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Site Address: 37 High Street, Emsworth, PO10 7AL  
Proposal: Application for variation of condition 3 of Planning Permission 27995/3 relating to opening hours to patisserie to be 08:00 – 16:00 Monday to Saturday and 10:00 – 15:00 on Sundays. Operating hours of the bakery (staff only) to be 22:00 – 01:00 Monday to Sunday.  
Application Type: Variation/Relief of Condition  
Application No: APP/22/00811 Expiry Date: 10/10/2022  
Applicant: Mrs Elliott  
Agent: Mrs Fox Case Officer: Jenni Price  
Critchley Architecture And Design (CAAD) Ltd  
Ward: Emsworth

Recommendation: **GRANT PERMISSION**

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## **1 Site Description**

37 High Street, Emsworth, PO10 7AL

- 1.1 The commercial property is located on the eastern side of St. Peter's Square, High Street Hemsworth. It is currently used as a bakery.

The area is a mix of commercial properties and residential that are sited within the Emsworth Conservation Area, an Area of Outstanding Natural Beauty and is adjacent to a listed building.

## **2 Planning History**

90/54003/001 - Extension to kitchen., PERM,  
91/54003/003 - Single storey extension at rear to form coffee lounge at rear., REF,31/10/1991  
04/54003/004 - Single storey pitched roof extension to rear (incorporating rooflights to north east elevation) to accommodate a kitchen; internal and external alterations to facilitate changes to internal layout at ground floor level. , PERM,07/04/2005  
05/54003/005 - Conversion of 3bed flat to one 2bed flat and one studio flat., S106,01/03/2006  
05/54003/006 - Retention of an extractor unit, flue and coil (height 4.15m) and two condensers to rear elevation., PERM,17/01/2006  
GEN/22/00044 - Internal alterations (less cafe and more food prep area), small change to hours of operation., ,08/02/2022 09:23:05

## **3 Proposal**

Application for variation of condition 3 of Planning Permission 27995/3 relating to opening hours to patisserie to be 08:00 – 16:00 Monday to Saturday and 10:00 – 15:00 on Sundays. Operating hours of the bakery (staff only) to be 22:00 – 01:00 Monday to Sunday.

## **4 Policy Considerations**

National Planning Policy Framework  
Havant Borough Council Borough Design Guide SPD December 2011

Havant Borough Council Parking SPD July 2016

Havant Borough Local Plan (Core Strategy) March 2011

|      |                                                                                   |
|------|-----------------------------------------------------------------------------------|
| CS11 | (Protecting and Enhancing the Special Environment and Heritage of Havant Borough) |
| CS12 | (Chichester Harbour Area of Outstanding Natural Beauty (AONB))                    |
| CS16 | (High Quality Design)                                                             |
| DM5  | (Control of Class A3, A4 and A5 Food, Drink and Entertainment Uses)               |
| DM8  | (Conservation, Protection and Enhancement of Existing Natural Features)           |

Havant Borough Local Plan (Allocations) July 2014

Emsworth Neighbourhood Plan Post Examination Version 2020

Listed Building Grade: Not applicable.

Conservation Area: Emsworth

## **5 Statutory and Non Statutory Consultations**

### **Chichester Harbour Conservancy**

No Objection

### **Conservation Officer - No objection**

### **The Conservation Officer has made the following comments:**

Please accept this as the heritage response for the above application. I have no objections to the proposed change of hours of operation in terms of the potential impact on the building itself or the Emsworth Conservation Area in which the application site is situated.

### **Councillor Julie Thain-Smith**

No comment

### **Councillor Lulu Bowerman**

No comment

### **Councillor R Kennett**

No comment

### **Crime Prevention -Minor Apps**

No comment

### **Environmental Health**

### **Environmental Health has made the following comments:**

I would ask if the following can be clarified by the agent or applicant:

a. It is advised there are currently two extract systems with the one approved under App 05/54003/006, to now be removed during the proposed works at the premises. However, no information is provided for the bake oven extract system.

- b. Under App 05/54003/006, Condition 1 of the Decision notice dated 17 January 2006, referred to the hours of operation, which if this unit is removed, would nullify that condition.
- c. Under the same app 05/54003/006, condition 2 related to the condenser units: ' a scheme for the attenuation of night time noise emissions to be submitted to the LPA in writing for approval I couldn't find any discharge related to this condition, nor what additional attenuation measures were employed. Are these condenser units still in operation?
- d. The Planning Statement August 2022, refers to Condition 2 being related to the extraction system 'Condition 2 also relates the mitigation of noise emissions from the proposed flue, which has since been discharged.' Should refer to the condenser units? Also refers to Condition 2 having been discharged. (See c. above)
- e. Any specific reason for these particular hours of use?
- f. Will additional cleaning etc be conducted in the kitchen areas after baking etc is completed.
- g. Consideration will need to be given to not disposing of refuse into outside bins during these night time periods.
- h. What are the proposed pick up times for manufactured produce, for delivery to outlying premises?
- i. How will the freshly produced goods be loaded onto the van / delivery vehicles e.g roll cages, trolleys or baskets by hand, etc ?
- j. What are current delivery times for incoming supplies? – and are these to change?
- k. Bakeries I've been in before, can be relatively noisy, with metal baking trays, muffin tins, bread tins and the like, coming into contact with steel racks, stainless steel tables and so forth. Have any additional acoustic insulation measures ever been employed between the shop / kitchen areas and the residential flat above (and possibly adjacent)?

**The Applicant has responded to the above questions by providing the following information:**

I respond to the concerns raised by Mark Moss about our application for a variation in working hours in Emsworth. I can assure him that our proposal will not result in any noise nuisance.

I should point out that we are downsizing our business dramatically which is why we only need a very small bakery. We are not going to be making produce for any other shops, other than Emsworth, so there won't be any products being distributed to other shops.

Our current set up is a kitchen, where we bake pastries etc. from an oven. There is an extractor fan above the oven, which takes the hot air from the oven to the outside. I think a picture of this was sent. This set up will remain the same. We will be baking some bread, during the night, as well as the existing pastry products during the day. The residential flat is not above the kitchen, it is above the existing coffee shop. It is only the kitchen that will be used during the night as we want to have fresh bread to sell first thing in the morning.

The existing Coffee Shop, which serves 30 covers, will cease to be in use, being replaced by a bakery, that will only be used during the day for preparation

of cakes and pastries. There will only be 2 bakers working at anyone time and it will be quieter than our existing operation.

Please find below my response to the concerns raised:

- a. The current extraction system that was approved under App 05/54003/006 had to be installed because we were frying cooked breakfasts etc. for our coffee shop. This will no longer happen so we don't need the extraction system. As mentioned above the oven will stay in place and there is an extractor fan that draws the heat from the oven to the outside through a flue.
- b. As we won't be cooking food for the coffee shop, and therefore won't need the extraction system, I don't think that nullification of the condition is relevant.
- c. The condenser units referred to are no longer in existence. The fridges and freezers that we installed back in 2006 needed external condensers, which were located in a housing unit outside the rear of the kitchen. All of our refrigeration and freezer units now have integral condensers. In addition we are not proposing to have any additional fridges or freezers to those we have at the moment.
- d. I hope the information I have given above clarifies this.
- e. The reason for the hours of use is so we can have fresh quality artisan bread (sour dough) ready to sell in our shop first thing in the morning. We are intending to focus on quality rather than quantity. As mentioned before, the night time working will only be in the current kitchen, with modest quantities, for one shop only, and the kitchen is not below the residential flat.
- f. I don't anticipate that the cleaning process will be any more onerous than it currently is, if anything it will be less. The bakery will only operate until 1pm and there will only be 2 bakers working at any one time. That is less than the 3 members of staff working in the current kitchen and coffee shop, together with the up to 30 customers in the coffee shop area.
- g. There won't be any refuse needing to be put into bins at night time.
- h. This does not apply. We are not delivering to any other premises.
- i. This does not apply.
- j. We don't anticipate there will be any more deliveries for incoming supplies. We will probably have 5 a week. We currently have 4. In addition we won't be delivering from our current bakery in Mengham to Emsworth, so overall it will be a lot less.
- k. This is going to be a small craft bakery, not a noisy one. We already have metal baking trays, steel racks and stainless steel tables in use in the kitchen and a very noisy coffee shop. The set up will be much quieter.

