

Delegated Report

Planning Ref: 25/01085/FUL

Applicant: Mr Chawda

Ward: Hinckley Castle



Hinckley & Bosworth
Borough Council

Site: Regent Court, Regent Street, Hinckley

Proposal: Change of use from a garage (Sui Generis) to a residential flat (C3)

Recommendations

- 1.1. **Refuse planning permission** subject to the reasons at the end of this report.

Planning application description

- 2.1. The proposal seeks the change of use from a garage (Sui Generis) to a 1-bed self-contained flat, with private amenity area to side and bin storage. No parking is proposed.

Description of the site and surrounding area

- 3.1. The site sits to the rear of Regent Court which can be accessed from Regent Street or via Blockleys Yard in Hinckley's town centre, falling within the Hickley Town Centre Conservation Area.
- 3.2. The existing building consists of a single storey shallow mono-pitched 3-bay garage building dating from the mid to late-20th century. The application site is close to other retail and commercial businesses. The existing garages consist of brickwork, blockwork, and a tiled lean-to roof.

Relevant planning history

4.1 **24/00028/FUL**

- Change of use from a garage (Sui Generis) to workshop (Class E)
- Per
- 19.03.2024

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 and a notice was displayed in the local press.
- 5.2. No public comments have been received.

Consultation

- 6.1. No objections have been received from:
- HBBC Drainage – No objections
 - HBBC Environmental Services Pollution – Concerns relating to noise transfer from the adjoining building
 - HBBC Waste – No objection, subject to conditions
 - LCC Ecology – No objection, subject to conditions

- LHA – No objections, subject to informative regrading PROW

Policy

7.1. Core Strategy (2009)

- No relevant policies

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)
- National Space Standards (2025)

7.4. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highway Design Guide
- Housing Needs Study (2024)

Appraisal

8.1 Key Issues

- Principle of development
- Design and Layout
- Heritage Impacts
- Impact upon highway safety
- Residential amenity
- Planning balance

Principle of Development

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms that the presumption in favour of sustainable development does not change the statutory status of the Development Plan as the starting point for decision making.

8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development

plan in this instance consists of the adopted Core Strategy (2009) (CS) and the Site Allocations and Development Management Policies DPD (2016) (SADMP).

- 8.4 The Planning Policy team are currently reviewing the latest revisions to the NPPF within the 2024 version of the document and its implications for the Council's Five-Year Housing Land Supply. A revised position will be published once the monitoring for the 2024/25 year has been completed. It is however likely that, with the revised need figure of 682 dwellings (649dpa + 5% buffer as per Paragraphs 62 and 78(a) of the NPPF), that the Council will be unable to demonstrate a Five-Year Housing Land Supply once the revised position is published.
- 8.5 In light of this, and due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered in accordance with Footnote 8 and Paragraph 11 of the NPPF. For decision-taking, Paragraph 11(d) of the NPPF requires planning permission to be granted unless:
- i) The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
 - ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.6 Footnote 9 of the NPPF confirms that these key policies include Paragraphs 66 and 84 of Chapter 5 (Delivering a Sufficiently Supply of Homes), 91 of Chapter 7 (Ensuring the Vitality of Town Centres), 110 and 115 of Chapter 9 (Promoting Sustainable Transport), 129 of Chapter 11 (Making Effective Use of Land), and 135, and 139 of Chapter 12 (Achieving Well-Designed Places)
- 8.7 The Core Strategy (CS) sets out the settlement hierarchy for the Borough. The application site is located within the settlement of Hinckley. This is the key location for development within the Borough.
- 8.8 Policy 1 of the Core Strategy states that the Council will seek to diversify the existing housing stock in the town centre in order to cater for a range of house types and sizes.
- 8.9 Housing in a town centre location is a sustainable form of development with good access to shops, services and facilities and key transport links.
- 8.10 The principle of development for one, one-bed flat is therefore considered to be acceptable subject to material considerations set out below.

Design and impact upon the character of the area

- 8.11 Policy DM10 of the SADMP requires proposals to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.12 The proposal does not seek to make any significant external amendments, with only replacements to the existing garage doors with windows, and a new entrance door proposed. Matching brickwork is proposed and there is provision for refuse bins as

outlined on the submitted plans. Therefore, the proposed change of use is not considered to have any detrimental impacts on the design or character of the area. As such it is considered that the proposal would be in accordance with Policy DM10 of the SADMP.

