

Planning Committee 13th December 2022

APPLICATION NUMBER		22/00721/VCOND	
SITE ADDRESS:		Peak Village Estates, Chatsworth Road, Rowsley	
DESCRIPTION OF DEVELOPMENT		Variation of Conditions 3, 4 and 5 of planning permission 15/00741/FUL to facilitate amplified music and public address, allow 24 outdoor markets within a calendar year and vary hours of setup and access for events and markets	
CASE OFFICER	Sarah Arbon	APPLICANT	Devonshire Retail Property Limited
PARISH/TOWN	Rowsley	AGENT	Miss Louie Sneddon
WARD MEMBER(S)	Cllr Matthew Buckler	DETERMINATION TARGET	15.08.2022
REASON FOR DETERMINATION BY COMMITTEE	5 or more unresolved objections	REASON FOR SITE VISIT (IF APPLICABLE)	For Members to appreciate the site and context.

MATERIAL PLANNING ISSUES	
<ul style="list-style-type: none"> • Impact upon the amenity of neighbouring properties • Impact upon highway safety 	

RECOMMENDATION
That the application be approved subject to the conditions set out in section 8.0 of the report.

1.0 THE SITE AND SURROUNDINGS

- 1.1 Peak Village is a shopping outlet centre located within Rowsley. The stone single storey buildings form a courtyard around the former railway building, now a retail unit as part of the Peak Village, is a grade II listed building which dates from 1849 and was designed by Joseph Paxton. The centre has a large parking area to the west adjacent to the river with the nearest residential properties to the north on Riverbank and Hickney Crescent. Access to the B6012 is via Hickney Crescent.



2.0 DETAILS OF THE APPLICATION

- 2.1 The variation of planning conditions 3, 4 and 5 imposed upon planning permission 15/00741. This permission granted "Use of outdoor area for assembly and leisure (Use Class D2) and outdoor market (Use Class A1) and farmers market."
- 2.2 Planning condition 3 states: "No external system of public address, loudspeaker system or amplified sound shall be operated on any part of the site without the prior written approval of the Local Planning Authority."
- 2.3 Reason: "In the interests of residential amenity in accordance with the requirements of Policy EDT11 of the Adopted Derbyshire Dales Local Plan and in accordance with guidance contained within the National Planning Policy Framework."

- 2.4 The application seeks to vary condition 3 to allow amplified low-level ambient music and public address.
- 2.5 Planning condition 4 states: "Set up of the events and markets and access to the site shall be restricted to the hours of 0830 Monday to Saturday and 0900 on Sundays and Bank/Statutory holidays with no works taking place before these times. All events shall cease by 1730 with all equipment removed from the site by 1800. There shall be no working at the site in connection with the uses beyond 1800."
- 2.6 Reason: "In the interests of residential amenity in accordance with the requirements of Policy EDT11 of the Adopted Derbyshire Dales Local Plan and in accordance with guidance contained within the National Planning Policy Framework."
- 2.7 The application proposes to vary planning condition 4 to permit the following hours of operation in relation to the outdoor markets: 07:30 – 20:00 Monday to Saturday, 07:30 – 18:30 Sunday and Bank Holidays
- 2.8 Planning condition 5 states: "There shall be only 12 farmers markets held within any calendar year."
- 2.9 Reason: "To ensure that the operation of the farmers market in this location does not adversely affect other farmers markets within the locality in the interests of protecting rural services and the rural economy in accordance with guidance contained within the National Planning Policy Framework."
- 2.10 The application proposes to vary planning condition 5 to allow 24 outdoor events per year and remove the word 'farmers' from condition 5 to allow flexibility of the tradesmen and choice of product on offer in accordance with the planning obligation which limits the sale of goods on the site.

3.0 PLANNING POLICY AND LEGISLATIVE FRAMEWORK

- 3.1 Adopted Derbyshire Dales Local Plan 2017
 S1 Sustainable Development Principles
 S3 Development within Defined Settlement Boundaries
 EC1 New Employment Development
 EC8 Promoting Peak District Tourism and Culture
 PD1 Design and Place Making
 PD2 Protecting the Historic Environment
 PD9 Pollution Control and Unstable Land
 HC19 Accessibility and Transport
- 3.2 Other:
 The National Planning Policy Framework (NPPF) (2021)
 National Planning Practice Guidance

4.0 RELEVANT PLANNING HISTORY:

13/00684/FUL	Change of use of land to facilitate use for outdoor market and car boot sales every Sunday from 1st October to 31st March between 10.00 a.m. and 5.30 p.m.	REF	14/11/2013
14/00479/FUL	Use of outdoor area for assembly & leisure (use class D2) and outdoor market (use class A1)	PERC	05/11/2014

