

18. ADVERTISEMENT CONSENT APPLICATION - FITTING OF TWO NEW EXTRACTION GRILLES AT 1-3 MARKET PLACE, MARKET PLACE, BAKEWELL (NP/DDD/0620/0549 TM)

APPLICANT: TIM TURNER, BLUE DEER LTD

Summary

1. The applicant seeks permission to fit two new extraction grills. The key considerations are the principle, the potential impact on the character and appearance of the host building and amenity of neighbouring dwellings and the wider locality. The grills are visually acceptable and the District Council Environmental Health team have confirmed that the extraction system does give rise to any harmful odour issues. Furthermore, the extraction grills do not cause unacceptable levels of noise. The impacts are acceptable and the application is recommended for approval.

Site and Surroundings

2. The application site is a purpose-built retail unit in the centre of Bakewell. It occupies part of the site of the former indoor cattle market and was built as part of the Bakewell Regeneration programme in the 1990's. The site is within Bakewell's Central Shopping Area but is outside of the boundary of the Conservation Area. The River Derwent runs in a north to south direction approximately 42m to the east of the building, which is identified as being in Flood Zone 3.
3. The building is two storey and fronts directly onto Market Street, which runs through the centre of Bakewell, it stands opposite the Co-operative supermarket. It is constructed from sandstone under a blue slate roof, with white framed sash windows at first floor and glazed double doors under an arched fanlight and similarly arched windows at ground floor. The building hosts offices on the first floor and retail units at ground floor level. The frontages of the units are recessed from the wall faces of a small section at each side of the principal elevation, the roof structure over sails the recess, which has stone columns along the edge of the pavement.
4. There are a number of businesses in the vicinity and the Market Place car park is approximately 35m to the north-west. There are also residential properties on Riverside Crescent to the north-east, east and south-east.
5. The application site has recently been taken into use as a food based business.

Proposal

6. The retail unit has recently change from a green grocer to a café which proposes selling food produced on the premises and the option to take out and reheat at home. To enable this production of food on the premises, a kitchen area has been fitted with an extraction/filtration system which is connect to external extraction grills.
7. Retrospective permission is being sought for two new extraction grills located on the north west elevation.

RECOMMENDATION:

8. That the application be **APPROVED** subject to the following conditions or modifications:

- **3 year implementation period.**
- **The development shall not be carried out other than in complete accordance with the specified approved plans.**
- **The extraction system shall be retained and maintained in accordance with the manufacture’s specification for the lifetime of the use of the premises as a food outlet.**

Key Issues

9. The key issue for this application is whether the proposed new extraction grills would be of an appropriate design which would conserve the character, appearance and amenity of the building, neighbouring properties and the special qualities of the National Park.

History

NP/DDD/0620/0509: Advertisement consent – for the replacement of two existing signs with one larger sign. Application refused Nov 2020.

NP/DDD/1118/1017: Splitting unit 3 into two, removing window and replacing with door, keeping the opening the same size. Toilet and spare room to the rear and side of units. Granted conditionally Dec 2018

NP/DDD/1118/1021: Splitting unit 1 into two, removing window and replacing with door keeping the opening the same size. Toilet and spare room to the rear and side of units. Granted conditionally Dec 2018

NP/DDD/1116/1113: Splitting Unit into two, removing window and replacing with door keeping the opening the same size. Toilet and storeroom to the rear of both units. Granted conditionally Dec 2016

Consultations

10. Environmental Health: No objections
11. Highway Authority – No comments.
12. District Council – No response to date.
13. Town Council – The Town Council raises no objection to the proposed installation of two new extraction grills.

“It is understood that the building has A3 use and that, as such, a café offering a small proportion of take-out food would be permissible. Prior to determination of the application we ask that the planning Authority clarifies the anticipated split between take-out and eat-in business in order that any requirement for an application for a change of use can be established and addressed as appropriate.”

Representations

14. There have been 9 letters of objection. The main concerns are:
- No change of use application submitted for change from grocery store to

café/take-away.

- The unit is now open and hot food is being sold to take out. They are open until 7pm.
- The grills are noisy and extract very strong cooking odours/smells.
- The grills have been fitted in the wrong place.
- The access road at the side is privately owned by residents – concerns about illegal or unauthorised parking.
- Litter created by the new takeaway business, by people consuming food on the streets
- Waste food – environmental impact, e.g. vermin

Main Policies

15. Relevant Core Strategy policies: GSP1, GSP3, DS1 and L3

16. Relevant Local Plan policies: DMC3, DMH7, DMC14

National Planning Policy Framework

17. The National Planning Policy Framework (NPPF) replaced a significant proportion of central government planning policy with immediate effect when first published in 2012. The latest version of the NPPF was published on 19 February 2019. 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 policies of the Development Management Policies document 2019. 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.

