

**Item No. 13****SCHEDULE B**

<b>APPLICATION NUMBER</b>	<b>CB/10/00391/VOC</b>
<b>LOCATION</b>	<b>17 The Russell Centre, Coniston Road, Flitwick, Bedford, MK45 1QJ</b>
<b>PROPOSAL</b>	<b>Variation of condition 5 (opening hours) on planning permission CB/09/00648/FULL dated 11/6/09. To allow the premises to be open to customers between 0700 and 0000 (midnight) Monday to Sunday and open for deliveries only between 0000 (midnight) and 0300 on Saturdays and Sundays.</b>
<b>PARISH</b>	<b>Flitwick</b>
<b>WARD</b>	<b>Flitwick West</b>
<b>WARD COUNCILLORS</b>	<b>Cllr Dennis Gale &amp; Cllr Steve Male</b>
<b>CASE OFFICER</b>	<b>Vicki Davies</b>
<b>DATE REGISTERED</b>	<b>04 February 2010</b>
<b>EXPIRY DATE</b>	<b>01 April 2010</b>
<b>APPLICANT</b>	<b>DPGS Limited</b>
<b>AGENT</b>	
<b>REASON FOR COMMITTEE TO DETERMINE</b>	<b>Member request, Cllr Gale, due to Parish Council concerns.</b>
<b>RECOMMENDED DECISION</b>	<b>Variation of Condition - Granted</b>

**Site Location:**

The property is located in the centre of Flitwick and is one of a number of retail premises in a shopping parade. The parade of shops has offices above approximately half of the units and is opposite a Tesco superstore. There is a car park with around 50 spaces immediately in front of the shopping parade which is for customers using the shops.

**The Application:**

The application seeks to vary condition 5 of planning permission CB/09/00648/FULL. Condition 5 states that the premises shall only be open to customers between the hours of 9am to 11pm Mondays to Saturdays, and 10am to 11pm on Sundays and Bank Holidays. The application seeks to allow the premises to be open to customers between 0700 and 0000 (midnight) Monday to Sunday and open to make deliveries only between 0000 (midnight) and 0300 on Saturdays and Sundays.

**RELEVANT POLICIES:****National Policies (PPG & PPS)**

PPS1: Delivering Sustainable Development

PPS4: Planning for Sustainable Economic Growth

PPG24: Planning and Noise

## **Regional Spatial Strategy**

East of England Plan (May 2008)

Milton Keynes and South Midlands Sub-Regional Strategy (March 2005)

## **Bedfordshire Structure Plan 2011**

No relevant policies

## **Central Bedfordshire Council Core Strategy and Development Management Policies November 2009 Policies**

DM3 - High Quality Development

DM7 - Development in Town Centres

## **Supplementary Planning Guidance**

None relevant

## **Planning History**

CB/09/00648/FULL Change of use from A1 (retail) to A5 (hot food take-away).  
New shopfront and extract duct. Approved 11/6/09

CB/09/01066/ADV Advertisement consent: Installation of one internally  
illuminated fascia sign, one internally illuminated projecting  
sign and one internal window sign on the front elevation.  
Approved 27/7/09

## **Representations: (Parish & Neighbours)**

Flitwick Town Council Object - Members of the Town Council agreed at a  
previous meeting that sales from the premises should be  
completed by midnight and not 3am in response to the  
licence application.

Neighbours No responses received

## **Consultations/Publicity responses**

No comments were received in response to the site notice or newspaper  
advertisement

Highways Development Control No objection  
Public Protection No objection as the applicant already has a  
premises licence. Applicant should be reminded  
of responsibilities under Environmental Protection  
Act 1990 relating to statutory noise.

Community Safety Officer No response received

Police Architectural Liaison Officer No response received

## **Determining Issues**

The main considerations of the application are;

1. Impact on amenities of nearby residents
2. Other Issues

## **Considerations**

### **1. Impact on amenities of nearby residents**

The proposal would involve the premises being open to customers for an additional hour every night. The nearest residential property is over 70 metres from the premises and it is therefore considered that local residents would not be any more adversely affected by noise or disturbance outside of the premises if the variation of condition was allowed than they are at present. It was considered when determining the original application that there would be no unacceptable adverse impact on nearby residents. It is considered that if local residents were suffering any significant adverse effect from the premises they would have objected to this application for longer opening hours. No objections have been received in connection with this application. In addition Public Protection have confirmed that no complaints have been received by them in connection with the premises up to 16/3/10. It is possible that people visiting the premises and then walking past residential properties may cause some level of noise or disturbance but no more than those people who maybe walking along the streets after visiting other premises which would also be open until midnight. For example Best Kebab, which is 120 metres from the application site on Steppingley Road, is open until 1am 7 days a week for customers to visit the premises and Tesco supermarket which is 90 metres from the application site and is open 24 hours a day from 8am on Mondays until 9pm Saturday and 10am-4pm on Sundays.

