

Delegated Report

Planning Ref: 23/00660/FUL
Applicant: DR RAGHU RAMAIAH
Ward: Hinckley Castle



Hinckley & Bosworth
Borough Council

Site: 5 Market Place, Hinckley, Leicestershire

Proposal: Proposed conversion of existing roofspace into a rooftop bar and staff accommodation

1. Recommendations

1.1. Refuse planning permission for the following reason:

As submitted, there is insufficient information accompanying this application with respect to noise assessment/mitigation in order to adequately assess the impact the proposal would have on residential amenity. The proposed use/development has the potential to significantly impact upon the amenity of the area in terms of noise and potentially odour. The proposal is therefore considered to be unacceptable in residential amenity terms and contrary to the requirements of Policy DM10 a and b of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

2. Planning application description

- 2.1.** This is an application for the proposed conversion of the existing roofspace of 1, 3 and 5 Market Place, Hinckley to a rooftop bar and staff accommodation area. The application details provided show an undercover outdoor seating area, a terrace area, a rooftop bar and WCs. There are also several units of accommodation proposed comprising 1x 2 bedroom flat and 2x 1 bedroom flats and also 2x units of studio accommodation for members of staff. All units include a shower room, bedroom, and kitchen/living space.

3. Description of the site and surrounding area

- 3.1.** The site is located within the town centre of Hinckley. 5 Market Place is a late-20th century commercial building upon of the corner of Market Place. It is located within the Hinckley Town Centre Conservation Area.

4. Relevant history

22/00344/FUL - Conversion of existing bank building to provide 2 individual units consisting of new bar/cafe/live music venue with new secondary/fire exit on Market Place in location of former ATM and with new entrance door and ramped access on The Borough (Use Class Sui Generis) and on first floor new entertainment space with bar and kitchen facility (Use Class Sui Generis) - APPROVED

5. Publicity

- 5.1.** The application was advertised in the local paper and a site notice was put up. Letters were sent out to neighbouring/nearby properties.
- 5.2.** No third party comments have been received.

6. Consultation

- 6.1.** No objection has been received from:

- HBBC Conservation Officer
- HBBC Drainage
- HBBC Waste (subject to a condition in relation to waste and recycling storage and collection)
- Leicestershire Police

6.2. Environmental Services - The proposed use has the potential to significantly impact upon the amenity of the area in terms of noise and potentially odour. A noise impact assessment will be necessary to assess the impact of noise from music, operations and any proposed plant (AC units, kitchen exhaust etc) and provide recommendations on noise mitigation/control. Little detail of the proposed operation is provided. What are the proposed operating hours and what is proposed/where? Will hot food be prepared on site? if so details of the kitchen ventilation system should be shown to be adequate with reference made to the risk assessment within the EMAQ guidance document "Control of Odour and Noise from Commercial Kitchen Exhaust Systems".

6.3. Local Highway Authority - The Local Highway Authority (LHA) understands the applicant is seeking full planning permission for the conversion of an existing roofscape into a rooftop bar and staff accommodation. The proposals are for five units which would consist of two studio flats, two x one bedroom flats and one x two bedroom flat. There are no car parking spaces as part of the proposals but the proposed development is located in the town centre and a short walk to other facilities /services. The LHA considers that the proposed development is in a sustainable location in transport terms, however the LHA acknowledges that the Local Planning Authority will consider transport sustainability alongside its other planning considerations for the site. In summary, after a review of the documents submitted in support of the planning application there would appear to be no material impact on the public highway and therefore the LHA has no further comments to make.

7. Policy

7.1. Core Strategy (2009)

Policy 1: Development in Hinckley

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) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

8. Appraisal

8.1. Key Issues

- Principle of development

- Design and impact upon the character and appearance of the conservation area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Planning Balance

Principle of development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) 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. Where planning applications conflict with an up to date plan, permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. The application site is located within the settlement boundary of Hinckley in the centre of the town on the corner with Market Place and Regent Street. This application seeks permission for the conversion of the existing roofspace into a rooftop bar area and staff/residential accommodation. The NPPF states that main town centres uses include retail development, leisure, entertainment, recreation uses including cinemas, restaurants, bars and pubs, nightclubs, casinos etc. These uses are therefore considered to be acceptable for a town centre location and therefore acceptable in principle subject to material considerations.

