

Delegated Report

Planning Ref: 24/00778/NMA
Applicant: The Dixie Grammar School
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 22 Market Place, Market
Bosworth, Nuneaton, CV13 0LE

Proposal: Non material amendment to planning permission 24/00603/FUL.
To omit any reference to the use of the building solely as a
"drama school" within the delegated report and decision notice

Recommendations

- 1.1. **Grant planning permission** subject to:
- Previously imposed conditions on planning permission 24/00603/FUL.

Planning Application Description

2.1. This application proposes a non-material amendment to planning permission 24/00603/FUL, which was for the approval of Change of use of building from financial and professional services (Class E to Class F1) for the provision of education at 22 Market Place, Market Bosworth.

2.2. The proposed non-material amendment seeks to amend the wording of Condition 3 which states:

‘Opening hours for the drama school, hereby permitted, shall be between the hours of 08:00 hrs and 17:00 hrs on weekdays only unless otherwise agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016)’.

2.3 The Applicant claims that Condition 3 could potentially expose the school to future enforcement action as it could unintentionally limit the use of the site as a drama school and not just the rear section of the development labelled drama school on the submitted plans. They have suggested the remedy is to amend the wording of the condition so it reads as below:

“the opening hours for the use hereby permitted...”

Description of the Site and the Surrounding Area

3.1. The application site is located within Market Place, Market Bosworth is a former HSBC Bank and is located within the Market Bosworth Conservation Area. The 2

storey red bricked building is a late 20th century building of Georgian style design and is not listed. The site area is 247 sqm. There are residential neighbours at 20 Market Place as a result of 23/00607/FUL.

- 3.2. HSBC closed the branch down in April 2023 as part of the national branch closures and it has remained vacant ever since.

4.0 Relevant Planning History

24/00603/FUL

- Change of use of building from financial and professional services (Class E) to (Class F1) for the provision of education
- Permitted
- 29.07.2024

5.0 Publicity

- 5.1. No publicity is required for a Section 96A application, and none has been undertaken.

6.0 Consultation

- 6.1 A Section 96A application is not an application for a new planning permission, therefore, the existing Town and Country Planning (Development Management Procedure) Order, 2015, provisions outlined in Article 13 and Schedule 5 relating to publicity and statutory consultation do not apply.

- 6.2 The Local Planning Authority can exercise discretion in whether and how they choose to inform interested parties or seek their views. In this instance, no publicity has been undertaken, but the Local Highway Authority were consulted on the application.

Policy

- 7.1. Greater Flexibility for Planning Permissions Guidance (non-material amendments) states that the local planning authority must have regard to the effect of the change, together with any previous changes made under this section.
- 7.2. Since the original planning permission was issued there have been no significant changes to the policies within the development plan that would be material to the outcome of the assessment of the application in this case.

Appraisal

- 8.1. The key issues in respect of this application are therefore:
- Assessment against strategic planning policies
 - Conditions
-

Assessment against Strategic Planning Policies

8.2 Section 96A of the Town and Country Planning Act, 1990, allows a non-material amendment to be made to an existing planning permission. There is no statutory definition of, “*Non-material*,” this is because it is so dependent on the context of the overall scheme. That which may be non-material in one context may be material in another. It is for the Local Planning Authority to be satisfied that the amendment sought is non-material in order to grant an application under Section 96A.

8.3 With the above in mind, it is necessary to consider what the existing planning permission is for including its uses, and its scale. The planning permission approved the change of use of a Grade II Listed Building from a financial and professional service (Class E) to (Class F1) for the provision of education

8.4 Condition 3 of this planning permission currently states that:

“Opening hours for the drama school, hereby permitted, shall be between the hours of 08:00 hrs and 17:00 hrs on weekdays only unless otherwise agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016)”.

8.5 As a result of this NMA Application Condition 3 would be changed to:

“The opening hours for the use hereby permitted, shall be between the hours of 08:00 hrs and 17:00 hrs on weekdays only unless otherwise agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016)”.

8.6 The condition was intended to minimise disruption from the use of the drama school, however, the applicant’s solicitor is concerned of an unintended consequence being that the condition limits the use of the school to drama only. Whilst that was not the intention of the condition the Local Planning Authority (LPA) understands that the Applicants rationale for this change in wording of Condition 3. The Applicant wishes to progress the implementation of the scheme at the earliest opportunity.

8.7 The proposal makes no amendments to the design or layout of the scheme, and the proposed amendments to the wording of the condition would remain consistent with their original purpose and intent and would remain compliant with Local and National Planning Policy. By virtue of these factors, the Local Planning Authority are

satisfied that the proposed amendment to the extant planning permission is not considered to materially alter the approved development or cause significant adverse impacts to the character of the building or the surrounding area, or highway safety.

Conditions

8.8 Under Section 96A of the Town and Country Planning Act 1990 any decision issued should only relate to the non-material amendments sought and is not a reissue of the original planning permission, which still stands. However, it is necessary to determine if additional conditions are required or whether existing conditions need to be removed or altered.

8.9 Planning permission 23/00603/FUL was subject to 4 planning conditions. No additional conditions are necessary, and this application cannot grant further planning permission. However, planning condition 3 of the planning permission need to be altered to state the following:

Condition 3: "The opening hours for the use hereby permitted, shall be between the hours of 08:00 hrs and 17:00 hrs on weekdays only unless otherwise agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016)".

8.10 This revised planning condition should be read in conjunction with the conditions submitted as part of the extant planning permission.

9. Equality Implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10.0 Conclusion

10.1. In line with the provisions of Section 96A of the Town and Country Planning Act, 1990, it is considered that the proposed amendments to the approved full planning application at The Dixie Grammar School, Cadeby, Carlton, Market Bosworth permitted under planning reference 24/00603/FUL are non-material in the context of the overall scheme. It is considered that the proposed alterations do not have a material impact on the development as a whole and are non-material in the context of the overall scheme.

10.2. **This non-material amendment is not a separate planning permission and should be read in conjunction with extant permission 24/00603/FUL.**

Recommendation

11.1 **Grant Non-Material Amendment** subject to:

- Previously imposed conditions on planning permission 24/00603/FUL.
- The amended wording of Conditions 3 of 24/00603/FUL

a. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
-