

DELEGATED FILE NOTE

CASE OFFICER: ...Alex Howard.....

APPLICATION REFERENCE	BRIEF DESCRIPTION OF DEVELOPMENT	APPLICATION SITE
25/02494/S73	Variation of Condition 6 (Hours of Use) of planning permission reference 18/01728/FP granted on 11.09.2018 for Change of use from A1 to A5 (for use as a fast food takeaway and delivery).	2 Ivel Court Letchworth Garden City Hertfordshire SG6 2NH
<u>Submitted Plan Nos</u>		
Location Plan		
1.0	<u>Policies</u>	
D3	Protecting living conditions	
2.0	<u>Site History</u>	
2.1	18/01728/FP - Change of use from A1 to A5 (for use as a fast food takeaway and delivery).	
Conditional Permission		
2.2	18/03136/DOC - Discharge of Condition 3 (Acoustic report) as attached to Planning Application 18/01728/FP granted on 10/09/2018.	
Agreed		

3.0 **Representations**

3.1 **Site Notice and Neighbour Consultation** – None received

3.2 **Waste and Recycling** – None received.

3.3 **Environmental Health** – *“Further to the submission of the noise report dated November 2025 I can recommend approval of the application.*

The noise report suggests that the equipment installed and serving this premises will be well below the background sound level and so I make no objections to the application

I am not worried by comings and goings really as most people buy of just eat or similar these days so limited footfall. There are no pubs etc around there so no huge issue”.

4.0 **Planning Considerations**

4.1 **Site and Surroundings**

4.1.1 The site is a ground floor commercial unit located in Ivel Court, Letchworth Garden City. The ground floor unit is part of a parade of shops/services with residential properties above them.

4.2 **Proposal**

4.2.1 The application proposes the variation of Condition 6 (Hours of Use) of planning permission reference 18/01728/FP granted on 11.09.2018 for Change of use from A1 to A5 (for use as a fast food takeaway and delivery).

4.2.2 For the avoidance of doubt, condition 6 of the original permission is as follows:

“Hours of use of the A5 unit shall only be permitted 09.00hrs to 22.00hrs Mondays to Thursdays, 09.00hrs to 23.00hrs Fridays and Saturdays and 10.00hrs to 21.00hrs on Sundays and Bank Holidays.

Reason: to protect the residential amenities of existing residents”.

4.2.3 The applicant is proposing to extend their opening hours until 01:00hrs on all days that the unit is open.

4.3 **Key Issues**

4.3.1 The principle of this sites operation is already established by application ref: 18/01728/FP. Therefore, the consideration of this application is how acceptable the proposed amendments to the operation of the unit are relative to that which was approved.

Impact on Neighbours

4.3.2 Policy D3 of the Local Plan states that planning permission will be granted for development proposals which do not cause unacceptable harm to living conditions.

4.3.3 The premises is currently operating as a fast food takeaway/delivery unit in accordance with the original planning decision and under the provisions of Condition 6 of the

original decision, is open until 22:00 Monday to Thursday, 23:00 Friday and Saturday, and 21:00 Sundays and Bank Holidays. The proposed change under this application seeks to extend the opening hours to 01:00 every day.

