

Delegated Report

Planning Reference 26/00074/FUL
Applicant(s) Mr Shivam Sagwal
Ward Hinckley Clarendon



Hinckley & Bosworth
Borough Council

Application Site 53 Trent Road, Hinckley

Proposal Change of use of from a retail (Class E) to a hot food takeaway (sui-generis) (retrospective)

Case Officer Joe Fleetwood (Planning Officer)

1. Recommendations

1.1. Refuse planning permission subject to:

- Planning reasons detailed at the end of this report.

2. Planning Application Description

- 2.1. The proposal is for the retrospective change of use of the unit from a retail unit (Class E) to a hot food takeaway (retrospective).
- 2.2. The development has also included a change to the fascia and internal configuration of the unit, which was formerly 'Deep Blue Aquatics' and is now operating as 'the Fat Pizza'.

3. Description of the Site and the Surrounding Area

- 3.1. The application site comprises a two-storey building, with flats located on the first floor, and a commercial unit on the ground floor – formerly a retail unit (Class E), and now being used as a hot food takeaway (sui generis).
- 3.2. The site is located within a small commercial area, located within a wider residential estate. The business is located adjacent to a number of other businesses, including another hot food takeaway and a public house, but is not located within a designated town centre. There is parking provision located to the front of the site, which is shared with the neighbouring businesses. The unit measures approximately 74sqm.

4. Relevant Planning History

No planning history

5. Publicity

5.1 The application has been publicised by issuing letters to neighbouring residents.

5.2 One letter of objection has been received, raising the following concerns:

- Operating unlawfully
- Noise nuisance
- Traffic/parking issues
- Smell and ventilation issues

6. Consultation

Public Health

6.1 Objection received to the proposal for the following reasons:

7. *“The proposed area is located in the Hinckley and Bosworth 012C area which is the most deprived area of all neighbourhoods (68 neighbourhoods) within Hinckley and Bosworth Council area. Of the measured forms of deprivation, employment is the most deprived feature, followed second by health & disability, then income. Health & disability deprivation covers the risk of premature death and reduced quality of life due to poor physical or mental health.*

Regarding income, Hinckley and Bosworth 012C has a higher rate of income deprivation affecting children (IDACI), as well as a higher rate of income deprivation affecting older people (IDAOPI) than 80% of neighbourhoods in England. Vulnerable groups are worst affected by deprivation in this LSOA. Nationally, the LSAO area (E01025856) has a IMD ranking of 6,909 out of 33,755 where 1 is the most deprived LSOA in England (2025). This places the area within the most deprived 25% of LSOAs nationally (specifically the 20.5% most deprived).

Proximity to other hot food takeaways:

- *The site is an adjacent unit to Jacks Fish and Chips which is in operation.*
- *430 metres from Simla (restaurant providing takeaway service) (over 10-minute walk)*
- *430 metres from Strathmore Road Fish Bar (over 10-minute walk)*
- *525 metres from Hings Cottage takeaway (10 minute walk)*
- *650 metres from Chris's Fish & Chips (over 10 minute walk)*
- *615 metres from Krunchy Fried Chicken (over 10-minute walk)*
- *620 metres from Clifton Chippy (over 10 minute walk)*
- *680 metres from KFC (over 15-minute walk)*
- *700 metres from Subway (over 15-minute walk)*

Proximity to other restaurants:

- *The unit is adjacent to Tin Hat Public House*
- *440 metres of The Wharf Inn Public House (over 10-minute walk)*
- *570 metres of the Flintlock Public House (10 minute walk)*
- *595 metres of the Marina Brewers Fayre restaurant (over 10-minute walk)*

Proximity to local amenities (schools, parks):

The unit is located within 400 metres of two open spaces, Clarendon Park and Langdale Community Park. An entrance point to both parks is within 185 metres of the proposed unit location (3-minute walk). Additionally, the Oak Tree Park, Brosdale Drive Amenity Greenspace and The Rock Gardens are within 650 metres of the site. The nearest school is located 580 metres (11-minute walk) away from the application site, adjacent to the boundary of Hinckley Castle ward.

Summary of concerns:

LCC Public Health would not support the permission of this application due to the nature of the proposed operation as a Hot Food Takeaway within walking distance of two parks and open spaces (185 metres from entrance of parks) being in contradiction with NPPF (2024). The proposal also goes against the Healthy Weight Strategy for Leicestershire and has the potential to worsen health outcomes in the local area.

The proposal seeks permission for change of use from retail (Class E) to a hot food takeaway (sui-generis). This is a retrospective application where the works are complete, and the application indicates the site has been in operation since the 11th November 2025. The site is located within the Trent Road Neighbourhood Centre which is the smallest centre in the Borough.