18. Paragraph 172 of the NPPF states that ‘great weight should be given to conserving 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 landscape and scenic beauty. The conservation of wildlife and cultural heritage are important considerations in all these areas, and should be given great weight in National Parks and the Broads.’
19. Paragraph 123 explains that planning decision should aim to avoid noise from giving rise to significant adverse impact on health and quality of life as a result of new development. Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through use of conditions; recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
20. Section 16 of the NPPF discusses the conservation and enhancement of the historic environment.

Peak District National Park Core Strategy

21. 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.
22. Policy GSP3 and LC4 set out development management principles and state 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.
23. 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. Policy L2 and LC17 together seek to ensure that all development conserves and enhances the biodiversity of the National Park and that other than in exceptional circumstances development which would harm biodiversity will not be permitted.

24. Policy DMC3 - Siting, Design, layout and landscaping. Sets out that where developments are acceptable in principle, Policy requires that design is to high standards and where possible enhances the natural beauty, quality and visual amenity of the landscape. The siting, mass, scale, height, design, building materials should all be appropriate to the context. Accessibility of the development should also be a key consideration.
25. DMH7 states that alterations to dwellings will be permitted provided that the proposal does not detract from the character, appearance or amenity of the original building, its setting or neighbouring buildings.
26. Policy DMC14 – Pollution and disturbance. Development that presents a risk of pollution or disturbance including soil, air, light, water or noise pollution, or odour that could adversely affect any of the following interests will not be permitted unless adequate control measures are put in place to bring the pollution within acceptable limits:
 - (i) the amenity of neighbours and neighbouring uses; or
 - (ii) the amenity, tranquillity, biodiversity or other valued characteristics of the area; or
 - (iii) existing recreation activities; or
 - (iv) extensive land uses such as forestry and agriculture; or
 - (v) ecosystem services including water supply, groundwater resources and the water environment; or
 - (vi) established businesses; or
 - (vii) potential future uses of the land; or
 - (viii) any nuisance, or harm to the rural character and dark skies of the area, caused by lighting schemes

Assessment

Principle

27. Letters of objection have raised concerns about the site being used as a café and/or hot food takeaway without the benefit of planning permission. The unit previously had established use as an A1 retail shop and was in use for several years as a green grocers. As of 01 September 2020, changes were made by central government to the Use Class Order that are specifically intended to give greater flexibility to how town-centre business units can be used. This means that many units in commercial use can move freely to specify other uses without the need for planning permission.
28. Under the new Use Class Order, the unit falls within class E use. Class E is a new class that covers a broad range of commercial, business and service uses. This includes retail shops and the sale of food for consumption mostly on the premises (e.g. cafes). Changing between uses within class E is now not development and any unit within class E can move to other class E uses without needing planning permission or prior approval. The relevance of this to the current application is that no planning permission is now required for the former green grocers shop to operate as a café.
29. It should be noted that a hot food takeaway is now a sui generis use and planning permission is still required for a shop to become a hot food takeaway.
30. Based on the information provided to us, the intended use of the unit is a café selling food mostly for consumption on the premises, with ancillary retail sales. The primary use is therefore a Class E café. Due to lockdown restrictions since the business opened, the operators have been restricted to mainly takeaway sales. The use of a café as a takeaway benefits from a temporary permitted development right, designed to

support businesses during the Covid 19 pandemic. Because of this, it has been impossible for us to monitor the use of the site to ensure that its primary use is a class E café, and not a hot food takeaway for which planning permission would be required in normal circumstances.

31. As things stand, there has been no breach of planning regulations in respect of the use. The use of the unit as a café is within the established class E use. Temporary use of the site as a hot food takeaway is permitted development under the government's emergency Covid 19 response measures. Once the temporary permitted development allowance for hot food takeaway use ends, we will monitor the use to ensure that it is being operated within the established class E use, and not primarily as a hot food takeaway. This application is only for the installation of two extraction grills which are a reasonable requirement for a café use. Any issues relating to the use of the unit for takeaway must be dealt with as a separate matter.
32. It is important to note that a café is an acceptable town centre use and the government has deliberately altered the use class order so that town centre units can find different uses, such as has happened here, without requiring planning permission.
33. This application seeks retrospective planning permission to install two extraction grills which are located on the north west elevation of the retail building. One of the extraction grills is connected to the extraction filtration system located in the kitchen area.
34. The development is therefore to support an acceptable town centre use and is acceptable in principle, subject to visual impact and amenity considerations, which are discussed below.