**The Environment Officer has made the following comments on the additional information provided by the applicant:**

In the initial Planning statement, as per items 2.2 & 2.3 of the proposal summary, it was advised that it 'involves the creation of a more centrally located bakery site in Emsworth'. From that one would deduce that a larger scale bakery was being proposed. However as per Mrs Elliott's recent response, it has now been clarified that is not the case, and that part of the reason for the variation application is only to bake sufficient fresh bread overnight, for sale at the same premises.

Therefore I can advise as follows, as per my previous list as below and Mrs Elliott's response :

- a. I have listened to the bake oven extractor unit when on, whilst stood outside below the flue outlet. Noise levels seem acceptable for daytime use. However when running at night and when background noise levels are much lower, there remains the potential for impact on nearby residential receptors. Therefore in regard to the bake oven extractor, I would suggest two options:
  - i. Should we receive extractor related noise complaints going forward, which if verified, the applicant would need to institute suitable mitigation measures to resolve the issue, or
  - ii. Temporary permission could be granted for the variation of condition for 12 months, and if no issues arise during that period the variation can be made permanent.
- b. No issue as being removed
- c. No issue as already removed
- d. See c.
- e. Clarified & acceptable
- f. Clarified & acceptable
- g. Agreed - no refuse into bins at night
- h. Clarified
- i. Not applicable as clarification that all goods baked on site overnight, are only for sale at this premises
- j. Deliveries to remain during normal daytime opening times
- k. It has been explained that the upstairs flat is not over this particular kitchen area which is to be used for the overnight baking. As such this should be satisfactory. However should any noise related issues arise, refer to a. above.

## **6 Community Involvement**

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 9

Number of site notices: 1

Statutory advertisement: 30/09/2022

Number of representations received: 0

## **7 Planning Considerations**

- 7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- (i) Principle of development
- (ii) Impact upon residential amenity

(i) Principle of development

- 7.2 The application site is situated within an urban area where further development is considered acceptable subject to the usual development control criteria.

(ii) Impact upon residential amenity

- 7.3 The bakery is known as Heidi's Patisserie and is sited within commercial and residential area. There are two flats located on the upper floors of the property.
- 7.4 The store currently opens between the hours of 08:00 hours and 16:00 hours Monday to Saturdays and 10:00 hours to 15:00 hours on Sundays.
- 7.5 The Council's Environmental Health Officer has been consulted on the application and advises that the main area of concern is the possibility of noise arising from the additional hours of the bakery (staff only) to be 22:00 – 01:00 Monday to Sunday. However, it has been suggested to place an informative on any grant of planning permission in respect of noise and disturbance from the proposed changes of hours of use and the use of the extractor system. Therefore, there would be no further objection to this variation being formalized.

## 8 Conclusion

- 8.1 The proposal is not considered to have an adverse impact on the residential amenity and as such, the application is recommended for permission be granted.

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## 9 **RECOMMENDATION:**

That the Head of Planning be authorised to **GRANT PERMISSION** for application APP/22/00811 subject to the following conditions

- 1 The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Site and block plan 22070-101

Associated document containing questions raised by Environmental Health and answered by Agent/Applicant submitted 2022/2023

**Reason:** - To ensure provision of a satisfactory development.

- 2 The patisserie shall be open for trade or business between the hours of 08:00 – 16:00 Monday to Saturday and 10:00 – 15:00 on Sundays. The proposed operating hours of the bakery shall be 22:00 – 01:00 Monday to Sunday.

**Reason:** To protect the amenities of nearby residential properties and having due regard to policies CS16 and DM10 of the Havant Borough Local Plan (Core Strategy) 2011 and the National Planning Policy Framework.