

9. FULL APPLICATION – REMOVE CLAUSE LIMITING USE OF THE CAFE TO THE ABLE BODIED BY USE OF FIRST FLOOR AND ALLOW OTHER ITEMS TO BE SOLD ON THE GROUND FLOOR TO BE SOLD ON THE FIRST FLOOR. REALIGN THE OPENING TIMES WITH PERMISSIONS FOR OTHER LOCAL BUSINESSES TO 11PM. REPLACE THE FELT ON BOARD ROOF ON PART OF KITCHEN WITH POWDER COATED INSULATION SQUARE PROFILE TIN. LEGALISE THE SALE OF FOOD AND DRINK FOR OFF-SITE CONSUMPTION. FIT SECURITY CAMERAS TO PROTECT THE BACK OF PROPERTY. FORMALISE THE USE OF OUR LAND FOR THE USE OF CLIENTS TO SIT AND DRINK. THIS HAS BEEN A FEATURE FOR AT LEAST 10 YEARS AT DOLLYS COFFEE AND CHINA SHOP, THE STONES, CASTLETON, S33 8WX (NP/HPK/1018/0917 JF)

APPLICANT: Mr Michael Moorhouse

Site and Surroundings

1. Dolly's Coffee And China Shop is located on The Stones in Castleton. This is a two storey semi-detached property situated within Castleton Conservation Area. The property is of a natural limestone construction, with a pitched Hardrow concrete slate roof and timber windows and doors. The property has been extended over two floors to the rear, and incorporates an external staircase and ground floor door leading to a yard area. The rear extension is constructed from natural limestone on the ground floor which has been raised up in limestone 'Davie Blocks' on top of which is a horizontal timber clad section with a shallow lean-to felt roof. Overall the property has a largely long rectangular footprint.
2. Dolly's Coffee And China Shop is undergoing renovation and is currently vacant, however the premises had been operating as a shop at ground floor level with tea room above until relatively recently. The ground floor of the property is largely open plan, with a WC area situated to the rear. A staircase leads to the first floor level, which is also largely open plan. A kitchen is situated within an extended aspect of the property to the rear. An extraction fan is situated within the wall.
3. Dolly's Coffee And China Shop abuts The Stones, and has a small raised forecourt situated between the front of the property and the roadway. This is roughly triangular in shape and surfaced with stone flags. Access to the property is via a ground floor door on the front elevation. The Stones is situated to the north of the site, neighbouring residential properties are situated to the east and west of the site, and a neighbouring garden area is situated to the south of the site. There are two other shop premises across the street.
4. The property is situated within a frequently visited and picturesque location within Castleton Conservation Area. Dolly's Coffee And China Shop is situated within Flood Zones 2 and 3, close to Peakshole Water, a small watercourse which runs past the property on the other side of the Stones.

Proposal

5. Permission is sought to 'remove clause limiting use of the cafe to the able bodied by use of first floor and allow other items to be sold on the ground floor to be sold on the first floor. Realign the opening times with permissions for other local businesses to 11pm. Replace the felt on board roof on part of kitchen with powder coated insulation square profile tin. Legalise the sale of food and drink for off site consumption. Fit security cameras to protect the back of property. Formalise the use of our land for the use of clients to sit and drink. This has been a feature for at least 10 years'.

6. The premises are currently in a mixed use of shop and café with the café use limited by planning condition to the first floor only. A further planning condition allows operation up until 9pm on any day. The current application has been amended since submission following concerns with regard to the proposed opening times, a lack of detail on the application and further clarification on the proposed plans. It still seeks to remove the condition restricting the café use to the first floor allowing it to extend across both floors alongside the sale of retail items on either floor. It initially also sought permission to extend the opening time to 11pm but the amended scheme omits this and the proposal is that the opening hours remain 9am to 9pm in line with the current condition. The application also seeks consent for the sale of food and drink for off-site consumption and regularise the use of the forecourt for outdoor seating by café customers. At the rear the application proposes the replacement of the current felt roof covering over part of the kitchen with a powder coated square profile steel roof with insulation below. Finally it is proposed to fit security cameras to protect the back of property.

