

Delegated Report

Planning Ref: 26/00109/FUL
Applicant: Mrs Rhea Dawson
Ward: Earl Shilton



Hinchley & Bosworth
Borough Council

Site: Unit 15 2 Keats Lane Earl Shilton

Proposal: Change of use from a deli/shop (class E) to hot food takeaway (sui-generis)

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning application description

2.1. The application seeks full planning permission for the change of use of Unit 15, 2 Keats Lane, Earl Shilton from a deli/shop (Class E) to a hot food takeaway (sui-generis).

2.2. No amendments or alterations are proposed to the existing structure.

3. Description of the site and surrounding area

3.1. The application site relates to a two-storey semi-detached building located to the roundabout on the corner between Hill Top and Keats Lane. The site forms part of Hill Top Works, an area characterised by residential properties and some commercial uses. Although situated within the settlement boundary the site is close to the edge of open countryside to the north.

3.2. The application building itself has a dual-pitched/flat roof form and is characterised by a red brick finish to the principle and rear elevation and a grey rendered finish to the side elevation. A chimney sits to the north-east of the building and arched headers to the openings.

3.3. The predominant character and appearance of the street scene is of unspoilt and unaltered buildings, reflecting the historic development of this part of the settlement.

4. Relevant planning history

08/00268/COU

- Part change of use to recording studios and multi-use community rooms, external alterations and revised access from highway (part retrospective).
- Planning Permission
- 23.04.2008

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 publications no representations have been received.

6. Consultation

6.1. Earl Shilton Town Council:

- No comments have been received.

6.2. HBBC Drainage:

- Comments from the Councils Drainage Officer are incorporated into the body of this report.

6.3. HBBC Environmental Health (Pollution):

- Comments from the Councils Environmental Health Officer are incorporated into the body of this report

6.4. HBBC Waste:

- No comments have been received.

7. **Policy**

7.1. Earl Shilton and Barwell Area Action Plan (ESABAAP) (2014)

- Policy 22: Development and Design
- Policy 23: Existing Employment Sites
- Policy 26: Vitalising District, Local and Neighbourhood Centres

7.2. Core Strategy (2009)

- Policy 2: Development in Earl Shilton

7.3. Site Allocations and Development Management Policies DPD (SADMP) (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM19: Existing Employment Sites
- Policy DM22: Vitalising District, Local and Neighbourhood Centres

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

8. **Appraisal**

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage

Assessment against strategic planning policies

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.

8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are

detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development. Policy DM1 of the Site Allocations and Development Management Policies (SADMP) also provides a presumption in favour of sustainable development. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development.

- 8.4 However, 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, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.5 The current Development Plan consists of the adopted Core Strategy, the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) and the Earl Shilton and Barwell Area Action Plan (2014) (ESABAAP). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 The Core Strategy, the SADMP and the ESABAAP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.7 Nevertheless, in accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. Therefore, this report sets out the relevant adopted Core Strategy, SADMP and ESABAAP policies and refers to the NPPF and notes any inconsistencies between them.
- 8.8 Policy DM19 of the adopted SADMP and Policy 23 of the ESABAAP states that the Council will give positive consideration to proposals for partial or total loss of category B sites for uses other than B1, B2 and B8 use classes where:
- a) The proposed proportion of uses falling outside B1, B2 and B8 use classes stands in line with the recommendations in the most up-to-date Employment Land and Premises Study; or
 - b) Where the development diverges from these recommendations, the applicant must demonstrate that:
 - i) The site/premise is no longer suitable or reasonably capable of being redeveloped for employment purposes; and
 - ii) The site/premise has been proactively marketed for employment purposes for a reasonable period of time at a reasonable market rate as supported and demonstrated through a documented formal marketing strategy and campaign, in line with the most up to date Employment Land and Premises Study; or
 - iii) There will be a significant community benefit which outweighs the impact of losing the employment site/premises

- 8.9 The site although identified as employment has been in operation under class E for a significant period of time. Policies DM22 of the adopted SADMP and Policy 26 of the ESABAAP are therefore not applicable to this scheme.
- 8.10 Policy DM22 of the adopted SADMP and Policy 26 of the ESABAAP states that to ensure the continued vitality and viability of District Centres the change of use from A1, or A2 (now class E) retail or loss of A1 or A2 (now class E) retail uses within District Centres will only be permitted where the proposal would not result in an over proliferation of any one use type in the centre, other than A1 retail, with particular reference to hot-food takeaways A5 (now sui generis).
- 8.11 The site is situated within the settlement boundary of Earl Shilton and is identified as a sustainable location for development. Policy 2 of the Core Strategy supports development within the Earl Shilton settlement boundary.
- 8.12 While Earl Shilton is identified as a District Centre within the ESABAAP the application site falls outside of the identified Earl Shilton District Centre boundary. The existing use of the site is as a café (Use class E(b), which is not a retail use. Policies DM22 of the adopted SADMP and Policy 26 of the ESABAAP are therefore not applicable to this scheme.
- 8.13 Paragraph 96 of the NPPF states that planning decisions should enable and support healthy lifestyles. Paragraph 97 of the NPPF states that local planning authorities should refuse applications for hot food takeaways and fast food outlets within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or in locations where there is evidence that a concentration of such uses is having an adverse impact on local health, pollution or anti-social-behaviour.
- 8.14 The site is situated within walking distance (634.00 metres) from the nearest school, St Peters Voluntary Academy and directly adjacent to Queen Elizabeth II Hall Field where children and young people are likely to congregate. The use would, however not operate after school hours Monday-Thursday and whilst this change of use is unlikely to support healthy lifestyles, it cannot be demonstrated that the existing use as a café supported this aim either.
- 8.15 In light of the above, the development is acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and impact upon the character of the area

- 8.16 Policy DM10 of the adopted SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.17 Policy 22 of the EABAAP seeks to ensure that developments do not have a detrimental impact upon the character or appearance of the host building or the surrounding area and respect the scale, proportions, height and materials of the existing building, neighbouring structures and overall street scene.
- 8.18 The proposal does not seek any alterations to the existing shop frontage or any of the buildings other external elevations. As such, the proposed development would not have any adverse visual impacts upon the surrounding street scene and would preserve the character and appearance of the area in accordance with Policy DM10 of the SADMP and Policy DM22 of the ESABAAP.