Design and impact upon the character and appearance of the conservation area

- 8.5. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD state that development proposals should protect, conserve and enhance the historic environment.
- 8.6. Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that local planning authorities pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.7. Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 199-202 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.
- 8.8. 5 Market Place is a late-20th century commercial building upon of the corner of Market Place and the Borough. It is located within the Hinckley Town Centre Conservation Area. It is of no historic interest and no particular architectural interest and as such it makes a neutral contribution to the character and appearance of the conservation area.

- 8.9. The proposal consists of creating a rooftop bar and staff accommodation upon the existing flat roof section of the building. The works required to create the accommodation with resulting structures including dividing walls and a flat green roof, all appear to be no taller than the existing flanking mansard roof which wraps around the southern and western elevations of the building, so the development would be contained visually to the roof due to the presence of the mansard and the surrounding taller buildings to the north and east. The sole alteration to the existing elevations of the building would be the introduction of 5 dormer windows within the mansard roof along the southern elevation. The dormer windows are sympathetic in style to the character and appearance of the building and are positioned to align with the fenestration on the floors below so maintain the balance of the southern elevation.
- 8.10. For the above reasons it is unlikely that the proposal would result in an adverse impact upon the character and appearance of 5 Market Place or the wider Hinckley Town Centre Conservation Area. Consequently the significance of the Hinckley Town Conservation Area will be preserved and the proposal complies with Policies DM11 and DM12 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 neighbouring residential amenity

- 8.11. 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 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.
- 8.12. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.13. There have been no objections from third parties in relation to amenity issues. However, the Environmental Services team have requested further information in respect of noise. Specifically, they have requested a noise impact assessment in order to assess the impact of noise from music, operations and any proposed plant (AC units, kitchen exhaust etc) and provide recommendations on noise mitigation/control. The assessment should cover internal and external use of the premises. They have also noted that little detail of the proposed operation is provided in respect of what exactly is proposed/where and at what times and whether hot food be prepared on site.
- 8.14. The HBBC Waste team have also requested waste and recycling storage and collection details. Further details to be secured by means of a condition is considered to be acceptable in this instance.
- 8.15. Despite several requests and agreement to an extension of time, no further information has been forthcoming in relation to noise mitigation/assessment. As such, it is considered that there is insufficient information in this regard to properly assess the impact the proposal would have on residential amenity for neighbouring properties but also the proposed units of accommodation as part of the development. The proposed use/development has the potential to significantly impact upon the amenity of the area in terms of noise and potentially odour. The proposal as submitted is therefore considered to be unacceptable in residential

amenity terms and contrary to the requirements of Policy DM10 a and b of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

Impact upon highway safety

- 8.16. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.17. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.18. The local highway authority responded to say that there are no car parking spaces as part of the proposals but the proposed development is located in the town centre and a short walk to other facilities /services. The LHA considers that the proposed development is in a sustainable location in transport terms and after a review of the documents submitted in support of the planning application there would appear to be no material impact on the public highway. No highway conditions have been requested by the LHA.
- 8.19. It is considered that the proposal is acceptable in highway terms and satisfies Policies DM17 and DM10 (g) of the SADMP and the requirements of the NPPF in this regard.

Planning Balance

- 8.20. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.21. For the reasons set out above this application is considered to be unacceptable with respect to residential amenity and lacks sufficient information with which to adequately assess the proposal in terms of noise impact.
- 8.22. Despite requests from the local planning authority for further information and an agreement to an extension of time, no further information has been provided by the applicant. It is therefore recommended for refusal.

9. Equality implications

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

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 in the consideration 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. Recommendation

10.1 Refuse Planning Permission for the following reason:

As submitted, there is insufficient information accompanying this application with respect to noise assessment/mitigation in order to adequately assess the impact the proposal would have on residential amenity. The proposed use/development has the potential to significantly impact upon the amenity of the area in terms of noise and potentially odour. The proposal is therefore considered to be unacceptable in residential amenity terms and contrary to the requirements of Policy DM10 a and b of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.