DELEGATED REPORT

Recommendation Made: 9 July 2009

Reference:- 09/00416/FUL **Parish:- Burbage Parish Council**

Applicant:-

45-47 Windsor Street
Burbage
Hinckley
Leicestershire

Location:- 45 - 47 Windsor Street Burbage Hinckley Leicestershire LE10 2EE

Proposal:- EXTENSIONS AND ALTERATIONS TO RESTAURANT INCLUDING VARIATION OF CONDITION 2 OF APPROVAL 96/00144/FUL TO ALLOW PART USE OF THE FIRST FLOOR AS A FUNCTION ROOM.

Introduction:-

This is a full application for extensions and alterations to the restaurant, including variation of condition 2 of approval 96/00144/ful to allow part use of the first floor as a function room. The Windsor Tiffin Restaurant is located within a mixed-use area, having a range of terraced and modern dwellings to the rear, flats to the Eastern elevation and terraced properties to the West. The dwellings to the rear have small gardens and consequently are within close proximity to the application site. There is a small car park to the rear, providing 5 parking spaces, with one reserved for disabled use. This is accessed via a narrow driveway between numbers 41b and d and 45 Windsor Street. Visibility in both directions when leaving the site is poor; and the access width, inadequate, leaving no scope for vehicles to pass. Windsor Street is a main road running through the centre of the village of Burbage, there is no on street parking directly in front of the Windsor Tiffin, however there is a large public car park within the vicinity of the site.

The scheme proposes ground and first floor extensions to the rear. At ground floor the existing kitchen will be extended in line with the existing cold store and a new store will be added to the rear of the disabled toilet. The stairs leading to the fire escape will be re-sited, adjacent to the new store. At first floor the existing stores and ladies toilets will be converted into a function room with bar area, and a staff bedroom. A new extension will be added adjacent to the gentlemen's toilets, providing a new ladies toilet. The steel fire escape deck, which runs across the flat roof will be repositioned, joining the fire escape stairs.

History:-

08/00517/FUL	Proposed creation of additional parking spaces to the rear of 49 Windsor Street	Refused	15/07/08
07/01467/FUL	Change of use of rear garden to provide additional car parking spaces to the rear of 45 – 47 Windsor Street	Refused	22/02/08
96/00144/COU	Change Of Use from Class A1 (Retail) to Class A3 (Restaurant)	Approved	10/04/96

Consultations:-

Burbage Parish Council has objected to the application on grounds that it will increase disturbance resultant of increased vehicle movements.

One neighbour response has been received, this does not object to the development per-se, but raises issues of inadequate parking in the area.

Leicestershire County Highways does not object to the application, but has commented that it would be unlikely to give rise to any regular additional vehicular trips to and from the restaurant. Further, they suggest that any increases in dinners and functions would also be at weekends and not at peak traffic times, and although it has long been acknowledged that the existing car park is substandard and the vehicular access to it is very poor, this application would not theoretically lead to any additional use of the access as the parking area would already be full, as it can only cater for a limited number of staff and a few customers that would be parked in there anyway. Accordingly, any additional vehicular visits would result in on street parking within the vicinity, or informal parking in other off street car parks such as the village hall or Methodist church.
They further state that there are comprehensive on street parking controls within this part of Burbage and parking bays are provided on Windsor Street.

Environmental Health (Pollution) has commented that if the proposed function room was used on a daily basis, or for a restaurant, there could be an impact from noise on surrounding residential properties, especially if the flat roof was used as a smoking area by customers.

Development Plan Policies:-

BE1 - Siting and Design
T5 - Highways and Parking

Appraisal:-

The main considerations with regards to this application are the principal of development, the effect of the proposed alterations on the appearance of the building, the effect of the use of the first floor as a function room on the amenities of nearby residents and highway safety.

Principal

As the building already has permission to operate as a restaurant, the principal of the proposal is acceptable.