Impact upon neighbouring residential amenity

- 8.19 Policy DM7 of the adopted SADMP states that development should not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity
- 8.20 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. The policy also states that the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.21 Policy 22 of the ESABAAP seeks to ensure that developments do not adversely affect the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.22 No extensions or alterations are proposed to the property that are likely to result in any loss of privacy or loss of light impacts, nor overlooking or overbearing impacts to neighbouring residential amenity.
- 8.23 Due to the nature of development, it is necessary to assess the control of noise between the proposed use and the surrounding residential accommodation. The proposed use is not considered to be more harmful than the existing use.
- 8.24 The Councils Environmental Health Officer has raised no objections to the proposal, however requests that a condition is implemented restricting the proposals operation hours and type of operation in the interests of safeguarding neighbouring residential amenity. Any future issues could be controlled by them separately using statutory nuisance legislation.
- 8.25 In light of the above, the development is considered to be acceptable under Policies DM7 and DM10 of the adopted SADMP and Policy 22 of the ESABAAP, subject to planning conditions.

Impact upon highway safety

- 8.26 Paragraph 115(b) of the NPPF states that planning decisions should ensure that developments provide safe and suitable access to the site for all users. Ultimately, 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, following mitigation, would be severe, taking into account all reasonable future scenarios in accordance with Paragraph 116 of the NPPF.
- 8.27 To support this, Policy DM17 of the adopted SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.28 Policy DM18 of the adopted SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.29 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 highway authority. Currently this is the Leicestershire Highway Design Guide (LHDG) (2024).
- 8.30 The LHDG states that hot food takeaways require one car parking space to be provided per 25sqm. The proposal provides 37.91sqm of floorspace, requiring a parking provision for a minimum of two vehicles.
- 8.31 The site benefits an existing access to the west of Hill Top and four off-street parking spaces to the north-east (side) of the application building, and a shared car park for all of the units to the north-west (rear). Although not for the exclusive use of

customers of the proposed hot food takeaway, customers would be able to use Hall Fields Public Car Park which is situated 57.90 metres from the proposal.

- 8.32 There is not considered to be an additional need for servicing/delivery/operational vehicles when considering the existing use of the site.
- 8.33 Having regard to the use of the site in conjunction with the scale and type of development proposed, the LPA is satisfied that the proposed development is unlikely to lead to an increase in indiscriminate parking in the vicinity of the site.
- 8.34 The proposed development would therefore not have any adverse impacts upon parking provision or highways safety and would satisfy Policies DM17 and DM18 of the adopted SADMP, and Paragraph 115(b) and 116 of the NPPF.

Drainage

- 8.35 Policy DM7 of the adopted SADMP seeks to ensure that development doesn't create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against in line with National Policy.
- 8.36 The application site is situated within Flood Zone 1 and is limited to the change of use of the premises only.
- 8.37 The Council's Drainage Officer has raised no objections to the scheme.
- 8.38 The proposed development would therefore not have any adverse impacts upon drainage and would satisfy Policy DM7 of the adopted SADMP.

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 proposal is located within the settlement boundary of Earl Shilton where there is a presumption in favour of sustainable development.
- 10.2. The proposed change of use would not have a significant visual impact upon the surrounding street scene and subject to an operational hours/use condition, would not result in a significant impact on residential amenity. The proposal would neither result in any adverse highways safety or drainage impacts.
- 10.3. The proposal would therefore be in compliance with Core Strategy Policy 2, Policy 22 of the EABAAP, Policies DM1, DM7, DM10, DM17 and DM18 of the adopted SADMP, the LHDG and the overarching principles of the NPPF and is recommended approval subject to the below conditions.

11. Recommendation

11.1 Grant planning permission subject

- 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 Town and Country Planning 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:
 - Application Form; and
 - Site Location Plan; and
 - Ground Floor Plan as received by the Local Planning Authority on the 4th February 2026.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy 22 of the Earl Shilton and Barwell Area Action Plan (2014) and the overarching principles of the National Planning Policy Framework (2024).

3. The use shall not take place other than between the hours:-

9:30am-2:30pm (Monday to Thursday)

9:30am-7:30pm (Friday to Saturday)

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and to protect the local health of children and young people in accordance with Paragraph 97 of the National Planning Policy Framework (2024).

4. Should there be a change in operation of the unit that would result in the production of a 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 accordingly. The approved scheme shall be implemented in accordance with the agreed details before the premises is first occupied by the operator and maintained thereafter.

Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the overarching principles of the National Planning Policy Framework (2024).

11.3 Notes to applicant

- a) 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.

- b) A separate consent may be required under the Town and Country Planning (Control of Advertisement) Regulations 2007 in respect of the display of advertisements on these premises. Advice may be sought from the Local Planning Authority.