from rear car park

Furthermore, similar site photographs confirm that the building is visible from within the conservation area as viewed from Rowton Grange Road.



Photo taken from Rowton Grange Road



Photo taken from Rowton Grange Road



Photo taken from Rowton Grange Road

The structure is also visible from the public park and bowling green, where it is seen against the backdrop of the Listed Buildings at The Royal Oak and 9 High Street.



Photo taken from Park

These photographs demonstrate that the structure at 9 High Street is significantly less visible due to the notable difference in elevation between 3 High Street and our site. From the park, the flat roof of the structure is barely perceptible, just peeking above the hedge line. Similarly, when viewed from Rowton Grange Road, it appears only slightly above the ancillary buildings at The Royal Oak. The site's topography places 3 High Street in a prominently elevated position within the conservation area and against the Listed Buildings, whereas the neighboring structure is effectively obscured by vegetation and adjacent buildings.



Photo taken from Park



Photo taken from Bowling Green

Both structures were initially intended to be constructed using cedar timber cladding, and both subsequently applied for retrospective planning permission with overlapping determination periods. While 3 High Street sought permission to retain its cedar cladding, 9 High Street adhered to the guidance outlined in the HPBC Design Guidelines, which indicated that timber cladding would not be appropriate. Consequently, it was understood that timber cladding was unlikely to receive approval, and a render finish was recommended as a replacement.

The subsequent approval granted on December 13, 2023, for the use of timber cladding at the neighboring property led to the submission of revised plans for the storeroom at 9 High Street, proposing timber cladding. These revised plans were submitted to the council on January 25, 2024. Initially advised as acceptable, the delegated report later stated:

‘The applicant has provided revised plans showing the storeroom to be finished in a timber cladding, following the approval of a similar material next door in application HPK/2023/0369. The proposed change in materials has been assessed and considered unacceptable.

Neighbouring property, no.7, is not a listed building, whereas the application site, no.9, is grade 2 listed. Therefore the application site holds more significance and protection than the neighbouring property. As such it is felt that the timber finish would be harmful to the host building, and as such the original plans of showing a render finish are preferred.

Furthermore, the HPBC conservation officer has objected regarding a lack of cohesion of materials. It is felt that the render to the storeroom is in keeping with the listed building as explained above.’

Conclusion

High Peak Borough Council justified the condition requiring a render finish for the storeroom on the grounds of preserving visual amenity and maintaining the character and appearance of the area.

However, it is considered unjust to impose such restrictions on the storeroom, given that it is less visible within the conservation area and blends more subtly against the backdrop of listed buildings compared to the neighbouring structure.

The material cohesion is only noticeable from close proximity within the site itself. A rendered structure, by contrast, would likely appear more prominent against the neighbouring timber structure, particularly when viewed from the rear of the sit. Additionally, it would result in prominent glimpses of the structure when viewed from the wider context.



Photo from within the site



Photo from rear of site

Condition No 6

Previous planning permission HPK/2021/0270 for 'Listed building consent for Conversion of Grade II listed former Bank into a Restaurant (Use Class E) at ground floor. Change of use to two flats (Use Class C3) at first floor.' restricted opening hours by condition as follows (as amended under Application for Variation of a Condition 9 in relation to application HPK/2021/0271)

Expansion of Opening Hours

8. The restaurant, including the external seating area, shall not operate outside of the following hours:-

09:00 - 23:30pm Monday-Friday

09:00 - 23:30pm Saturday

09:00 – 22:00 Sundays and Bank Holidays

09:00 - 02:30 Christmas Eve and New Years Eve

09:00 - 23:59 Friday, Saturday and Sunday on bank holiday weekends

This planning permission attracted no condition to restrict the use of sound amplifying equipment or music been played within the beer garden/courtyard.

This statement seeks to justify that as the original planning permission for the change of use did not restrict the use of sound amplifying equipment in the beer garden and whilst it is noted that the outdoor area has been enlarged and developed following the recent permission, the area would cause no additional impact on local amenity, above and beyond the current situation.

Furthermore, the site in question is located between two licensed premises, each with rear beer gardens. The property to the west of the site appears to offer both a restaurant and residential accommodation above, as well as a beer garden. Notably, the beer garden has not been subject to the same restrictions and offers a larger outdoor area which could accommodate a greater number of customers.

Lastly, that those most likely to be impacted by noise are staying on a short term basis and thus are less likely to be affected by occasional noise, especially when they are aware its relationship with a licensed premises on booking.

Legislation secondary to planning controls already limit impact on amenity from licensed premises. High Peak Borough Council's Licensing requirements for music entertainment depends on the circumstances.

A license is not required to stage a performance of live music, or the playing of recorded music if:

- it takes place between 8am and 11pm
- it takes place at an alcohol on-licensed premises
- the audience is no more than 500 people

You also don't need a licence:

- to put on unamplified live music at any place (including unlicensed venues) between the same hours; or
- to put on amplified live music at a workplace between the same hours and provided the audience is no more than 500 people.

The Restaurants operating license currently limits the hours during which the business can operate and in turn has previously restricted times at which amplified music can be played or the beer garden can be used for louder activities. This is a common approach to balance the needs of business and residential areas.

