

**REPORT TO THE NORTHERN AREA
PLANNING COMMITTEE**

Report No.

Date of Meeting	14 March 2012		
Application Number	N/11/03912/S73A		
Site Address	The Old Dairy, Market Place, Box, SN13 8PA		
Proposal	Variation of Condition 04 to Planning Permission 10/01437/FUL to Allow for Other Complimentary Uses. Variation of Condition 05 to Planning Permission 10/01437/FUL to Allow Those Complimentary Uses to Take Place Outside Permitted Hours of Operation.		
Applicant	Mr Wright		
Town/Parish Council	Box Parish Council		
Electoral Division	Box and Colerne	Unitary Member	Cllr Sheila Parker
Grid Ref	382669 168615		
Type of application	Variation of Condition		
Case Officer	Chris Marsh	01249 706 657	Chris.marsh@wiltshire.gov.uk

Reason for the application being considered by Committee

Cllr Parker has called the application to Committee in order to consider the impact of the proposed variation of condition on the amenity of neighbouring properties.

1. Purpose of Report

To consider the above application and to recommend that planning permission be GRANTED subject to conditions.

2. Main Issues

- Impact on neighbour amenity
- Impact in terms of noise and odour
- Impact on highways
- Impact on the character and appearance of the Conservation Area

The application has generated objections from the Parish Council and 6 neighbours of the site. 42 letters of support have been received.

3. Site Description

The Old Dairy is a substantial Grade II-listed property dating from the 16th century and located at the Northeast end of Market Place, Box. The property is set in substantial grounds that extend across the width of the land between Market Place and the A4 main road to the North, South and West of the building. In 2010, permission was granted for the limited A3 use of the detached former double garage (granted permission in 1994) and associated access from Market Place, located to the South of the property, to enable its operation as a coffee shop. Market Place is characterised by its historic fabric and mixture of uses which includes residential, an engineering works, a butchers, a large public car park and now the coffee shop – 'Toast' – and as such is frequented by visitors from the local area and beyond.

4. Relevant Planning History		
Application Number	Proposal	Decision
N/10/01437/FUL	Proposed Conversion of Existing Garage to Form New Coffee Shop; Including Conversion of Outbuilding to Form W.C.	Permission

5. Proposal

The proposal seeks permission to vary Conditions 4 and 5 of the extant permission N/10/01437/FUL to enable a wider range of uses at the premises and extend opening hours.

Condition 4 stipulates:

The site shall be used for a Coffee shop only and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

The applicant wishes to broaden the individual activities permitted by the addition of the following, to be held on the premises:

- 'Themed' dinner evenings

These are local events based around a certain national culinary theme, involving the preparation of a single meal for attendees at the premises.

- Children's birthday parties

The premises is to be made available for hire as a venue for children's birthday parties, offering sufficient space and refreshment facilities for these.

- Business breakfasts

These are private networking events not dissimilar to the existing operation as a coffee shop, encouraging local businesses to discuss and exchange ideas.

- Cookery classes and craft workshops

These are to be run on a local basis, demonstrating and teaching cooking and craft skills.

Condition 5 stipulates:

The use hereby permitted shall only take place between the hours of 0800 time in the morning and 2000 time in the evening.

Further to the above, the applicant wishes to extend the permitted opening hours so that the premises may remain open until 2330 hrs on any evening.

6. Consultations

Box Parish Council – objects due to the impact upon highway safety and neighbour amenity
Highways – no objection
Environmental Health – no objection, recommends suitable conditions to limit activities and hours of operation

7. Publicity

The application was advertised by site notice, press advert and neighbour consultation.

42 letters of support received

Summary of key relevant points raised:

- Value of business to the local community

6 letters of objection received

Summary of key relevant points raised:

- Impact on neighbour amenity
- Noise and smell pollution
- Highways implications

1 additional comment regarding the general impact on parking has been received

8. Planning Considerations

The site is in close proximity to five properties, which are likely to be most affected by any increased activity associated with the business. Extant permission 10/01437/FUL makes clear that this setting is not suitable for certain uses that are likely to generate significant levels of noise or other disturbance (for instance; night clubs, late night takeaways, etc). However, the proposed uses and hours of operation are such that no significant disturbance is anticipated, provided any permission is adhered to fully. Likewise, the proposed cooking activities are unlikely to generate unacceptable odour, provided suitable ventilation is available, and the application has not attracted an objection from the Environmental Health Officer on this basis.