15/00741/FUL	Use of outdoor area for assembly and leisure (Use Class D2) and outdoor market (Use Class A1) and farmers market	PERC	22/04/2016
16/00210/FUL	Enlargement of windows to units 1 and 26	PERC	15/06/2016
16/00560/VCOND	Variation of condition 7 of permission DDD/0595/0324 to allow four late night evening openings until 9 pm throughout a single calendar year	PERC	06/10/2016
21/00986/FUL	Temporary use of land for outdoor markets until 31 st December 2021	PERC	22/10/2021
04/09/0839	Use of land as farmer's market for 12 days in a calendar year	A	05/11/2004

5.0 CONSULTATION RESPONSES

5.1 Parish Council: No response to date.

5.2 Peak District National Park Authority: No response to date.

5.3 Highway Authority:

No objections subject to proposals being carried out in accordance with the submitted Events Management Plan.

5.4 DDDC Environmental Health:

Initially Environmental Health objected to the application due to the information provided being too generic. The Environmental Health Officer (EHO) recommended that a noise management plan be submitted.

The applicant has submitted a revised noise management plan following feedback from the EHO. The EHO has no objection to the revised noise management plan but recommends that opening and operational times are restricted to 08.30 to 18.00 on Sunday and Bank/Statutory holiday to prevent public nuisance.

6.0 REPRESENTATIONS RECEIVED

6.1 Five representations objecting to the application have been received to date. The reasons for objection are summarised below:

- Noise from vehicle movements and unloading before 07.30 to facilitate the setup of the outdoor markets will harm the residential amenity of neighbouring properties and visitors staying in the bed and breakfast at 4 Chatsworth Road.
- The development will cause noise and increased traffic through a residential area.
- Chatsworth Road is unsuitable for the volume of traffic it seems and traffic damages boundary walls along the road side and causes pollution.
- The proposal for low-level amplified music to be used to facilitate localised announcement and background music. It is very difficult to provide low level music in a venue of this size which will not be a nuisance to local residents.
- Amplified music will harm the residential amenity of neighbouring properties.
- Proposed amplified music is unnecessary.

- Additional markets will harm the residential amenity of neighbouring properties.
- The last event to take place under the temporary planning permission in December 2021 clashed with events at both Chatsworth and Bakewell leading to the local area being severely congested with traffic. It is difficult to see how organisers of these events will plan this on obviously popular weekend dates throughout the year.
- Existing conditions are frequently ignored with traffic movement and deliveries before 08.30.
- Events have been held outside since planning permission was granted which have resulted in unacceptable noise impacts to neighbouring properties.

7.0 OFFICER APPRAISAL

Variation or removal of planning conditions

- 7.1 Section 73 of the Town and Country Planning Act 1990 provides that an application may be made for planning permission without complying with conditions applied to a previous permission. The Local Planning Authority may decide whether to grant permission subject to differing conditions (this can include imposing new conditions), remove the conditions altogether or refuse to alter conditions. The section makes it clear that in considering such an application a Local Planning Authority may only consider the question of the conditions and not revisit the principle of the development.
- 7.2 Therefore, only the acceptability of the proposal in the context of the reasons for the imposition of the conditions falls to be considered in the determination of the current application. However, in terms of decision making, a Section 73 application should be treated like any other application, and due regard paid to the development plan and other material considerations.
- 7.3 Having regard to the above, consultation responses and representations received and the relevant provisions of the development plan and the National Planning Policy Framework, the main issues to assess are:
- Impact upon the amenity of neighbouring properties
 - Impact upon highway safety
- 7.6 The application site is an established shopping centre with permission to hold up to 12 outdoor markets per year. This application seeks to vary conditions to allow up to 24 markets per year along with longer opening hours and 'low-level' background music and public announcements.
- 7.7 Policies S1, EC1 and EC8 support proposals for the expansion of existing businesses in sustainable locations that contribute towards the creation and retention of a wide range of jobs. The policy encourages intensification and more efficient use of existing sites where they are not fully utilised and visitor-based service sector jobs within the local tourism industry. The provision of additional markets and longer hours of operation is acceptable in principle.
- 7.8 Policies S1, PD1 and PD9 require all development to provide a high standard of amenity and ensure that communities have a healthy, safe living environment free from the risks of pollution.
- 7.9 A number of concerns have been raised in representations and by the EHO in regard to noise from the markets, amplified music and associated vehicle movements, loading and unloading. A noise management plan (NMP) has been submitted in support of the application following advice from the EHO. The NMP proposes the following noise control measures for events:

- 1) Amplified music /noise would only be omitted during the permitted opening times and restricted in the morning to start after 11am.
- 2) Minimal PA systems would be used to offer clarity of sound.
- 3) Noise monitoring devices / equipment would be used and a log kept of noise levels.
- 4) Performers /Musicians would not have control of noise levels but designated person of authority/event management team working to a strict brief on noise levels as defined by sound checks.
- 5) Initial sound checks would be carried out at the event start to ensure that appropriate noise levels are established with ongoing checks adhering to this benchmark throughout the day.
- 6) Sound checks would include consideration to neighbouring dwellings at Hinckley Court & the cottages and Bed and Breakfast dwelling on Chatsworth Road.
- 7) Site management present for set up and pack down to ensure smooth running and noise monitoring.