As the space has been enlarged and developed it is suggested that the hours at which music can be played are brought in line with licensing requirements for music and entertainment, with the condition been altered to reflect so.

The additional beer garden space is a benefit in terms of mitigating the noise impact from amplified music. By having more space in the beer garden, the speakers can be positioned further away from the main building (where the accommodation is) and from neighboring buildings. This helps to reduce the direct transmission of sound to nearby properties, as the sound will dissipate over a larger area before it reaches the buildings. Regardless of its increase in area, the venue is still well below the threshold of providing an audience of 500 people.

Development of the beer garden has created a separate seating area on the lower terrace which is orientated away from the main building and separated by landscape features such as shrubs and walls which are strategically used to help dampen sound further. The addition of the storeroom structure separates the entertaining space and serves as a buffer zone where any noise generated from the beer garden is less likely to directly affect residents or neighbors.

Even with music in the beer garden, the open space allows for sound to disperse naturally, meaning the volume required for music to be heard clearly in the beer garden may be lower, which would likely reduce noise levels further as the sound fades with distance.

The beer garden development was been designed with the Good Practice Guide on the Control of Noise from Pubs and Clubs, March 2003 in mind. This suggests that businesses should implement procedures to control and monitor noise.

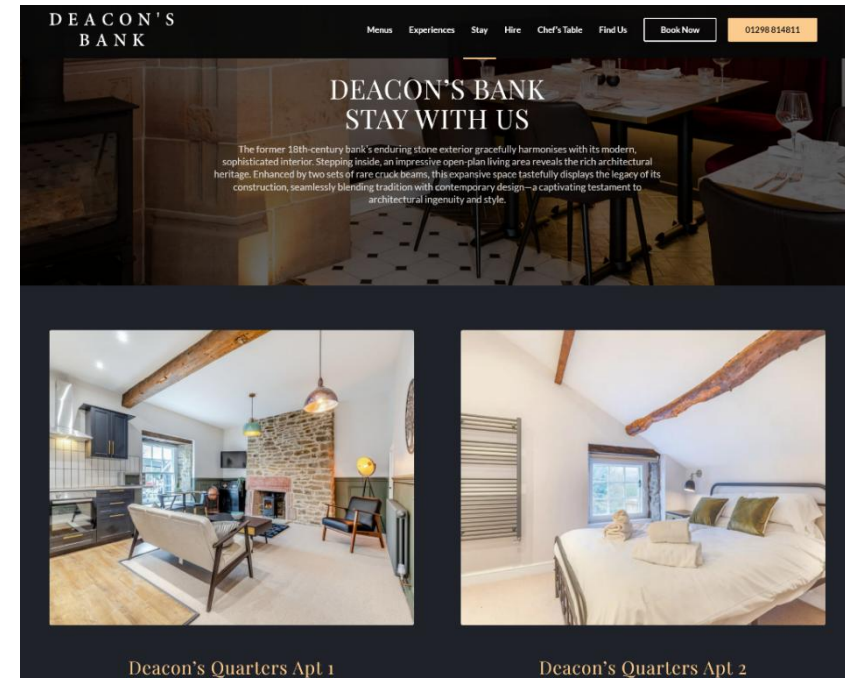
It recommends that noise originating from outside buildings should be controlled by directing loudspeakers away from noise sensitive building, locating stages as far away and facing away from noise sensitive buildings and implementing screening by use of non-sensitive buildings and topographical features.

The occupants of the accommodation above the restaurant are likely to be the most affected by the use of sound-amplifying music from the venue, particularly if the music is played in the beer garden or restaurant area below.

Guests staying in holiday accommodation are often more tolerant of noise and activity, especially if they are in an area with a vibrant social scene, such as a pub or restaurant. The presence of a beer garden and the possibility of amplified music may even be viewed as part of the experience.

Since short-term guests are not living there permanently, they are less likely to be bothered by noise disruptions. Their stay is limited to a few days or weeks, so they may be more flexible and willing to overlook occasional noise, particularly if they are aware that they made aware of planned events at the venue.

The holiday accommodation is clearly advertised as located above the restaurant on their website and it is company policy that those making bookings are given clear advanced warning of any events planned during their stay.



Conclusion

High Peak Borough Council justified the condition removing the use of sound-amplifying equipment, loudspeaker, public address system shall be installed/operated or music played within the development to ensure the **retention** of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

The beer garden development does not have any additional adverse impact on amenity compared to the previous beer garden. In fact, the introduction of buffer zones and the strategic positioning of speakers farther from both the main and neighboring buildings has reduced noise impact.

Occupants residing above the restaurant may be most affected by amplified music; however, their awareness of the venue's operations indicates an understanding that some level of noise is inherent to their living situation.

Nevertheless, noise management strategies and restrictions will effectively address concerns while allowing the venue to continue operating successfully. With the implementation of mitigation measures such as restricted operating hours and adherence to guidance on equipment positioning, the proposed development is not expected to result in a significant adverse impact on the amenity of the area.

The condition this statement seeks to amend is neither fair nor reasonably related to the previously permitted development.