It is not envisaged that the proposed variation in activities and opening hours will result in a detrimental increase in traffic generation or put additional pressure on the available parking, owing to the business' local emphasis and probability that users will walk to the site from nearby. Whilst it is accepted that on-street parking is in short supply in this area, daytime availability will remain unaltered under the proposals, and the additional hours of operation are considered unlikely to generate a harmful increase in traffic. As no physical alterations are proposed and given the building's now established use, it is not considered that the proposal will cause any harm to the character or appearance of the Conservation Area.

It is considered that, by applying suitable conditions, any negative repercussions of the proposal can be mitigated against and as such, the proposal is acceptable in planning terms under Policy C3 of the adopted Local Plan. A slightly reduced closing time of 2300hrs has been recommended, as this is used in licensing terms to mark the transition from the evening to the night time economy; the latter being an inappropriate entity in this location. Likewise it is recommended that Condition 4 be amended in such a way as to accommodate the intended uses but enable the Authority to consider any additional uses proposed. It is not considered necessary to explicitly permit business-to-business events, as these would appear to accord with the extant permission or 'private functions' heading.

9. Recommendation

Planning Permission be GRANTED for the following reason:

The proposed variation to conditions, by virtue of the nature of the activities and hours of operation proposed, will not adversely affect the character or appearance of the site or its setting in a Conservation Area, and will not detrimentally affect highway safety or the residential amenity enjoyed by neighbours. The proposal therefore accords with Policies C3, HE1, HE4 and R5 of the adopted North Wiltshire Local Plan 2011.

1. The site shall be used for the following:

- Coffee shop;
- Private dinner or breakfast functions;
- Craft workshops;
- Cookery classes; or
- Children's parties

in connection with the existing business only and for no other purpose (including any other purpose in Class A3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended by the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 (or in any provisions equivalent to that class in any statutory instrument revoking or re-enacting that Order with or without modification).

REASON: The proposed use is acceptable but the Local Planning Authority wish to consider any future proposal for a change of use having regard to the circumstances of the case including the impact upon local residents and the local highway network.

POLICY: C3

2. The use hereby permitted shall only take place between the hours of 0800 hrs in the morning and 2300 hrs in the evening.

REASON: To ensure the creation/retention of an environment free from intrusive levels of noise and activity in the interests of the amenity of the area.

POLICY: C3

3. The coffee shop business and building shall not be sold, let or rented separate from the dwelling house (known as The Old Dairy).

REASON: In order to minimise traffic generation and preserve the amenities of the occupiers of the dwellinghouse.

POLICY: C3

4. The activities hereby permitted shall not take place outside the building after 2000 hrs, save for access and egress, after which time all South and West-facing windows in the premises are to be kept shut. Activity shall not recommence outside the building before 0800 hrs the following morning.

REASON: In the interests of residential amenity and protection against unacceptable levels of noise and odour.

5. Operation of the premises between the extended hours of 2000-2300 hereby permitted shall be limited to not more than eight evenings per calendar month.

REASON: In the interests of residential amenity and to avoid nuisance.

6. The building shall not be first brought into use for the extended hours and activities hereby permitted until full details (including details of noise attenuation) of ventilation and filtration equipment to suppress and disperse any fumes and/or smell created from the cooking operations on the premises have been submitted to and approved in writing by the Local Planning Authority. The approved activities shall not commence until the approved

equipment has been completed in accordance with the approved details and it shall be subsequently maintained in accordance with the approved details thereafter.

REASON: In order to safeguard the amenities of the area.

7. The operation of the premises for the additional hours and activities hereby permitted shall apply only to the following persons and their resident dependants:

Mr Simon Wright
Mrs Lucy Wright

REASON: Regard has been paid to the personal circumstances of the applicant which are considered, exceptionally in this case, to be sufficient to justify the decision to grant variation of conditions. The Local Planning Authority shall wish to consider separately any such proposal made by another applicant.

INFORMATIVE

1. It has come to the officer's attention that objections have been made in respect of noise nuisance emanating from beyond the site area as applied for. Whilst this is not a material planning consideration in this instance, it is emphasised that the Planning Permission hereby modified relates solely to the site area as defined, and therefore any use of the surrounding land within the same ownership for any other purpose other than that which is ancillary to the use of the dwellinghouse or suitably licensed is not permitted.