Neighbourhood Centres form the lowest tier of hierarchy shopping but are considered to be of local importance to the nearby community in predominantly residential areas. Other units on the site are a public house, a co-op supermarket, hairdressers and hot food takeaway. This application would add an additional hot food takeaway to the small centre, reducing the diversity in local offer with 40% units serving convenience hot food. Food and drink offered in shops, hot food takeaways, cafes and restaurants significantly shape dietary behaviours.

A reduction in the diversity of the food offer can limit healthier options, and a concentration of hot food takeaways is associated with poorer dietary behaviours. The opening times indicated in the application show the unit will be in operation 1.5 hours later than the adjacent hot food takeaway with a similar closing time to the public house which provides in-house dining.

This application would result in increased access to fast food options later in the evenings, and while not open during school rush hours, can influence young people to consume food later or at other times of the day. Hinckley & Bosworth Borough Council's Regulation 18 draft Local Plan seeks to refuse permission for applications within a 400-metre radius of Hinckley Castle ward which has both higher obesity prevalence for certain age categories and higher concentrations of hot food takeaways than the Leicestershire average.

The proposed unit is within 350 metres of the boundary and should be refused in line with this policy approach. It is also worth emphasising the LSOA in which the site is located is the most deprived area of all neighbourhoods within Hinckley and Bosworth Council area. Additionally, the nearest school is located 580 metres away (11-minute walk) and sits between the proposed site and Hinckley Castle ward. The latest National Planning Policy Framework (NPPF) (December 2024) states the following under Section 8 Promoting Healthy and Safe Communities: 97.

Local planning authorities should refuse applications for hot food takeaways and fast food outlets: a) within walking distance of schools and other places where children

and young people congregate, unless the location is within a designated town centre; or b) 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. The unit is located within 185 metres of entrances to two parks, which are Clarendon Park and Langdale Community Park in Hinckley (3-minute walk). Clarendon Park hosting several sports pitches, a play area for toddlers and juniors as well as a multi-use games area. Langdale Community Park has several pitches, a play area, multi-use games area as well as a BMX track.

Both parks are important open space assets, attracting young people from the community to congregate, play and linger.

The 2025 NPPF consultation document demonstrates the government is commitment to continue refusing hot food takeaways and fast-food outlets within reasonable walking distance of places where young people congregate by taking forward Para 97 as HC5 under a set of national decision-making policies in Section 16 'Promoting Healthy Communities'.

This application would also be at odds with Leicestershire County Council's commitment to helping children achieve a healthy weight (Healthy Weight Strategy for Leicestershire), as well as the NPPF requirements where Hot Food Takeaway Applications within a 400m radius to schools and other places where children and young people congregate will be refused.

Hinckley & Bosworth Borough Council (HBBC) Environmental Health:

- 7.1 No objections, however, due to a lack of information, conditions have been recommended requiring the submission of a ventilation scheme, in the event that the application is recommended for approval.

Hinckley & Bosworth Borough Council (HBBC) Drainage:

- 7.2 No objections.

Leicestershire County Council (LCC) Highways

- 7.3 LCC Highways have confirmed they have no objection to the proposal as the change of use is unlikely to cause an increase in trips, and the LHA would not be able to demonstrate that the impacts would be severe.

8. Policy

- 8.1 Core Strategy (2009):

- Policy 1: Development in Hinckley

- 8.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development

- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

8.3 National Planning Policies and Guidance:

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

8.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2024)

9. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

9.2 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. Paragraph 3 of the NPPF confirms that it should be read as a whole.

9.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. 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.

9.4 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP).

9.5 Both the Core Strategy and the SADMP 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.

9.6 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.

9.7 Paragraph 97 of the NPPF states that

“Local planning authorities should refuse applications for hot food takeaways and fast food outlets:

- a. Within walking distance of schools and other places where children and young people congregate, unless the location is within a designated town centre; or*
- b. 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”*

9.8 The development site is located adjacent to another hot food takeaway but is not located within a designated town centre. This application would add an additional hot food takeaway to the small centre, reducing the diversity in local offer with 40% units serving convenience hot food. Food and drink offered in shops, hot food takeaways, cafes and restaurants significantly shape dietary behaviours. A reduction in the diversity of the food offer can limit healthier options, and a concentration of hot food takeaways is associated with poorer dietary behaviours.