RECOMMENDATION:

That the application be APPROVED subject to the following conditions and/or modifications:

1. **Commence development within 3 years.**
2. **The development hereby permitted shall not be carried out otherwise than in complete accordance with the amended plans; Application Form, Site Location Plan dated 24.01.2019, existing ground floor plan, existing first floor plan, proposed ground floor plan, proposed first floor plan, supporting statement, details of fan cover, details of CCTV cameras dated 20.12.2018, details of roofing dated 20.12.2018, seating plan 1 dated 24.01.2019, emails from applicant.**
3. **The premises shall be used solely as an A1 shop/A3 Café use only.**
4. **No takeaway hot food shall be served from the premises.**
5. **Prior to the use hereby permitted commencing, a scheme for the installation of equipment to control the emission of fumes and odour from the premises shall be submitted to and approved in writing by the Authority. The scheme shall demonstrate compliance with, and be consistent with EMAQ Industry Guidance, “Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018)”. The approved scheme shall be implemented in full. All equipment installed as part of the odour control scheme shall thereafter be operated and maintained to ensure compliance with EMAQ (2018) and in accordance with the manufacturer’s instructions.**
6. **The opening hours shall be between 09:00 and 21:00 only.**
7. **The outdoor tables and chairs to serve this facility shall be located on the raised area of paving to the front of the property only, as shown on seating plan 1 dated 24.01.2019.**
8. **The outdoor tables and chairs shall be of a timber or metal construction and shall be located and used outside the property between 09:00 and 18:00 only.**

9. **Prior to occupation of the development hereby approved, a full flood risk assessment shall be submitted demonstrating to the satisfaction of the National Park Authority in consultation with the Environment Agency that flood risk, both within or arising from the site, can be effectively managed.**
10. **The CCTV cameras and fan cover shall be in black.**
11. **Aside from the outdoor tables and chairs, no other fixtures other than a waste bin, associated with the businesses shall be located outside the front of the property.**
12. **A black coloured metal or timber waste bin for customer use shall be provided outside the premises and sited on the forecourt at all times during the business opening hours.**

Key Issues

7. The key issues are whether the development is acceptable in principle, whether it would conserve the character, appearance and amenity of the existing property, its setting, that of neighbouring properties, and the surrounding Conservation Area.

History

8. 1974 – Refusal of Application NPHPK574153 to convert the shop to a café and was subsequently dismissed on appeal.
9. 1978 – Approval of Application HPK1177870 for ‘Partial change of use from shop to tea shop (light snacks)’.
10. 1981 – Approval of Application HPK1181A68 for ‘Proposed 1st floor extension to house freezers’.
11. 2004 – Refusal of Application NP/HPK/0904/0966 to ‘Replace existing window with new door to provide access for the disabled’.
12. 2005 – Approval of Application NP/HPK/0505/0535 for ‘Removal of condition 3 on planning approval NP/HPK/1177/870 - which restricts the sale of food to light snacks only’.
13. Various Enforcement complaints have been made over the last few years raising concerns with regards to unauthorised outdoor seating and fixtures, unauthorised conversion and extraction.

Consultations

14. Highway Authority – No highway objections subject to all external seating retained on applicants land and not encroaching into adjacent public highway.
15. High Peak Borough Council – No comments
16. Parish Council – Objection. ‘objection to the length of the opening hours in the evening as this may cause a disturbance to the neighbouring houses. Their suggestion would be that they were no later than 9.00pm. Although you mention in your email that there may be changes in the application which may resolve this issue. We have also had concerns raised by a neighbour that the CCTV overlooks their property and would therefore ask

that it is confined to the applicants property’.

17. Environmental Health – No objections. ‘Given the reduced opening hours, in line with current opening and the small size of the outdoor seating area I don’t think the proposals are likely to have a significant impact. Where potential impact may occur is where increased covers and use of the site leads to increased cooking odours. The following condition is therefore recommended

“Prior to the use hereby permitted commencing, a scheme for the installation of equipment to control the emission of fumes and odour from the premises shall be submitted to and approved in writing by the local planning authority. The scheme shall demonstrate compliance with, and be consistent with EMAQ Industry Guidance, “Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems (2018)”. The approved schemes shall be implemented in full. All equipment installed as part of the odour control scheme shall thereafter be operated and maintained to ensure compliance with EMAQ (2018) and in accordance with the manufacturer’s instructions.”

The EMAQ assessment scores the kitchen according to variables (air dispersion, proximity of receptors, size of kitchen (covers), food type and grease loading), this score determines the impact risk and the level of odour control required. If you believe a scheme consistent with EMAQ (2018) would be enforceable, and prevent a significant intensification of use (or change of food type etc.), the condition would be a useful control.

Should significant changes in the operation of the premises occur, likely to significantly impact on the odour and noise impact of the premises, then the site shall be re-assessed in line with EMAQ 2018 and appropriate odour and noise control measures implemented without delay’.

Representations

18. Fourteen representations have been received objecting to this application and one representation has been received raising concerns with regards to the application. The representations raise the following summarised concerns;
- Extended opening hours causing issues with noise and disturbance.
 - Highway safety, traffic and congestion.
 - Errors in the application in relation to the current use.
 - Concerns with regards to waste collection and litter.
 - Errors in the application in relation to security cameras and concerns that these are intrusive.
 - External seating causing safety concerns.
 - Concerns with regards to an increase in covers.
 - Concerns over disabled access.
 - Concerns with regards to inadequate extraction.
 - Concerns that the premises will become a wine bar/pub.
 - Concerns that the premises will provide a hot food takeaway.
 - Concerns that the premises would sell alcohol.
 - Adverse impact on the character of the area.
 - Concerns with regards to external trading in the past.
 - Concerns with regards to deliveries causing issues.
 - Health and safety concerns from food being transported downstairs.
 - Increase in activity.
 - Smoking outside.
 - Errors and omissions in the application.

- Concerns with regards to flooding.
- Concerns that the conversion of both floors to a café has already been refused.
- Building regulations concerns.
- Concerns that the kitchen is insufficient to meet requirements.
- Concerns that the drainage is insufficient.
- Concerns regarding noise pollution.
- Concerns that the boiler flue is causing issues.

Main Policies

19. Relevant Core Strategy policies: GSP1, GSP3, DS1, L1, L3, CC5, HC5

20. Relevant Local Plan policies: LC4, LC5, LE6, LT18

21. National Park designation is the highest level of landscape designation in the UK. The Environment Act 1995 sets out two statutory purposes for national parks in England and Wales:

- Conserve and enhance the natural beauty, wildlife and cultural heritage
- Promote opportunities for the understanding and enjoyment of the special qualities of national parks by the public

22. When national parks carry out these purposes they also have the duty to seek to foster the economic and social well-being of local communities within the national parks.

23. National Planning Policy Framework

24. The revised National Planning Policy Framework (NPPF) was published in July 2018 and replaced the 2012 NPPF with immediate effect. The Government's intention is that the document should be considered as a material consideration and carry particular weight where a development plan is absent, silent or relevant policies are out of date. In the National Park the development plan comprises the Authority's Core Strategy 2011 and saved policies in the Peak District National Park Local Plan 2001. Policies in the Development Plan provide a clear starting point consistent with the National Park's statutory purposes for the determination of this application. It is considered that in this case there is no significant conflict between prevailing policies in the Development Plan and more recent Government guidance in the NPPF.

25. Paragraph 172 of the NPPF states that 'great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks and the Broads.'

26. Development Plan Policies.

27. Policy GSP1 sets out the broad strategy for achieving the National Park's objectives having regard to the Sandford Principle, (that is, where there are conflicting desired outcomes in achieving national park purposes, greater priority must be given to the conservation of the natural beauty, wildlife and cultural heritage of the area, even at the cost of socio-economic benefits). GPS1 also sets out the need for sustainable development and to avoid major development unless it is essential, and the need to mitigate localised harm where essential major development is allowed.

28. Policy GSP3 sets out development management principles and states that all development must respect, conserve and enhance all valued characteristics of the site and buildings, paying particular attention to, amongst other elements, impact on the character and setting of buildings, scale of the development appropriate to the character and appearance of the National Park, design in accordance with the National Park Authority Design Guide and impact on living conditions of communities.
29. Policy DS1 states that conversion for business uses in all settlements will be acceptable in principle.
30. Policy L1 identifies that development must conserve and enhance valued landscape character and valued characteristics, and other than in exceptional circumstances, proposals in the Natural Zone will not be permitted.
31. Policy L3 states that development must conserve and enhance any asset of archaeological, architectural, artistic or historic significance or its setting that has statutory designation or registration or is of other international, national, regional or local significance
32. Policy CC5 states that development proposals which may have a harmful impact upon the functionality of floodwater storage, or surface water conveyance corridors, or which would otherwise unacceptably increase flood risk, will not be permitted unless net benefits can be secured for increased floodwater storage and surface water management from compensatory measures.
33. Policy HC5 states that in towns and villages related activities such as professional services, and premises for the sale and consumption of food and drink, will be permitted provided that there is no harm to living conditions or to the role or character of the area, including its vitality and viability.
34. Policy LC4 states that development must not harm the character, appearance and amenity of the existing building, its setting or that of neighbouring properties.
35. Policy LC5 states that applications for development in a Conservation Area, or for development that affects its setting or important views into or out of the area, should assess and clearly demonstrate how the existing character and appearance of the Conservation Area will be preserved and, where possible, enhanced.
36. Policy LE6 states that where development for employment purposes is acceptable in principle, it will only be permitted provided that every practicable means is used to minimise any adverse effects on the valued characteristics and amenity of the surrounding area.
37. Policy LT18 requires safe access provision and adequate parking arrangements.

