

Delegated Report

Planning Ref: 26/00017/P3CMA

Applicant: Mrs Patricia Parkin

Ward: Hinckley Castle



Hinckley & Bosworth
Borough Council

Site: 104 Northfield Road Hinckley Leicestershire

Proposal: Notification to determine if prior approval is required for the change of use from a therapy room (Use Class E) to a flat (Use Class C3)

1. Recommendations

1.1. Grant prior approval subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This is an application for prior notification under Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of the first-floor of 104 Northfield Road, Hinckley from a commercial space (Class E) into the provision of a 2-bedroom residential apartment (Class C3).

3. Description of the site and surrounding area

- 3.1. The application site is situated within the settlement boundary of Hinckley and comprises an existing therapy business.
- 3.2. The business is located to the end unit of the two-storey red brick 'L' shaped arcade at the junction of Northfield Road and Coventry Road. The arcade contains a mix of retail and other commercial premises on the ground-floor with shop front windows and residential accommodation above accessed by a number of shared internal staircases. There are communal forecourt off-street parking areas to both Northfield Road and Coventry Road to the north and north-east, residential properties to the south-west and south-east.

4. Relevant planning history

91/01126/4

- Change of use to bakery and retail shop
- Planning Permission
- 21.01.1992

13/00316/FUL

- Change of use from residential to therapy rooms
- Planning Permission
- 06.06.2013

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. Following the publication, no representations have been received.

6. Consultation

6.1. HBBC Drainage;

'Advice to Applicant:

According to the Environment Agency (EA) website, part of the application site (close to the northern boundary) is located within Flood Zone 3 (high risk) and therefore a Flood Risk Assessment would be required in support of a planning application.

The EA Surface Water mapping also indicates an associated medium to high risk of surface water flooding in the same area of the site, and therefore the Drainage Strategy for the development should include suitable measures to mitigate the risk of flooding from surface water.'

6.2. HBBC Environmental Health (Pollution);

'No objection in principle however noise from the commercial use on the ground floor should be considered in the application.'

6.3. LCC Highways;

'Site Access

The site is located on Northfield Road which is a classified C road subject to a 30mph speed limit. There are no proposed changes to the existing access arrangements.

Highway Safety

There have been four reported Personal Injury Collisions within 500 metres in all directions of the site access in the previous five years. Two were recorded as being 'slight' in severity and two were recorded as 'serious' in severity. While the PICs are regrettable, the LHA is satisfied that there are no patterns in the data which could be exacerbated by the proposed development. In addition, it is noted that the development is located within the town centre, therefore it is usually expected to see a higher number of PICs.

Internal Layout / Trip Generation

The Applicant has stated on the Application Form that they wish the first floor therapy rooms to be converted back to residential use. The beauty salon business below will continue. The Applicant has demonstrated on the First Floor Plans drawing that the proposed flat will contain two bedrooms. In accordance with Table 28 of the LHDG, a dwelling serving up to three bedrooms should have a minimum of two parking spaces. The Applicant has stated on the Application Form that; '...the block of buildings has 34 shared parking spaces already existing for all the businesses / residents, and has access both from Northfield Road and Rosemary Way.' No further information on parking provision has been provided. The LHA is aware that this is an existing situation and that the extant use of the first floor as a therapy room would produce trips in its own right and require customer parking spaces. The LHA also takes into account the previous residential use. Taking into consideration the types of existing traffic accessing the site, the LHA is satisfied that this will not lead to an unacceptable impact on highway safety and the number of trips would not materially increase under the development proposal.

Transport Sustainability

The site is located within 800 metres of Hinckley Town Centre which has access to multiple shops and services, educational facilities and recreational facilities. Furthermore, the site is within 200 metres of bus stops with frequent services to Leicester and Nuneaton. Therefore, the LHA considers the site to be in a

sustainable location in transport terms. The LHA is satisfied for the LPA to include this transport context in its wider sustainability considerations for the site.'

7. Policy

- 7.1. Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 3 Class MA
- 7.2. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2024)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. The main considerations in respect of this application are whether the proposed change of use meets the criteria for permitted development of Class MA of the Town and Country Planning (General Permitted Development) Order 2015, which relates to development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) Schedule 2 to that Order.