Visual Impact

35. The first grill is located 0.40m from the north elevation and is not attached to any internal fittings. The other grill which is the same size is located 2.75m from the north elevation and is connected to the Systemair Fan and Electrostatic Air Cleaner.
36. The weather louvre grills are powder coated to match the existing stonework. These vents do not have a harmful impact on the building. This scheme has a limited impact on the character and appearance of the building and its setting. The grills are sited in a reasonably well thought out position to the side of the modern commercial building. The extraction grills are located to the north west elevation of the retail building and are visible from the road and car-parking area. The retail building is within Bakewell's commercial area and there are similar vents within this area. The grills don't harm the character of the host building and preserve the character of the surrounding area, including the Bakewell Conservation area, in accordance with policies GSP3, DS1, DMC3, DMH7 and the guidance contained within section 16 of the NPPF.

Amenity

37. In this case the site is surrounded by other commercial properties. There are also several residential properties on Riverside Crescent to the north-east, east and south-east. There have been concerns raised by residents of these neighbouring properties that the noise and smells from the extraction will have an impact on their amenity.
38. The grill connected to the connected to the Systemair Fan and Electrostatic Air Cleaner is located further away from the neighbouring residential properties and closer to the front elevation.

39. The district council's Environmental Health team have been consulted. The Environmental Health team have visited the site and have advised the following:

"We do not have any objections, in principal, to this application. However, since the new business has started operating, we have received several complaints about odour from the premises. The complaints are concerned with odour emitted from the extraction unit installed at the property, to the elevation of the premises opening onto Riverside Crescent.

However, I have visited the area on several occasions, whilst the premises was operating and did not witness any excessive odours emanating from the premises. Although some cooking odours were detected, emitting from the extraction unit, these were not excessive and would not amount to a statutory nuisance. The level of odour emitted from the premises was in-keeping with the nature of such a business and would not constitute a nuisance."

40. It is therefore acknowledged that there is some minor level of odour omitted from the extraction grills. However, this is at a level that is to be expected within a town centre and does not cause any significant harm. It is clear from the Environmental Health consultation response that the level of odour are well below the level of statutory harm.
41. It is also acknowledged that the grills omit a low level of noise from the extraction system within the building. Given the site is within a commercial part of the town centre it is considered that the noise pollution generated by the air extraction grills not cause harm to amenity of nearby residents or uses given the likely background noise levels within the town centre and the levels of general commercial activity. The extraction grills are typical of those found on other properties within the town centre.
42. It is considered that extraction grills do not result in any harm to the amenity of occupiers and users of any nearby property. The proposal accords with policy DMC3 and DMC14 and the guidance within the NPPF in this respect.

Other Concerns

43. Letters of objection have raised concerns about potential parking problems. This is clearly related to the use, which has been discussed further above, and not to the extraction grills that are the subject of this application. In any case though, it is noted that the site is in a highly sustainable town centre location with good access to public car parks. Parking restrictions apply in the vicinity of the application site and the enforcement of these restrictions is not a matter relevant to this planning application.
44. Letters of objection have also raised concerns about litter and vermin. Again, this is not a matter relevant to the installation of two extraction grills. As set out above, although the use of the unit is not under consideration under this application, in any case it is an appropriate town centre use. The responsible disposal of waste is the operator's responsibility and it would be an Environmental Health issue if a problem arose in the future.

Conclusion

45. In conclusion, the proposed extraction grills do not cause any visual harm. The site is within a commercial part of the Bakewell's town centre and it is considered the noise and smell output from the grills are at an acceptable level that does not result in any

harm to the amenity of occupiers and users of any nearby property. Therefore, there is no adverse effect on nearby residential amenity. Consequently, the scheme accords with Development Plan Policies and guidance within the NPPS. The application is therefore recommended for approval.

Human Rights

46. Any human rights issues have been considered and addressed in the preparation of this report.
47. List of Background Papers (not previously published)
48. Nil

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