

Delegated Report

Planning Ref: 23/01190/FUL
Applicant: Mr Neethan N.
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: 150 High Street Earl Shilton Leicester
Leicestershire LE9 7LQ

Proposal: Installation of kitchen extractor

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

2.1. This application seeks full planning permission for the installation of a kitchen extractor to the rear of an existing beauty therapy shop (Class E) within a mixed use area. The site currently has an extant Lawful Development Certificate for a change of use from beauty therapy shop (Class E) to a restaurant (Class E) that was approved 18 January 2024.

2.2. The wall mounted kitchen extractor from the top of the ground floor measures 6.3 metres high and slightly taller than the ridge of the building.

2.3. A Design and Access Statement and Technical specifications of the proposed extractor have been submitted to support the application.

3. Description of the Site and Surrounding Area

3.1. The application site is a two storey brick built semi-detached building on the High Street of Earl Shilton. It is within a mixed of commercial and settlement boundary. The unit is currently being used as beauty therapy shop (Class E) with a vacant top floor. It is not listed and not within a conservation area.

3.2. The adjacent property 152 The Hollow, which is at the corner of Tower Road and The Hollow, already has an extractor of a similar height, same stainless steel materials but a greater diameter on the rear elevation of the property.

3.3. To the north there is a residential property that has a small garden that lies between the dwelling and the application site. On the opposite side of Tower Road is a car repair garage.

4. Relevant Planning History

23/01125/CLP – Lawful Development Certificate for change of use of beauty therapy shop (Class E) into a restaurant (Class E) – Granted 18 January 2023.

99/00103/FUL – Installation of Security Shutter – Planning Permission – 15.04.1999.

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

5.2. One objection has been received regarding fumes and noise from the extractor.

6. Consultation

6.1. No comment from Earl Shilton Parish Council

- 6.2. No comment or objection from HBBC waste
- 6.3. No comment from the Local Highway Authority
- 6.4. HBBC Pollution has concerns regarding odours from the premises and states that the extractor has potential to impact on the amenity of the area. Conditions are recommended to be imposed on the proposal regarding both issues.

7. 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
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF 2023)
 - Planning Practice Guidance (PPG)

8. Appraisal

- 8.1. Key Issues
 - Principle of development
 - Design and impact upon the character of the area
 - Impact upon neighbouring property/noise and odour

Principle of development

- 8.2. The use of an extractor is necessary for the proposed use and operation of the site which falls under Class E and the site is within a town centre adjacent to other similar uses. The kitchen extractor is located to the rear of the building and not easily viewable from the street scene on The Hollow but is viewable from Tower Road. It also faces the rear gardens of 35 Tower Road.
- 8.3. The provision of such a unit is considered acceptable in principle subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the area

- 8.4. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regards to scale, layout, density, mass, design, materials and architectural features.
- 8.5. The proposed kitchen extractor does not enhance the character of the area however due to the proposed use of the site, such unit is required for operation. Other shops along the street have similar extractors. Street view images confirm that the similar extractor on the adjacent property was erected between June 2009 and June 2016. Planning permission for the change of use of this adjacent property was granted in July 2013 under application 13/00462/FUL.
- 8.6. The kitchen extractor is located to the rear of the building and not viewable from the main street. It is wall mounted and has a height of 6.3 metres. It is small scale development and therefore considered to be accepted and does not result in any significant adverse visual impacts on the surrounding area. In view heading south on Tower road it is seen in the context of the similar extractor on the adjacent property.

- 8.7. The proposal is therefore in accordance with Policies DM10 of the adopted Site Allocation and Development Management DPD (2016).

Impact upon neighbouring property/noise and odour

- 8.8. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings. Policy DM7 seeks to ensure that development will not contribute to poor air quality.
- 8.9. The application site is within a mixed use character and there are other shops, restaurants, cafes, bars and residential properties. 35 Tower Road and 146 High Street face towards the location of the proposed kitchen extractor, however, existing fencing reduces the view from 35 Tower Road and 146 High Street. The extractor has a smaller diameter than that on the adjacent property which is already seen from neighbouring properties.
- 8.10. Environmental Health (Pollution) has raised concerns about the potential of noise and odour from the premises. Technical specifications submitted during the application do not satisfactorily identify the plant to be used. The potential impact from odour and noise on the amenities of neighbouring occupiers are not satisfactorily addressed. Therefore, notwithstanding the submitted details, conditions are recommended for the submission of additional technical information in respect of the specific plant units, scheme for protecting nearby dwellings from noise and ventilation scheme of the premises including installation method, maintenance and management in the interests of the amenity of neighbouring residents.
- 8.11. Subject to the submission of satisfactory ventilation, noise and odour mitigation measures and their implementation and retention, the proposed extraction system would not result in significant adverse impacts on air quality or the amenities of neighbouring properties that reaches a level whereby amendment of refusal of the application is required and would therefore, on balance, accord sufficiently with Policies DM7 and DM10 of the adopted Site Allocation and Development Management DPD (2016). Neighbour comments have been addressed by conditions imposed on the application by HBBC Pollution.

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 proposed kitchen extractor is reasonably required to enable the safe operation of the proposed restaurant. There is similar extraction plant installed to the roof of adjacent properties. By virtue of the scale and design, the proposal does not significantly impact on the character and appearance of the surrounding area, subject to conditions to control noise and odour. It would not result in significant adverse impacts on the amenities of any neighbouring properties or air quality when conditions are satisfied. The proposal would therefore be in accordance with Policies DM7, and DM10 of the adopted SADMP and is therefore recommended for approval subject to conditions.

11. Recommendation

- 11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2. Conditions and Reasons

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

Reason: To comply with the requirements of Section 91 of the Planning and Compulsory Purchase Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site Location Plan reference number TQRQM23318143346415, Floor Plan and Elevation DWR-02 received by the local planning authority on 07 December 2023.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. Notwithstanding the submitted details, no development shall take place until a scheme for ventilation of the premises, which includes installation of method, maintenance, and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use for the development hereby approved and maintained in use at all times thereafter. Should there be a change in operator of the unit that would result in the production of higher level of grease/odour, details of ventilation should be submitted to the Local Planning Authority for consideration. Should any mitigation be required, details of a proposed scheme should be submitted to and approved by the Local Planning Authority.

Reason: To ensure that the development does not result in any adverse impacts on air quality or the amenities of the occupiers of neighbouring properties to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

4. Development shall not begin until a scheme for protection nearby dwellings from noise from the proposed development has been submitted to and approved by the Local Planning Authority. All works form part of the scheme shall be completed before the permitted development first come into use.

Reason: To ensure that the development does not result in any adverse impacts on air quality or the amenities of the occupiers of neighbouring properties to accord with Policies DM7 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

11.3. 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.
2. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk.