

Our Ref: 25052/TR/CJ
Your Ref: PP-13764585
Email: troberts@firstplan.co.uk

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London SE1 9PL firstplan.co.uk

17 February 2025

Havant Borough Council,
Public Service Plaza,
Civic Centre Road,
Havant,
PO9 2AX

Dear Sir / Madam,

APPLICATION TO VARY CONDITION 15 OF PLANNING PERMISSION REF: 00/61718/003 AT BURGER KING, PARK ROAD SOUTH, HAVANT, PO9 1ER

We write on behalf of our client, BKUK Group Ltd, to submit an application under Section 73 of the Town and Country Planning Act 1990 (the "Act") to amend Condition 15 in planning permission ref. 00/61718/003 at Burger King, Park Road South, Havant, PO9 1ER.

Planning permission reference 00/61718/003, dated 25 January 2001, granted consent for:

"Erection of a single storey building to be used as a fast food outlet and drive thru' (class A3 food and drink) car parking and landscaping (to include footpath/cycleway links)"

This application (Planning Portal ref. PP-13764585) seeks to amend Condition 15 of this consent to align the consented hours of use of the drive-thru restaurant with the premises License issued by Havant Borough Council.

The following documents have been submitted in support of this application:

Completed Application Forms;
Planning Statement prepared by Firstplan (included in this letter); and
CIL Form 1.

For completeness, the application is further supported by a Site Location Plan (identifying the part of the site affected), which is provided for ease of review and informational purposes only. This is not understood to be a validation requirement.

The requisite fee of £293 has been paid online, together with the £70 planning portal admin fee.

Planning Background

The application site comprises a single-storey restaurant with drive-thru lane located on the western side of the B2149, Park Road South. To the immediate west of the site is the Solent Retail Park where there are various companies such as Halfords, Home Bargains, Hobbycraft and Peacocks. To the east is a nursing home and beyond this lies residential housing. To the northeast is Majestic Wine and a tanning salon. Directly north of the existing Burger King building is the customer car park and beyond this is a chartered accountants and a repair shop. To the south of the site lies a Tesco Extra and car parking for local businesses.

The site is located within the Town, District and Local Centres and is identified as a regeneration area of the Borough.

The site is not a listed building and it is not within a conservation area nor adjacent to one.

The site is understood to have been occupied as a Burger King since 2001.

An ariel view of the site and photographs of the building are provided in Figure 1.



Figure 1. Ariel View and Photographs

The Key planning history for the site is outlined in Table 1.

Ref	Description of Development	Decision
00/61718/003	Erection of a single storey building to be used as a fast food outlet and drive thru' (class A3 food and drink) car parking and landscaping (to include footpath/cycleway links)	Approved 23 Jan 2001

Table 1. Planning History Summary

Condition 15 of 00/61718/003 is proposed for amendment and sets out that:

“The premises hereby permitted shall not open to the public before 0600 hours or remain so open after 2400 hours.”

Planning Guidance – Use of Planning Conditions

Paragraph 56 of the National Planning Policy Framework (NPPF, 2024) states that:

“Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions”

Paragraph 57 of the NPPF makes clear that planning conditions should be kept to a minimum, and only imposed where they are:

1. necessary;
2. relevant to planning;
3. relevant to the development to be permitted;
4. enforceable;
5. precise; and
6. reasonable in all other respects.

Paragraph 85 states that planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

Paragraph 201 also states:

“The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities. The NPPG confirms that each of the six tests needs to be satisfied for each condition which an authority intends to apply.”

Paragraph 21a-001-20140306 of National Planning Practice Guidance further states that:

“The objectives of planning are best served when the power to attach conditions to a planning permission is exercised in a way that is clearly seen to be fair, reasonable and practicable. It is important to ensure that conditions are tailored to tackle specific problems, rather than standardised or used to impose broad unnecessary controls”.

Amendment to Condition 15

As set out in the decision notice in Appendix 1, Condition 15 has been imposed by the Local Planning Authority to protect the residential amenities nearby.

Appendix 1

A new Licence (ref: HPN0084) was recently granted on 22nd November 2024 at the site (attached in Appendix 2) and this application is seeking to amend the operative planning consent to align with the parameters approved by Havant Borough Council under the Licence for consistency.

Appendix 2

The Licence granted enables the provision of late-night refreshments between 23:00 hours (11pm) and until 05:00 hours (5am) from Monday to Sunday. During the consultation on the proposed Licence extension application, the Council's Environmental Health Officer Havant Borough Council's Entertainment Licensing and Arun District Planning Team were consulted. It should be noted that no licence is required for the restaurant or drive-thru to operate during the hours of 05:00 hours (5am) and until 23:00 hours (11pm) Monday to Sunday.

As noted in the responses received, the Council's Environmental Health Officer raised no objections, nor were there any objections or responses from other relevant consultees.

The proposed extension to the operating hours of the restaurant is not considered to result in any unacceptable impact on the existing levels of amenity and the approved Licence contains several conditions to ensure no potential disturbances arise which could impact the amenity of residential dwellings nearby.

The approved Licence and accompanying conditions will therefore continue to protect the residential amenities of the neighbouring properties and would be enforceable under the Licensing Act 2003 and other legislative procedures. In line with Paragraph 201 of the NPPF, planning should not revisit these assessments and planning decisions should assume that these regimes will operate effectively.

Accordingly, the following revised wording for Condition 15 is proposed:

"The restaurant premises hereby permitted shall not open to the public before 0500 hours or remain so open after 2400 hours.

The drive through restaurant shall operate 24 hours daily."

The License has included the necessary measures for the prevention of crime, disorder and anti-social behaviour, including the provision of CCTV, its operation and the handling of an incident log. Notices will also be displayed within the restaurant and premises to request that patrons respect the needs of local residents and leave the area quietly, which will be overseen by restaurant staff. Existing measures for the prevention of disturbance and litter will be extended into the widened trading hours.

In line with the License, it is proposed that the sales of food and drink within the dine in restaurant will be 5am to 11pm with the drive-thru lane being 24 hours. The internal part of the site (restaurant and toilets) will not be open to patrons between the hours of 11pm and 5am. Trade between these hours is anticipated to be substantially lower than average daytime trade with much lower customer numbers.

The proposed hours of use are considered to be compatible with this context, which was established by the granted of the License.

Overall, the proposed extension of the trading hours is considered to be entirely acceptable and would preserve the amenities of the surrounding area, in accordance with the Havant Local Plan 2011.

Conclusion

In light of the above, this amendment under Section 73 of the Town and Country Planning Act 1990 seeks to vary the consented hours at the Burger King drive-thru restaurant, Park Road South, Havant, PO9 1ER.

The proposals seek to amend Condition 4 of planning permission ref. 00/61718/003 to align the hours with those recently permitted by Havant Borough Council under a new Licence (ref: HPN0084) on 22nd November 2024.

The proposed hours have been established as being acceptable to the Council via the License process and in accordance with Paragraph 201 of the NPPF, it is not necessary for planning to revisit the acceptability of these hours. Notwithstanding this, the proposals are deemed to be wholly compatible with the surrounding context and are consistent with the trading hours typically found in this locality, and wholly acceptable in planning terms.

We trust that the information enclosed is sufficient to enable the Council to process and determine the application. However, should you require anything further or clarification on any point, please do not hesitate to contact me

Yours faithfully,



TOM ROBERTS
Senior Planner

APPENDIX 1 | Decision Notice

Head of Planning and Development
Derek Kingaby ARICS Dip.TP MRTPI

Tel (023)9247 4174
Fax(023)9244 6588
DX50005 Havant
www.havant.gov.uk

To:
Beverley Tourle
Cunnane Town Planning
67 Strathmore Road
Teddington
TW11 8UH

For: Gowrings Food Services Ltd.



THE TOWN AND COUNTRY PLANNING ACT 1990
Grant of Planning Permission

Application Number: 00/61718/003

Site Address: Land @ Park Road South and Solent Road, Havant

Proposal: Erection of a single storey building to be used as a fast food outlet and drive thru' (class A3 food and drink) car parking and landscaping (to include footpath/cycleway links)

Further to your application received on 23 August 2000 Havant Borough Council, as Local Planning Authority **Grants Planning Permission** for the above proposal in accordance with the submitted plans and particulars as detailed below.

In reaching its decision the Council has had regard to the policies and proposals UB3 of the Hampshire County Structure Plan (Review) and policies and proposals 55 and Policy 7 of the Havant Town Centre Action Area Local Plan and HTC 10 of the Havant Borough District-Wide Local Plan.

This permission is subject to compliance with:

- (i) The plans and other documents submitted with your application, (as amended by plans and documents received on 17/11/2000 and 12/01/2001) (and) (as supplemented by additional information and/or plans received on 17/11/2000, 20/11/2000 and 02/01/2001) and;
- (ii) The following conditions:

Conditions:

- 1 The development hereby permitted shall be begun before the expiration of 5 years from the date on which this planning permission was granted.

Reason: To comply with Section 91 of the Town & Country Planning Act 1990.

Our Ref: 00/61718/003

- 2 No development hereby permitted shall commence until plans and particulars specifying the detailed proposals for all of the following aspects of the same have been submitted to and approved in writing by the Local Planning Authority.

- (a) The design and materials of all walls and fences and other means of enclosure;
- (b) Hardsurfacing proposals including surfacing materials;
- (c) The provision to be made for external lighting;
- (d) The measures to be taken to prevent damage to existing trees (and hedgerows) throughout implementation of the development;
- (e) The areas to be used for contractors' vehicle parking and materials storage during (site clearance and) construction of the development;
- (f) The design of the bicycle racks.

Reason: To secure orderly development.

- 3 No development hereby permitted shall commence until plans showing, in relation to the existing trees and other vegetation proposed to be retained, the layout of all drainage and other underground services proposed to serve that development have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard against undue damage to existing trees and/or other vegetation at and in the vicinity of the site.

- 4 Construction of the building(s) hereby permitted shall not commence until samples and details of all external facing and roofing materials shall be submitted to and approved by the Local Planning Authority. Thereafter only such approved materials and finishes shall be used in carrying out the development.

Reason: To ensure the appearance of the development is satisfactory.

- 5 No externally visible or audible plant, machinery or structures required for ventilation or filtration purposes shall be installed at the premises until and unless details of the external appearance and acoustic performance of the same have been submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the amenities of the locality and/or occupiers of neighbouring property.

- 6 No development hereby permitted shall commence until a detailed scheme for filtration and extraction of fumes generated (by cooking processes) at the premises has been submitted to and approved in writing by the Local Planning Authority. The use hereby permitted shall not commence until the implementation of such approved filtration and extraction scheme has been completed in full accordance with all detailed components of such scheme. At all times thereafter, all elements of that scheme shall be maintained in a wholly efficient and effective working order.

Reason: To safeguard the amenities of the locality and/or occupiers of neighbouring property.

- 7 No burning of materials shall take place anywhere on the development site, throughout the period of site clearance and development.
Reason: To protect the health of trees to be retained in the interests of amenity.
- 8 No development shall commence on the site until details of all works to or affecting trees on or adjoining the site shall have been submitted to and approved in writing by the Local Planning Authority, and shall be carried out in accordance with the relevant recommendations of BS 3998 1989 (Recommendations for Tree Work).
Reason: To ensure the continuity of amenity value afforded by the tree(s) in question.
- 9 Any excavation work within the existing crown spread of the trees to be retained and covered by TPO 1716 shall be carried out only by hand and under the supervision of a representative of the Local Planning Authority. Any roots over 40mm in diameter shall not be severed without the prior agreement of the Local Planning Authority.
Reason: To ensure the tree is not adversely affected by the construction of the development.
- 10 The development shall not be brought into use until the footpath link to Solent Road and space for the loading, unloading and parking of vehicles has been provided within the site, surfaced and marked out in accordance with the approved details. Such areas shall thereafter be retained and used solely for those purposes.
Reason: In the interests of highway safety.
- 11 Prior to being discharged into any water course, surface water sewer or soakaway, all surface water drainage shall be passed through an oil bypass interceptor designed and constructed to have a capacity compatible with the site being drained. Roof water shall not pass through the interceptor.
Reason: To prevent pollution of the water environment.
- 12 No development shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved programme and details.
Reason: To prevent flooding.
- 13 The landscaping scheme shall be completed within 6 months from the completion of the last building shell, or such other date as may be agreed in writing with the Local Planning Authority. Any trees or plants which die during the first 5 years shall be replaced during the next planting season.
Reason: To ensure that the landscape scheme is completed in the interests of the appearance of development.
- 14 Each part of the site which becomes landscaped as part of the landscaping scheme hereby approved shall be retained as an area of soft landscaping at all times thereafter and shall not be used for the outside storage of any goods, equipment or machinery nor for the purpose of vehicle parking.
Reason: To ensure that the appearance of the development is satisfactory.