Assessment

38. The premises are currently in a mixed use of shop and café with the café use limited by planning condition to the first floor only. A further planning condition allows operation up until 9pm on any day. The current application has been amended since submission following concerns with regard to the proposed opening times, a lack of detail on the application and further clarification on the proposed plans. It still seeks to remove the condition restricting the café use to the first floor allowing it to extend across both floors alongside the sale of retail items on either floor. It initially also sought permission to extend the opening time to 11pm but the amended scheme omits this and the proposal is that the opening hours remain 9am to 9pm in line with the current condition. The

application also seeks consent for the sale of food and drink for off-site consumption and regularise the use of the forecourt for outdoor seating by café customers. At the rear the application proposes the replacement of the current felt roof covering over part of the kitchen with a powder coated square profile steel roof with insulation below. Finally it is proposed to fit security cameras to protect the back of property.

39. A scale drawing showing an external seating plan with three small tables and twelve chairs has been submitted along with details of the proposed CCTV cameras and further detail of the proposed roofing material to the kitchen extension. It has been confirmed that the external tables and chairs shall be of a timber or metal construction only, and that placing other equipment, such as an ice cream freezer, in front of the premises, which has happened in the past, no longer forms part of the plans.

40. The amended application is for the conversion of the property to a shop/café with outdoor seating, CCTV cameras, the installation of an extraction grill, and the replacement of the roof to the kitchen extension. No alterations are proposed to the exterior of the outbuilding, except for the installation of two CCTV cameras and an extraction grill to the rear.

41. Principle

42. It is considered that the proposed amended plans are acceptable in principle. Policy DS1 states that conversion for business uses in all settlements will be acceptable in principle and Policy HC5 states that business activities will be permitted provided that there is no harm to the role or character of the area, including its vitality and viability. It is considered that the use of the property as a shop/café is entirely appropriate in this location within the centre of Castleton. The location is characterised by commercial establishments, and it is therefore considered that the proposed change of use is suited to the role and character of the area.

43. Character/Landscape

44. The only external alterations proposed to the property are the installation CCTV cameras, the installation of an extraction grill, and the replacement of the roof to the kitchen extension. All of these minor alterations are proposed to the rear of the property and would have minimal impact. The two proposed CCTV cameras would be of modest dimensions and would be coloured black. It is not considered that these additions would have any adverse impact on the character of the property. The proposed fan cover is required, as the existing extraction fan is visible through the wall of the property. The fan cover would improve the appearance of the property by covering this gap. A condition requiring the CCTV cameras and fan cover to be coloured matt black, would ensure that the character and appearance of the development is acceptable.

45. The proposed replacement of the felt roof on part of kitchen area with powder coated insulation square profile tin would not result in any adverse impact. It is acknowledged that this structure which incorporates timber boarding and a flat roof is not aesthetically pleasing, however it is not considered that the proposed replacement roofing would result in any additional impact and therefore on balance is considered to be acceptable. Attempts were made during negotiations to encourage further enhancements to this area of the property as part of the application, such as stone walling and a pitched slate roof, however the applicant was not prepared to make these improvements.

46. The proposed external tables and chairs would clearly be visible on the frontage but have been a feature over the years, albeit unauthorised. It is considered that their formalisation would not result in an adverse impact on the character, appearance and amenity of the property, its setting, or the surrounding Conservation Area subject to the

imposition of conditions. The submitted Seating plan 1 dated 24.01.2019 shows three small tables and twelve chairs, which is considered to be an acceptable layout. As such a condition would be imposed requiring development to be in accordance with this plan. It is also considered necessary to impose a condition requiring the outdoor tables and chairs to be of a timber or metal construction. This is because the introduction of poor quality tables and chairs would have a significant adverse impact on this sensitive location within the Conservation Area. It is considered that specifying that these shall be either timber or metal construction would ensure that they are of a suitable quality without requiring the submission of specific design details.

47. With the conditions set out above the proposal would conserve the character, appearance and amenity of the property, its setting, and the surrounding Conservation Area.