Impact on heritage assets

- 8.13 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.14 Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.15 Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.16 External changes to the garage to facilitate the proposed change of use are limited to infilling of the garage door openings across the yard frontage with facing brick, upvc windows, and a single door. It is considered that these limited alterations will largely maintain the existing character and form of the property and it will remain well screened visually within the conservation area due to the siting and scale of surrounding buildings. For these reasons the proposal will have a neutral impact on the character and appearance of the Hinckley Town Centre Conservation Area and will preserve its significance. The proposal therefore complies with Policies DM11 and DM12 of the SADMP, section 16 of the NPPF and the statutory duty of section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Impact upon highway safety

- 8.17 Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety. Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.18 The proposal is not anticipated to have any material impact upon the highway or the existing parking facilities, and when considering the existing and proposed use, there is not an expected significant increase in the number of visits to and from the site. Therefore, the proposal would be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.19 Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.20 The proposed garage is a backland site accessed via an archway. The site adjoins a commercial premises comprising of several commercial town centre uses, including retail and/or showroom uses and a tattoo studio. The front elevation of the garage is directly opposite a two-storey building comprising of the rear blank elevation of commercial uses fronting Regent Court, and a flat at first floor level which would share

the archway entrance, with an entrance door at first floor and exposed staircase leading up to it. There is a separation distance of approximately 5m between the front elevation of the garage and the two-storey building opposite.

- 8.21 The proposal appears to accord with the requirements of the NDSS in all respects. However, the principal rooms (kitchen/lounge and bedroom) would be single aspect rooms, with windows to the front elevation replacing the existing garage doors. The Good Design Guide (2020) requires principal windows to habitable rooms to maintain a separation distance of at least 8m from a blank single storey elevation and 14m from a two-storey property. The existing 5m separation distance is therefore well below adopted standards. Therefore, the proposal would result in a poor standard of outlook for future occupants.
- 8.22 The first-floor flat opposite at 5A Regent Court has an exposed staircase leading to a partly glazed door, with windows to the facing elevation. Due to the insufficient separation distance between the proposed and existing flats, the proposal would result in overlooking and loss of privacy for future occupants of the proposed flat and its associated garden.
- 8.23 Due to the single storey and backland nature of the application site, which is enclosed by two storey buildings directly to the east and south, future occupants of the proposed flat would be subjected to an adverse degree of overshadowing and loss of sunlight throughout the day and resulting in a poor standard of residential amenity. Similarly, the overall site context would result in overbearing impact and sense of enclosure for future occupants.
- 8.24 As the site immediately adjoins commercial uses, future occupants could be subjected to unacceptable levels of noise and disturbance. Insufficient details have been provided by the application regarding a noise assessment and any subsequent requirement for sound insulation if required.
- 8.25 As such, the proposed development is therefore in conflict with Policy DM10 of the SADMP, Paragraph 135 of the NPPF and the aims of the Council's Good Design Guide.

Equality implications

- 8.26 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.
- 8.27 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 8.28 There are no known equality implications arising directly from this development.
- 8.29 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).

Conclusion

- 8.30 The proposal would result in a poor standard of accommodation for future occupants which would result in an unacceptable level of occupier amenity in terms of standard of outlook, privacy, natural light, and sense of enclosure. There is also the potential for there to be unacceptable levels of noise and disturbance experienced by prospective occupiers from neighbouring commercial properties. The proposal is therefore in conflict with Policy DM10 of the SADMP, Paragraph 135 of the NPPF and the aims of the Council's Good Design Guide.

Recommendation

- 9.1 **Refuse planning permission** subject to the reasons at the end of this report.

9.2 Reasons

1. By virtue of the design, siting and layout of the proposed dwelling, the proposal would result in a poor standard of accommodation for future occupants by means of insufficient outlook, overlooking, loss of privacy, overshadowing, loss of natural light and sense of enclosure. The proposed development is therefore in conflict with Policy DM10 of the SADMP, Paragraph 135 of the NPPF and the aims of the Council's Good Design Guide.
2. Insufficient information has been provided by the applicant for the Local Planning Authority to adequately assess any potential adverse noise transfer from the adjoining commercial properties. The proposed development is therefore in conflict with Policies DM7 and DM10 of the SADMP, Paragraph 135 of the NPPF and the aims of the Council's Good Design Guide.

9.3 Notes to Applicant

1. The application has been determined in accordance with the following details, submitted to the Local Planning Authority:
 - Application Form
 - Design and Access and Heritage Statement
 - Existing/Proposed Plans and Elevations – Drg. No. AVD-904-RCH-PL01