7.10 The EHO has been consulted on the submitted NMP and has no objection subject to a planning condition to ensure that amplified music and announcements are only carried out in accordance with the NMP. Having had regard to the advice from the EHO it is considered that any adverse impacts from noise can be mitigated to an acceptable level. It is therefore recommended that planning condition 4 be varied accordingly.

7.11 The application proposes to extend the hours of operation of the markets to 07.30 – 20.00 Monday to Saturday and 17.30 – 18.30 Sundays and Bank Holidays. Concerns have been raised in particular about vehicle movements and loading and unloading early in the morning. The EHO has no objection to the proposed hours Monday to Saturday but does raise concerns about the times on Sundays and Bank Holidays. The EHO recommends that on these days the markets are restricted to between the hours of 08.30 and 17.00 with set up / break up works restricted to between the hours of 08.30 and 18.00.

7.12 Officers have discussed these times with the applicant to reach agreement. Taking into the account the advice of the EHO and concerns raised in representations it is considered to be reasonable and necessary to restrict the hours as recommended in the interests of the amenity of neighbouring properties. It is therefore recommended that planning condition 4 be varied and a new planning condition 5 be added to set clear limitations for the approved hours of the market and set up / break up works.

7.13 Subject to the restrictions set out above there is no objection in principle to the proposed increase in number of markets from 12 to 24. This would still be a relatively small number of markets each calendar year and would not result in harm to residential amenity or adverse noise or other disturbance.

7.14 The proposals would not result in any change to existing access or parking arrangements and would not result in any significant increase in vehicle movements over and above the existing established use of the site as a shopping centre with outdoor markets. No objection has been raised by the Highway Authority and it is considered that the development will not harm highway safety.

7.15 Therefore having had regard to all matters raised in consultation responses and representations that, subject to the imposition of appropriate planning conditions, the

proposal is in accordance with the development plan. In the absence of any further material considerations the application is recommended for approval. If permission is granted it is necessary to repeat planning conditions 2 and 6 imposed on planning permission 15/00741/FUL.

8.0 RECOMMENDATION

The planning permission is approved, subject to the following conditions.

- 1 This permission shall relate only to the shopping area of Peak Village in accordance with the A4 red edged site plan received 13.10.2015 and shall not spill out into the car parking areas or green fields surrounding the site.

Reason:

To clarify the limit of the permission in the interests of highway safety and residential amenity in accordance with the requirements of Policies HC19 and PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 2 The external system of public address, loudspeaker system or amplified music system shall be operated at low-level within the centre in accordance with the submitted Noise Management Plan dated 28.10.2022 and shall not be used other than to facilitate localised announcements and background music only as described within the submitted supporting letter dated 30.05.2022.

Reason:

In the interests of residential amenity in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 3 The use hereby permitted (excluding deliveries and set up / break up works) shall be restricted to the hours of 07.30 – 20.00 Monday to Saturday and 08.30 – 17.00 on Sundays and Bank/Statutory holidays.

Reason:

In the interests of residential amenity in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 4 All deliveries and set up / break up works associated with the use hereby permitted shall be restricted to the hours of 07.30 – 21.00 Monday to Saturday and 08.30 – 18.00 on Sundays and Bank/Statutory holidays.

Reason:

In the interests of residential amenity in accordance with Policy PD1 of the Adopted Derbyshire Dales Local Plan (2017).

- 5 The operation of the events/markets shall be in accordance with the restrictions on the sales of goods as defined in the legal agreement dated 17th May 1996 as follows:
 - Imperfect goods
 - End of line goods sold at discount prices
 - Goods manufactured by the retailer
 - 'Own brand' goods exclusive to the retailer but manufactured by another
 - Goods previously offered for sale elsewhere

- Goods relating to sporting outdoor and/or recreational pursuits
- Regional specialties and local produce including but not limited to food and foodstuffs
- Products or goods have a connection with the locality or countryside
- Sale of goods ancillary to or relating to tourism

Reason:

For avoidance of doubt.

9.0 NOTES TO APPLICANT:

The Local Planning Authority considered the application and has requested additional supporting information to overcome any concerns raised. The Local Planning Authority has engaged with the applicant in positive and permission was granted following this negotiation.

This permission relates to the following documents:

Planning application form

Peak Village & Events Management Plan dated 20.04.2022

Covering letter dated 30.05.2022

Noise Management Plan dated 28.10.2022