- 15 The premises hereby permitted shall not open to the public before 0600 hours or remain so open after 2400 hours.

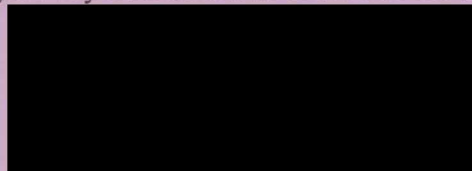
Reason: To protect the amenities of nearby residential properties and of the locality.

- 16 The development, hereby permitted, shall be carried out and completed strictly in accordance with the submitted plans, specifications and written particulars for which permission is hereby granted or which are subsequently submitted to, and approved by, the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

Reason: To ensure that the development is completed satisfactorily in all respects.

Other Important Information:

- (1) This notice only relates to the decision of Havant Borough Council as Local Planning Authority under the Town and Country Planning Acts. It does not relate to any other application that may be required under the Town and Country Planning Act, Building Regulations or under any other Act, Regulation, Byelaw or Order where the Council's approval may be needed. For further guidance as to the need for consent under the Building Regulations please phone 023 9244 6573.
- (2) Your attention is drawn to the attached information regarding firstly your right to appeal to The Department of Environment, Transport and Regions, if you are aggrieved by the Council's decision, and secondly the rights of an owner to, in certain circumstances serve a purchase notice on the Council.
- (3) Any failure to adhere to the details of the approved plans, and other documents or to comply with any conditions listed above may lead to enforcement action being taken by the Council. If you wish to depart from the approved details or conditions in any way you should contact the Planning and Development Service at the Civic Offices or by telephoning 023 9244 6581/2.
- (4) Your attention is drawn to the provisions of the Water Resources Act 1991 and the Land Drainage Bylaws 1981. The consent of the Environment Agency is required for any work or structures in, under, over or within 8 metres of the top of the bank of a main river. You are advised to contact the local office of the Environment Agency at Winchester (tel. no 01962 713267).
- (5) This permission remains subject to a planning obligation agreement made under Section 106 of the Town & Country Planning Act 1990 dated 27 April 1999 which requires the future provision of a public footpath/cycleway link across the north of the site.



Head of Planning and Development

23 January 2001

APPENDIX 2 | Approved Licence



Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

Premises Licence

HPN0084

Licensing Act 2003

Part 1 - Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

BURGER KING

26 PARK ROAD SOUTH, HAVANT, HAMPSHIRE, PO9 1HB.

Certified as a true copy
of the licence

Elizabeth Allen Solicitors
Pappleston Allen Solicitors
Nottingham

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- provision of late night refreshment

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
I. Late night refreshment (Indoors & Outdoors)	All week	11:00pm	5:00am

THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
All week	Midnight	Midnight

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

Part 2

NAME, (REGISTERED) ADDRESS, TELEPHONE NUMBER AND EMAIL (WHERE RELEVANT) OF HOLDER OF PREMISES LICENCE

BKUK Group Ltd

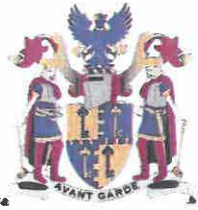
5 NEW STREET SQUARE, LONDON, EC4A 3TW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

BKUK Group Ltd

10980808





Premises Licence

Licensing Act 2003

HPN0084

ANNEXES

ANNEX 1 - MANDATORY CONDITIONS

N/A

ANNEX 2 - CONDITIONS CONSISTENT WITH THE OPERATING SCHEDULE

PREVENTION OF CRIME AND DISORDER

CCTV

CCTV system shall be installed at the premises.