9.9 The unit is located within 185 metres of entrances to two parks, which are Clarendon Park and Langdale Community Park in Hinckley (3-minute walk). Clarendon Park hosting several sports pitches, a play area for toddlers and juniors as well as a multi-use games area. Langdale Community Park has several pitches, a play area, multi-use games area as well as a BMX track. Both parks are important open space assets, attracting young people from the community to congregate, play and linger. This application would be at odds with Leicestershire County Council's commitment to helping children achieve a healthy weight (Healthy Weight Strategy for Leicestershire), as well as the NPPF requirements where Hot Food Takeaway Applications within a 400m radius to schools and other places where children and young people congregate will be refused, outlined in Paragraph 97(a) of the NPPF.

9.10 At present there is no definition or further detail within the NPPF glossary or Planning Practice Guidance to determine the definition of “walking distance” in the context of paragraph 97. The National Design Guide (MHCLG 2021) suggests a walkable distance to be no more than 10 minutes/800 metres. Manual for Streets (DfT 2007) identifies walkable neighbourhoods as typically characterised by facilities within 10 minutes (up to about 800 metres).

9.11 In 2020, Public Health England published “Using the planning system to promote healthy weight environments - Guidance and supplementary planning document template for local authority public health and planning teams”. In the context of

planning restrictions on fast food takeaways, this also refers not only to an 800m walking distance but also to 400m as being the preferred distance for identifying applicable walking distance from hot food takeaways and fast-food outlets.

- 9.12 Whether applying the 400m or 800m walking distance threshold in relation to NPPF Paragraph 97, it is evident that the site is located well within the threshold of 'places where children and young people congregate'.
- 9.13 As such the development is considered to not be in accordance with Paragraph 97 (a) of the NPPF and is therefore not acceptable in principle.

Design and Impact upon the Character of the Area

- 9.14 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 9.15 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 9.16 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 9.17 The application for a change of use does not have any external impacts and as such would therefore have no impact upon design or the character of the area. It is noted that the change in advertisements has not been included within this or a separate advertisement consent application; which does not allow for a review on the visual impacts on the area.
- 9.18 As such, it is considered that the development has no impact on the character of the area and is therefore in accordance with Policy DM10 of the SADMP.

Impact upon Residential Amenity

- 9.19 Policy DM10(a) and (b) of the SADMP states that 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.
- 9.20 The development relates to the change of use from a retail unit to a hot food takeaway. Due to no external works being conducted, with the exception of new

advertisements, it is not considered that neighbouring residents would be impacted in terms of loss of light, loss of privacy or overbearing impacts.

- 9.21 The nature of the business would generally give rise to a degree of noise and odour pollution, and whilst it is regrettable this information has not been provided as part of this proposal, HBBC Environmental Health have confirmed that subject to the submission of a sufficient and acceptable ventilation scheme, the concerns regarding noise and odour pollution could be overcome.
- 9.22 Therefore, the development may be considered to be in general accordance with Policy DM10 of the SADMP.

Impact upon Parking Provision and Highway Safety

- 9.23 Policy DM17 of the 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.
- 9.24 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. Any reduction below minimum standards will require robust justification.
- 9.25 The Highways authority, as outlined at the start of this report, confirmed they have no objections to the development – as the development is not considered to cause an increase in trips generated, and would therefore not have any severe impact on the local highway network. In addition to this, off-street parking is afforded to the business and neighbouring businesses.
- 9.26 As such the proposal would be in general accordance with Policy DM17 and DM18 of the SADMP, subject to planning conditions.

Planning Balance

- 9.27 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.
- 9.28 The development itself is considered to be in general accordance with Policies DM10, DM17 and DM18 of the SADMP, with a negligible impact on the character of the area, neighbouring amenity (subject to additional information) and highways safety/vehicular parking. However, as assessed within this report, the development is at odds with Paragraph 97 (a) of the NPPF, and would introduce a significant impact on local/public health with regards to unhealthy food consumption.
- 9.29 There are no known social benefits to the proposal. The economic benefits of a hot food takeaway, whilst offering minor employment benefits, would not be considered

to significantly and demonstrably outweigh the harm caused and conflict with Paragraph 97 (a) of the NPPF; as such the development should be refused.

10. Equality Implications

10.1 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.

10.2 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.

10.3 There are no known equality implications arising directly from this development.

10.4 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).

11. Conclusion

11.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is refused.

12. Recommendation

11.1 **Refuse planning permission** subject to:

- Planning reasons detailed at the end of this report.

12.2 Reasons

1. The retrospective proposal for the change of use of the unit from Class E (retail) to Sui Generis (hot food takeaway) is found to be in an unacceptable location, within walking distances of a school and other places where children or young people congregate, and is not located in a designated town centre, and would therefore be in direct conflict with Paragraph 97 (a) of the National Planning Policy Framework (2024).