48. Amenity

It is not considered that the proposed plans would result in any significant issues for neighbouring properties. The ground floor of the existing property was last used as a shop, and this use can continue to operate. It is not considered that the use of the ground floor of the property as a shop/café would result in any additional impact for neighbours as although the café area is expanded it is contained within the building. The additional increase in customers would not be significant and would not have an adverse impact on the neighbouring residences. The amended opening hours would match those of the consented café use at first floor level and are therefore considered to be acceptable.

It is not considered that the proposed external seating area would result in any significant issues for neighbouring properties. The location of the proposed seating would not cause any issues in terms of overlooking, and the street scene is already characterised by a large influx of visitors. It is however considered that the outdoor tables and chairs should only be located outside the property between 09:00 and 18:00hrs. This is to ensure that any noise from visitors is minimised during evenings, and to ensure that the tables and chairs are not used by visitors when the property is closed. It is accepted that some level of noise and disturbance may be caused, however it is considered that the level of impact would be minimal as a result of the imposition of this condition.

49. Other Matters

50. It is not considered that the nature of this development would result in any adverse impact in terms of highway, environmental or other matters. There have been no objections from the Highway Department or any other statutory consultees.

51. DCC as Highway Authority were consulted on the application and stated that there are no highway objections subject to all external seating being retained on the applicants land and not encroaching into the adjacent public highway. This is clearly the case, as shown on seating plan 1 dated 24.01.2019. A condition is suggested to be imposed requiring the external seating to be in accordance with this plan, which will ensure that no encroachment will take place.

52. The property is located within Flood Zones 2 and 3. Both the existing and proposed uses are classed as 'less vulnerable' in terms of risk, and therefore the development is considered to be acceptable in principle. No flood risk assessment has been provided, however no change is proposed in terms of risk. Nevertheless it is considered appropriate to impose a condition stating that prior to occupation of the development, a full flood risk assessment shall be submitted demonstrating to the satisfaction of the National Park Authority in consultation with the Environment Agency that flood risk, both within or arising from the site, can be effectively managed and how that will take place.

Environmental Health was consulted on this application and raised no objections. It was stated that 'given the reduced opening hours, in line with current opening and the small size of the outdoor seating area the Environmental Health Officer did not think the proposals are likely to have a significant impact. Where potential impact may occur is where increased covers and use of the site leads to increased cooking odours and the suggested condition to agree a scheme to control fumes and odour is included in the officer recommendation above.

It is therefore considered that there would be no adverse impact on neighbouring properties, subject to the suggested condition requiring suitable extraction.

53. Other matters

54. In response to the representations objecting to these plans, it is acknowledged that the originally proposed extended opening hours may have caused issues with noise and disturbance. It is not considered that the amended opening hours would result in any additional impact.

55. It is accepted that there may be more accumulation of waste for collection as a result of these plans, however the collection of waste is already managed and there have been no objections from DCC Highways or Environmental Health in relation to this matter. It is considered that the comments in relation to an increase in litter in the area are entirely speculative however it would be prudent to require a waste bin to be provided outside the premises on the forecourt to deal with potential waste from takeaway customers. A suitable condition is therefore suggested.

56. In terms of the CCTV cameras, it is considered that the location of these two cameras are shown on the proposed first floor plan and development would be conditioned to be in accordance with this plan. The comments with regards to CCTV being potentially intrusive are accepted, however this is not considered to be a planning consideration.

57. It is accepted that disabled access to the property could be improved. It is considered that the café use would be more accessible as a result of being located at ground floor level as well as first floor level. This existing forecourt level which is slightly raised from the road would remain a barrier in the present scheme. This is not a new business proposal and there are no physical alterations proposed outside the premises.

58. The concerns that the premises may sell alcohol are accepted, however consent is not being sought for the property to become a pub. It is considered that the sale of alcohol ancillary to of the café use would be a licensing matter rather than a planning consideration.

59. There are no concerns that noise pollution would be problematic for neighbouring properties and there have been no objections from Environmental Health. Conditions have been recommended to restrict the hours of operation and the use of outdoor seating, in the interests of the amenity of neighbours.

Conclusion

60. The proposed amended plans are acceptable in principle, subject to conditions. They would conserve the character, appearance and amenity of the existing property, its setting, that of neighbouring properties, and the surrounding Conservation Area, and would not affect the vitality and viability of Castleton Village Centre. The character of the site and the surrounding Conservation Area would be largely unaffected by these plans, and the level of impact for neighbouring properties would be minimal as a result of the opening hours matching those of the existing first floor café and restrictions being

imposed on the use of outdoor seating. Further conditions are required in relation to flood risk, to restrict the use of the premises, suitable extraction, outside waste bin provision and detailing.

Human Rights

61. Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil

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