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## Appeal Decision

Site visit made on 26 March 2019

**by Nicholas Taylor BA (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> April 2019**

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**Appeal Ref: APP/Z4718/W/18/3208084**

**Washpit Mills, Choppards Lane, Holmfirth HD9 2RD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Prospect Estates Ltd against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2017/62/94336/W, dated 20 December 2017, was approved on 15 June 2018 and planning permission was granted subject to conditions.
  - The development permitted is *part demolition of existing mill buildings and erection of 49 dwellings; conversion of listed building to form private gymnasium; re-use of existing mill buildings and alterations to form workshop, car storage and associated ancillary facilities including café, shop and office space; formation of car parking areas (Listed Building).*
  - The condition in dispute is No 22 which states that: *The café and shop hereby approved shall not be open to customers outside the hours of: 1000 to 1600 Monday to Friday (with no deliveries/dispatches before 0900 or after 1700) and; 0930 to 1630 Saturday (with no deliveries/dispatches before 0830 or after 1730 on Saturdays and no deliveries/dispatches on Sundays).*
  - The reason given for the condition is: *In the interests of highway safety because the Transport Assessment is based upon these hours of use and in the interests of the residential amenity of existing and future residential development. This is to accord with Policies T10, BE1 and EP6 of the Kirklees Unitary Development Plan, PLP21 and PLP24 of the emerging Local Plan and guidance in the National Planning Policy Framework.*
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### Decision

1. The appeal is allowed and the planning permission Ref 2017/62/94336/W for part demolition of existing mill buildings and erection of 49 dwellings; conversion of listed building to form private gymnasium; re-use of existing mill buildings and alterations to form workshop, car storage and associated ancillary facilities including café, shop and office space; formation of car parking areas (Listed Building) at Washpit Mills, Choppards Lane, Holmfirth HD9 2RD granted on 15 June 2018 by Kirklees Metropolitan Borough Council is varied by deleting condition 22 and substituting for it the following conditions:
  - 1) The café and shop hereby approved shall not be open for customers outside the following hours:  
1000 – 1600 Mondays – Fridays (with no deliveries or dispatches before 0900 or after 1700); and  
0930 – 1630 Saturdays and Sundays (with no deliveries or dispatches before 0830 or after 1730 on Saturdays and not at all on Sundays).

### **Main Issue**

2. The main issue in this case is whether the disputed condition is necessary and reasonable.

### **Reasons**

3. Planning permission was granted, subject to a number of conditions, for the development as stated in the heading, above. The Council imposed the disputed condition in order to control the opening hours of a café and shop which comprises part of the development. It acknowledges that its committee report proposed Sunday opening but that, in error, this was not carried forward to the wording of the condition on the decision notice. It does not contest the appeal, which seeks to have Sunday opening hours added to the condition.
4. Under the circumstances, I see no good planning reason why the condition should not be varied so as to include Sunday opening as originally intended. Accordingly, the appeal should be allowed and the relevant condition varied.

*Nicholas Taylor*

INSPECTOR