

Delegated Report

Planning Ref: 23/00597/CONDIT
Applicant: Mr B Gokhani
Ward: Markfield, Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: 162 Main Street, Stanton Under Bardon, Markfield

**Proposal: Variation of condition 7 (Trading Hours) of planning permission
23/00197/FUL**

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This application seeks to vary the approved opening hours, set out within condition 7 of the approved 23/00197/FUL. The approved hours are Monday - Saturday: 08:00 - 20:30, Sundays and Bank Holidays: 09:00 - 19:00. The application seeks to vary this to Monday – Saturday: 07:00 – 21:00, Sundays and Bank Holidays: 08:00-20:00.

3. Description of the site and surrounding area

- 3.1. The site is located on Main Street, Stanton Under Bardon, which is a residential area. Main Street is made up of two-storey terrace, semi-detached and detached dwellings, with a mix of render and brick work used on the external elevations. The development site is a two-storey detached unit. The units frontage remains that of a retail unit and the proposal seeks to extend the retail area on the ground floor, removing the residential use.

4. Relevant planning history

23/00197/FUL

- Single storey rear extension (following demolition of existing garage), change of use of part of the ground floor from residential to retail and alterations to shop front to include signage, shutter and materials.
- Planning permission
- 26.05.2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. Four letters of objection have been received. The objections relate to:
- Noise impacts
 - Lack of demand for extended hours of operation
 - Increased anti-social behaviour
 - Negative impacts on health and well-being
 - Concerns of earlier deliveries

6. Consultation

- 6.1. No objections received from:
- HBBC Pollution

7. Policy

7.1. Core Strategy (2009)

- No relevant policies

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM23: High Quality Shop Fronts and Advertisements

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- National Design Guide (2019)
- Good Design guide (2020)

8. Appraisal

8.1. Given previous approvals the key issues are considered to be:

- Impact upon residential amenity

Impact upon residential amenity

8.2 Policy DM10 of the adopted SADMP and the adopted Good Design Guide require that development would not have a significant adverse effect of the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.

8.3 The proposal seeks to extend the approved opening hours of the retail unit. Following the consultation, a number of neighbour objections were received which relate to noise disruption which may be caused through the extended hours.

8.4 It is considered that whilst the extended opening hours may increase the footfall of trade at both the morning and evening extended hours. It is anticipated that the additional trade would be from customers travelling to the shop by foot or car. The proposed opening hours would bring the opening hours one hour earlier in the morning, 30 minutes later in the evenings Monday-Saturday and an hour later on a Sunday.

8.5 It is acknowledged that there may be an increase in the number of vehicular and pedestrian movements to the premises during the proposed morning and evening hours, however, considering the floorspace of the shop and limited increase in the opening hours this is unlikely to be high. Furthermore, when considering the developments proximity to the highway and existing pedestrian movements, the additional noise caused from this would not be additionally, significantly detrimental to neighbouring amenity.

8.6 In addition, whilst concerns have been raised about deliveries, there has not been a request to amend the approved hours of delivery therefore having no further impact upon noise pollution.

8.7 The alterations to the opening would therefore be in accordance with Policy DM10 of the adopted SADMP.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The amendments to the approved opening hours are considered to not cause significant detrimental impacts upon neighbouring amenity to the level that would warrant a refusal of planning permission. Therefore it is considered that the amendments are in general accordance with Policy DM10 of the adopted SADMP (2016).

10.2. The previous planning conditions from the original consent are largely judged to still be necessary for the development. With the exception of:

- The commencement date should be retained as the original date.
- Condition 4 is no longer judged to be necessary as previous correspondence with the agent has confirmed the development will not affect the PRow.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of permission 23/00197/FUL.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved application details for application 23/00197/FUL, as follows:

Proposed elevations Drg No. KRBSS/003A
Proposed floor plans Drg No. KRBSS/002A
Site location plan

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The materials to be used on the external elevations of the proposed extension and alterations shall be in accordance with the materials detailed within the approved Application Form for application 23/00197/FUL.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. Prior to first use of the retail unit, details of the HVAC units must be submitted to and approved by writing by the Local Planning Authority.

Reason: To ensure that the development does not impact upon neighbouring amenity and is in accordance with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

6. Prior to first use of the retail unit, an application for advertisement consent for any proposed advertisement or signage must be approved by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The retail use shall not take place other than between the hours set out below:

Monday – Saturday: 07:00 – 21:00
Sundays and Bank Holidays: 08:00 – 20:00

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

8. The delivery and despatch of goods relating to the retail unit shall be limited to the hours set out below:

Monday - Saturday: 08:00 - 18:00
Sundays and Bank Holidays: 09:00 - 18:00

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

9. Notwithstanding the approved plans, no external shutters shall be installed on the site until details have been submitted to and approved in writing by the Local Planning

Authority. This information shall include elevation and section plans (including the shutter housing) and details of the materials. Thereafter the shutters shall be installed and maintained in accordance with the approved details.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

NOTES TO APPLICANT :-

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Any improvement scheme for a Public Right of Way should be designed in accordance with the principles set out in the Leicestershire County Council's Guidance Notes for Developers.
3. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.
4. The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
5. The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
6. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
7. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Highway Authority.
8. No new gates, stiles, fences or other structures affecting a Public Right of Way, of either a temporary or permanent nature, should be installed without the written consent of the Highway Authority. Unless a structure is authorised, it constitutes an unlawful obstruction of a Public Right of Way and the County Council may be obliged to require its immediate removal.
9. All businesses have a duty of care to ensure that any waste produced is handled safely and within the law.

Storing waste:

Business operators should take steps to avoid their waste causing problems with rats, mice, insects and birds:

- o Bins should be maintained and stored so that they don't cause problems to neighbouring premises due to smells

- o Waste should be stored correctly in a suitable container which needs to be closed or lidded

Waste collection:

- o Operators should arrange their own business/trade waste collection service. If you give your waste to someone else you must be sure that they are authorised to take it and can transport, recycle or dispose of it safely