Appearance

In respect of the ground floor extensions, as these are located to the rear of the restaurant and will not be visible from any public vantage point, there will be no material impacts on visual amenity; further, as the rear extension will replace the existing flat roofed extensions, which project at different lengths from the rear elevation, resulting in improved consistency and cohesion along the rear elevation. Further the proposed screen roof , which will surround the perimimeter of the new and existing flat roofs will screen the various implements stored on the flat roof, including the flue, extraction and air conditioning units and will improve the aesthetic appearance of this elevation. At first floor, the proposed gable will sit alongside the existing gable, above the flat roofed dining and kitchen area. Despite this being slightly larger than the existing gable, the proposal will mimic its design. Further, as this is also sited to the rear, and will not be visible from the street scene, there will be no material impacts on visual amenity. Accordingly it is considered that the proposed alterations do not harm the appearance of the building or character of the area and therefore complies with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

Amenities

The amenities of surrounding residents could be impacted on in three possible ways:-
The use as the first floor as a function room has the potential to increase noise and disturbance. However the agent has submitted information which suggests this facility is only required as an overspill, and would be rarely used. This statement is supported by figures submitted illustrating customer levels over a two week period from 21/4/09 – 5/5/09. This said, by removing the condition, and so allowing uncontrolled use of the first floor, there would be scope for this space to be used as a restaurant on a permanent basis. If this was the case, there would be a far greater impact on the amenities of surrounding residents, which has been identified by the Councils Environmental Health Officer. Accordingly it is considered necessary to limit the use of the first floor to a function room only; due to the infrequent need/use for such a facility and reduced impacts this would have on neighbours.

The Environmental Health Officer has also raised concern over the flat roof being used as a smoking/overspill area, which would also have adverse impacts on surrounding residents. Accordingly the only way to control use of the flat roof would be to impose a condition requiring that the fire escape remains closed at all times, and only used in the event of an emergency.

A window is proposed in the new ladies toilets, this will directly overlook the semi-detached properties to the rear. The window will be approximately 24m from the properties. Although this window will serve the ladies toilet, which, resultant of the use of the first floor should be infrequently used, on balance, given the fact that the window will have direct views over the properties to the rear , and that many ladies toilets now provide rest facilities, and thus are becoming a point of congregation, the properties to the rear will be overlooked. In order to safeguard the amenities of these properties the window in question will be conditioned to be obscurely glazed.

Finally, if the intensity of the use of the premises is to increase, there may be an increase in vehicle movements, which could raise disturbance to surrounding properties. However, again referring to the survey submitted by the agent; it is confirmed that vehicle movements will not increase resultant of the function room, due to the infrequency of its use, and the fact that the majority of custom is local and travels on foot. Further, as the function room will only be used as an overspill facility, the parking spaces to the rear of the restaurant will already be in use, and, as parking is restricted to the highway in front of the premises, any additional vehicles are unlikely to be parked within the vicinity of the adjacent properties. Accordingly there is considered to be no material increase in vehicle movements at the site, and therefore no further disturbance to the residents of surrounding properties.

Highway Safety

The County highways authority has confirmed that despite the increased use of the premises, it would be unlikely to give rise to additional vehicular trips to and from the restaurant. Therefore, although the access to the rear parking area is very poor, theoretically the proposal would not result in any further use of this; as the parking spaces would already be in use. Although no additional parking spaces have been provided, there is considered sufficient public parking within the vicinity of the site. Therefore the proposal is considered acceptable in terms of Highway Safety.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan. Resultant of the design, scale and the location of the proposal there are considered no material impacts on either visual or residential amenity, or on highway safety. Accordingly the proposal is considered acceptable.
Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, T5

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2 The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing building unless previously agreed in writing with the Local Planning Authority.

3 The existing fire escape as identified on drawing number BO9/04/PO1 shall remain closed daily between the hours of 5pm and 11.30pm unless access is required for emergency exit.

4 The first floor function room as identified on drawing number B09/04/P01 shall be used solely for this purpose and for no other purpose including any other purpose in Class A3 of the schedule to the Town and Country Planning (Use Classes) Order 1987, or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

5 The proposed function room shall only be used between the hours of 5.00 p.m. and 11.00 p.m. Sunday to Thursday and 5.00 p.m. to11.30 p.m. Friday and Saturday.

6 The bathroom window to be inserted at first floor level on the rear elevation shall be obscure glazed and retained as such at all times thereafter.

Reasons :-

1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2 To ensure that the development has a satisfactory external appearance to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

3 To prevent customers and staff from congregating on the flat roof, to safeguard the amenities of surrounding residential properties, in accordance with policy BE1 of the adopted Hinckley and Bosworth Local Plan.

4 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

5 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

6 To safeguard amenities of neighbouring properties to accord with policy BE1 of the adopted Hinckley & Bosworth Local Plan.

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

3. As from 6th April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4. All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

5 For the purpose of condition 4, a function room is considered a place where social and other functions such as parties, presentations and meetings can be held.

6 List of plans used in the determination of this application:- B09/04/P01; B09/04/P02; OS Sitemap Scale 1:1250; Planning Design and Access Statement

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