- 4.3.4 It is accepted that, given the nature of this use which utilises equipment such as plants and extractors and a degree of footfall during the evenings and on weekends, coupled with the location of this ground floor unit below four floors of residential properties, the proposed extension to the hours of operation to 01:00 may result in some impact on the amenities of neighbours.
- 4.3.5 However, following an initial formal response from the Council's Environmental Health Officer, the applicant has submitted a noise report which has considered the proposed impact of the extended opening hours on nearby receptors from the plant/extract equipment. The noise report concludes that the equipment that is installed and serves this unit will be well below the background sound level for the closest receptors and therefore, the EHO raises no objections to the proposed extension of hours of operation from the plant/extract equipment perspective.
- 4.3.6 Moreover, in relation to the possible additional footfall from these proposed extended opening hours, the Council's EHO has considered this and has no material concerns in this respect, given that in most cases fast food is delivered to people's homes rather than customers coming to the premises itself, so any additional footfall and associated impacts on amenity, especially during the later periods of the evening, will not be excessive. Moreover, there are no other premises nearby that would increase footfall during later periods in the evening/early morning, such as a public house where it is common for punters to seek food after leaving the premises, so there are similarly no significant concerns in this respect either. It is accepted that there will be some additional noise related impacts on those immediate neighbours above this premises, in those instances where customers do arrive between the later parts of the evening/early morning but given the above justification and in the absence of an objection from the Council's EHO, this may not be unacceptable but there are some concerns in planning terms over this potential impact. Therefore, in order to ensure that due consideration is given to the impact of these extended hours of operation on those residential properties close by, it is considered reasonable to enforce a temporary permission of 12 months to enable an assessment of the impact of this premises opening late at night and if no issues or complaints arise, then the applicant can then apply for a permanent permission for the hours of operation sought.
- 4.3.7 As such, the proposal will not cause unacceptable harm to living conditions, in line with Policy D3 of the Local Plan.

Biodiversity Net Gain

- 4.3.8 This proposal is exempt from BNG as it is a section 73 application.

4.4 Conclusion

- 4.4.1 The proposal is considered acceptable in planning terms and in accordance with Policies D1 and D3 of the Local Plan, as well as Section 12 of the NPPF.

4.5 Alternative Options

- 4.5.1 N/A

4.6 Pre-Commencement Conditions

4.6.1 N/A

5.0 **Recommendation**

5.1 That planning permission be **GRANTED** subject to the following conditions

1. The use hereby permitted shall be for a limited period of 12 months from the date of this decision. The use hereby permitted with extended hours of operation shall be discontinued and may revert to with those restricted hours of operation under permission reference 18/01728/FP.

Reason: Permission has been granted for a temporary period solely to monitor the use and the appropriateness of the extended opening hours in regards to amenity of neighbouring properties, in line with Policy D3 of the North Herts Local Plan.

2. The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.

Reason: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.

3. The development hereby approved shall be carried out in accordance with approved noise mitigation measures as set out in the noise survey approved under application reference 18/03136/DOC, which shall be such as to achieve 5dB below existing background noise levels. These approved mitigation measures shall be retained thereafter.

Reason: to protect the residential amenities of existing residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.

4. The development shall be carried out in accordance with the approved kitchen extract ventilation system under application reference 18/03163/DOC that was required by condition 4 of the original planning permission reference 18/01728/FP. The system shall incorporate a three stage carbon filtration or similar system. The approved system shall be permanently maintained.

Reason: to protect the residential amenities of existing residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011 to 2031.

5. Goods vehicle deliveries and refuse vehicle collections shall only be permitted between 08.00hrs and 20.00hrs Monday to Friday, 08.00hrs and 18.00hrs Saturdays and no deliveries or collections on Sundays and Bank Holidays.

Reason: to protect the residential amenities of existing residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

6. The use hereby permitted shall only take place between the following hours 09.00hrs to 01.00hrs Mondays to Thursdays, 09.00hrs to 01.00hrs Fridays and Saturdays and 10.00hrs to 01.00hrs on Sundays and Bank Holidays.

Reason: to protect the residential amenities of existing residents in accordance with Policy D3 of the North Hertfordshire Local Plan 2011-2031.

Biodiversity Net Gain

1. This development is not subject to the statutory Biodiversity Gain Plan condition because it is considered exempt under the statutory exemptions (<https://www.gov.uk/guidance/biodiversity-net-gain-exempt-developments>) or transitional arrangements in respect of the biodiversity gain condition.

Proactive Statement:

Planning permission has been granted for this proposal. The Council acted proactively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Council has therefore acted proactively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Signed  Shaun Greaves Determining Officer	Development Management North Hertfordshire District Council Council Offices Gernon Road Letchworth Herts SG6 3JF
Date: 12 December 2025	