MA.1. – (1) Development is not permitted by Class MA –

- (b) *unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;*

The use of the building has fallen under sub-paragraph (2) (b) Class E (commercial, business and service) for a continuous period of 2 years prior to the date of this application. The Class E use was established in 2013 under 13/00316/FUL.

- (d) *if land covered by, or within the curtilage of, the building—*
 - (i) *is or forms part of a site of special scientific interest;*
 - (ii) *is or forms part of a listed building or land within its curtilage;*
 - (iii) *is or forms part of a scheduled monument or land within its curtilage;*
 - (iv) *is or forms part of a safety hazard area; or*
 - (v) *is or forms part of a military explosives storage area;*

The land covered by, or within the curtilage of the building isn't and doesn't form a part of any of the specified areas.

- (e) *if the building is within—*
 - (i) *an area of outstanding natural beauty;*
 - (ii) *an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;*
 - (iii) *the Broads;*
 - (iv) *a National Park; or*
 - (v) *a World Heritage Site;*

The site is not within any of these specified areas.

- (f) *if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or*

The site is not occupied under an agricultural tenancy.

- (g) *before 1 August 2022, if—*
- (i) *the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and*
 - (ii) *the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.*

The site has never been permitted by Class O.

- (2) *The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order—*
- (a) *the following classes of the Schedule as it had effect before 1st September 2020—*
- (i) *Class A1 (shops);*
 - (ii) *Class A2 (financial and professional services);*
 - (iii) *Class A3 (food and drink);*
 - (iv) *Class B1 (business);*
 - (vi) *Class D1(a) (non-residential institutions – medical or health services);*
 - (vii) *Class D1(b) (non-residential institutions – crèche, day nursery or day centre);*
 - (vii) *Class D2(e) (assembly and leisure – indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;*
- (b) *on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.*

See consideration of condition (b) above.

Conditions

MA.2. – (1) Development under Class MA is permitted subject to the following conditions

- (2) *Before beginning development under Class MA, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to—*
- (a) *transport impacts of the development, particularly to ensure safe site access*

There are no proposed changes to the existing access arrangements at the site.

The Applicant has demonstrated that the proposed flat will contain two bedrooms. In accordance with Table 28 of the LHDG, a dwelling serving up to three bedrooms should have a minimum of two parking spaces. The Applicant has stated on the Application Form that:

‘...the block of buildings has 34 shared parking spaces already existing for all the businesses / residents, and has access both from Northfield Road and Rosemary Way.’

No further information on parking provision has been provided. The LHA is aware that this is an existing situation and that the extant use of the first floor as a therapy room would produce trips in its own right and

require customer parking spaces. The LHA also takes into account the previous residential use.

Taking into consideration the types of existing traffic accessing the site, the LHA is satisfied that this will not lead to an unacceptable impact on highway safety and the number of trips would not materially increase under the development proposal.

Further to the above, the site is located within 800.00 metres of Hinckley Town Centre which has access to multiple shops and services, educational facilities and recreational facilities. Furthermore, the site is within 200.00 metres of bus stops with frequent services to Leicester and Nuneaton.

- (b) *contamination risks in relation to the building;*

The site is not on contaminated land, nor does the site have any historical uses which would have resulted to any type of contamination as described in 2A of the Environmental Protection Act 1990.

- (c) *flooding risks in relation to the building;*

According to the Environment Agency (EA) website, part of the application site (close to the northern boundary) is located within Flood Zone 3 (high risk). The EA Surface Water mapping also indicates an associated medium to high risk of surface water flooding in the same area of the site, and therefore the Drainage Strategy for the development should include suitable measures to mitigate the risk of flooding from surface water. Notwithstanding the above, there are no additional groundworks or extensions proposed that may increase this risk.

- (d) *impacts of noise from commercial premises on the intended occupiers of the development;*

The site would sit above a therapy room. While there is no objection from HBBC Environmental Health in principle, they have asked that the commercial use on the ground floor be considered.

The LPA have reviewed the scheme and do not consider the noise impacts to be detrimental. The use is not considered to generate excessive levels of noise and the hours of the therapy business are considered to be reasonable.

A residential flat was previously located above the use before becoming vacant in 2013, with the adjacent retail/commercial uses at the site hosting residential flats above.

- (e) *where—*

- (i) *the building is located in a conservation area, and*
- (ii) *the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area;*

The building is not located within a Conservation Area.

- (f) *the provision of adequate natural light in all habitable rooms of the dwellinghouses;*

The scheme provides adequate windows and natural light into each habitable room within the apartment.

- (g) *the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;*

These uses are not prevalent in this location and as such would not impact upon the prospective occupiers.

- (h) *where the development involves the loss of services provided by—*
(i) *a registered nursery, or*
(ii) *a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost; and*

The development does not involve the loss of services provided by a registered nurse or a health centre maintained under Section 2 or 3 of the National Health Service Act 2006.

- (i) *where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building*

The development meets the fire risk condition of article 9A because the building is not 18m or higher and does not contain 7 storeys or more as required by The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021.

- (3) *An application for prior approval for development under Class MA may not be made before 1 August 2021.*

The application was submitted in 2026.

- (4) *The provisions of paragraph W (prior approval) of this Part apply in relation to an application under this paragraph as if—*

- (a) *for paragraph (e) of sub-paragraph (2) there were substituted—*
“(e)where—

- (i) *sub-paragraph (6) requires the Environment Agency to be consulted, a site-specific flood risk assessment;*
(ii) *sub-paragraph (6A) requires the Health and Safety Executive to be consulted, a statement about the fire safety design principles, concepts and standards that have been applied to the development,”;*

- (b) *in the introductory words in sub-paragraph (5), for “and highways impacts of the development” there were substituted “impacts of the development, particularly to ensure safe site access”;*

- (c) *after sub-paragraph (6) there were inserted—*

“(6A) Where the application relates to prior approval as to fire safety impacts, on receipt of the application, the local planning authority must consult the Health and Safety Executive.”;

- (d) *in sub-paragraph (7) for “(5) and (6)” there were substituted “(5), (6) and (6A)”;*

No comment from planning officer necessary.

- (5) *Development must be completed within a period of 3 years starting with the prior approval date.*

No comment from planning officer necessary.

- (6) *Any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse*

The building is to remain in use as a dwellinghouses within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose.

Interpretation of Class MA

MA.3. – (1) Development meets the fire risk condition referred to in paragraph MA.2(2)(i) if the development relates to a building which will—

- (a) contain two or more dwellinghouses; and
- (b) satisfy the height condition in paragraph (3), read with paragraph (7), of article 9A (fire statements) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

The development meets the fire risk condition referred to in paragraph MA.2(2)(i)

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.

10. Conclusion

- 10.1. The application meets the conditions of Class MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that the application is acceptable and is in accordance with the conditions and the provision of Paragraph W of the General Permitted Development Order (2015) (as amended).

11. Recommendation

- 11.1 **Grant prior approval** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Site Location Plan, Drg No. TQRQM26007150605740
 - First Floor Plan as received by the Local Planning Authority on the 8th January 2026.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.3 Notes to applicant

1. Notwithstanding the approved plans, this approval does not give you approval for any building operations which cannot fall within the provisions of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Separate planning approval must be granted for such development.
2. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.
3. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
4. Adequate provision for waste and recycling storage of should be considered which addresses accessibility to storage facilities and provide adequate space at the adopted highway boundary to store and service wheeled containers.
5. According to the Environment Agency (EA) website, the application site is located within Flood Zone 3, designated as high risk of flooding from rivers and sea.

The EA Surface Water mapping also indicates that the application site is located in an area at medium to high risk of flooding from surface water.

The surface water drainage system for the proposed development should incorporate sustainable drainage principles (SuDS) to mitigate the risk of flooding on the site, and ensure that surface water runoff does not increase flood risk elsewhere. The proposals should also include measures to address issues of water quality in accordance with current SuDS guidance.

The proposed outfall for the discharge of surface water runoff from the development should be in accordance with the hierarchical approach outlined in Building Regulations Part H. The use of infiltration drainage is preferred, subject to the site being free from a contaminated ground legacy. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced.

If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.