The variation of condition also seeks consent for deliveries to be made from the premises to customers between midnight and 3am on Friday and Saturday nights. The applicant has advised that deliveries of products are made by car not motorbike or moped. The applicant anticipates that after midnight there are likely to be only two cars making deliveries. Between midnight and 2am it is envisaged that a maximum of 10 deliveries per hour would be made and that between 2am and 3am only one or two deliveries would be undertaken. In light of the proximity of a large supermarket to the application site and the number of traffic movements it generates, it is not considered that the limited number of vehicle movements anticipated to be generated by the proposed extended opening hours would have any adverse impact on nearby residents.

The application seeks permission for the premises to open from 7am rather than 9am. The company is seeking to introduce breakfast products and want to open earlier to catch the breakfast trade. Although the application seeks consent to open at 7am the applicant considers that it is more likely that they would open from 8am. The applicant has advised that the opening hours of the store would not change to 0700 to midnight (plus midnight to 3am on Fridays and Saturdays) immediately but as the licence allows the premises to open between these times they would like the planning permission to match the licence. It is not considered that the premises opening from 7am rather than 9am would have an adverse impact on amenity of local residents as other shops are open at similar

times and there is a separation distance of over 70 metres. For example the Co-op next door to the application site is open from 6am Monday to Saturday and 7am on Sundays.

It is not considered that the extended opening hours would have any adverse impact on the occupiers of neighbouring retail units or office premises.

In addition to the above considerations the proposal should be judged in the light of the site being in a central town centre location close to a busy railway station. Such a location is considered by Core Strategy policy DM7 to be appropriate for food and drink venues which help maintain and improve the viability of town centres.

Core Strategy policy DM3 requires that development respects the amenity of surrounding properties. It is considered that the extended opening hours would not result in any significant adverse impact on the amenities of nearby residents due to the limited number of people who would visit the premises late at night and the use of cars rather than mopeds or motorbikes to make deliveries. It is considered that if local residents were experiencing unacceptable disturbance from the premises objections would have been raised to extending the opening hours.

## **2. Other Issues**

Highways have no objection to the proposal as the extended opening hours would not place any additional pressure on car parking.

## **Reasons for Granting**

It is considered that the variation of condition 5 to allow the premises to open for longer periods would not have any significant adverse impact on nearby residents and therefore is in accordance with Core Strategy and Development Management Policies 2009 policy DM3 and DM7 as well as PPS1, PPS4 and PPG24.

## **Recommendation**

That Planning Permission be granted subject to the following:

- 1 Unless otherwise agreed in writing the materials used in the shop front shall be powder coated aluminium and silver in colour.

Reason: To ensure that the visual appearance of the area is not detrimentally affected.

- 2 Equipment shall be installed to effectively suppress and disperse fumes and/or odours produced by cooking and food preparation, and the equipment shall be effectively operated for so long as the commercial food use continues. The equipment as approved on 19/10/09 shall remain installed and in full working order to the satisfaction of the Local Planning Authority.

Reason: In order to prevent the adverse impact of odours arising from cooking activities on the amenity of nearby residents.

3 The kitchen ventilation system approved in accordance with condition 2 above, together with any other external plant, machinery and equipment installed or operated in connection with this permission, shall be so enclosed, operated and/or attenuated that noise arising from such plant shall not exceed a level of 5dBA below the existing background level (or 10dBA below if there is a tonal quality) when measured or calculated according to BS4142:1997, at the boundary of any neighbouring noise sensitive premises.

Reason: To protect neighbouring residents from any adverse impact from noise arising from the kitchen extract ventilation system or other external plant on the premises.

4 The premises shall only be open to customers between the hours of 7am to midnight on Mondays to Sundays, and open to make deliveries to customers only between midnight and 3am on Saturdays and Sundays.

Reason: To safeguard the amenities which the occupiers of nearby properties might reasonably expect to enjoy.

**Notes to Applicant**

1. The applicant is reminded of their responsibilities under the Environmental Protection Act 1990 relating to statutory nuisance.

**DECISION**

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