CCTV shall be maintained in good order and recordings shall be retained for at least 31 days. The correct time and date will be generated onto both the recording and the real time image screen. The footage will be made available for inspection by authorised officers of the Licensing Authority and the Police upon request.

There shall be signs displayed in the customer area to advise that CCTV is in operation.

A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.

Refusal / Incident log

An incident log shall be kept at the premises and made available on request to an authorised officer of the City Council or the Police. It must be completed within 24 hours of the incident and will record the following:

- (a) all crimes reported to the venue
- (b) all ejections of patrons
- (c) any complaints received concerning crime and disorder (d) any incidents of disorder
- (e) all seizures of drugs or offensive weapons
- (f) any faults in the CCTV system, searching equipment or scanning equipment
- (g) any visit by a relevant authority or emergency service.

Training

The Premises Licence Holder or nominated person shall ensure that all relevant members of staff receive training in their responsibilities under the Licensing Act 2003. Such training shall be documented, and records made available upon request from the Police or an authorised officer of the Licensing Authority.

From 23:00 the sales of hot food & drink are to be via the drive-thru facility only.
The internal restaurant will be closed from this time.

PROMOTION OF PUBLIC SAFETY

A direct telephone number for the manager at the premises shall be publicly available at all times the premises is open. This telephone number and/or is to be made available to residents and businesses in the vicinity.

PREVENTION OF PUBLIC NUISANCE

No noise generated on the premises, or by its associated plant or equipment, shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.

Notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.

No fumes, steam or odours shall be emitted from the licensed premises so as to cause a nuisance to any persons living or carrying on business in the area where the premises are situated.

ANNEX 3 - CONDITIONS ATTACHED AFTER A HEARING BY THE LICENSING AUTHORITY





Havant
BOROUGH COUNCIL

Public Service Plaza
Civic Centre Road
Havant
Hampshire
PO9 2AX

Premises Licence

Licensing Act 2003

HPN0084

ANNEXES continued ...

N/A





Premises Licence Summary

HPN0084

Licensing Act 2003

Premises Details

POSTAL ADDRESS OF PREMISES, OR IF NONE, ORDNANCE SURVEY MAP REFERENCE OR DESCRIPTION

BURGER KING

26 PARK ROAD SOUTH, HAVANT, HAMPSHIRE, PO9 1HB.

WHERE THE LICENCE IS TIME LIMITED THE DATES

Not applicable

LICENSABLE ACTIVITIES AUTHORISED BY THE LICENCE

- provision of late night refreshment

THE TIMES THE LICENCE AUTHORISES THE CARRYING OUT OF LICENSABLE ACTIVITIES

Activity (and Area if applicable)	Description	Time From	Time To
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THE OPENING HOURS OF THE PREMISES

Description	Time From	Time To
All week	Midnight	Midnight

WHERE THE LICENCE AUTHORISES SUPPLIES OF ALCOHOL WHETHER THESE ARE ON AND / OR OFF SUPPLIES

NAME, (REGISTERED) ADDRESS OF HOLDER OF PREMISES LICENCE

BKUK Group Ltd

5 NEW STREET SQUARE, LONDON, EC4A 3TW.

REGISTERED NUMBER OF HOLDER, FOR EXAMPLE COMPANY NUMBER, CHARITY NUMBER (WHERE APPLICABLE)

BKUK Group Ltd

10980808

STATE WHETHER ACCESS TO THE PREMISES BY CHILDREN IS RESTRICTED OR PROHIBITED

Not applicable

Certified as a true copy
of the licence

Poppleston Allen Solicitors
Nottingham

