

Delegated Report

Planning Reference 25/00905/P3CMA
Applicant(s) Synergy Asset Management Limited
Ward Barwell



Hinckley & Bosworth
Borough Council

Application Site J Dawes and Son, 16 King Street,
Barwell, Leicester,
Leicestershire, LE9 8GQ

Proposal Notification to determine if prior approval is required for the change of use of a commercial building to 4 self-contained residential flats.

Case Officer Jack Playle (Technical Planning Assistant)

1. Recommendations

- 1.1. **Prior Approval Required and Granted** subject to planning conditions outline at the end of this report.

2. Planning Application Description

- 2.1. This is an application for prior notification under Class MA of Part 3 of Schedule 2 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO') for the change of use of commercial building to four self-contained residential flats.
- 2.2. Originally, the proposal was for five self-contained residential units, which was reduced to four units following concerns raised by the Local Planning Authority in relation to the scheme's compliance with the relevant limitations of the GPDO.

3. Description of the Site and the Surrounding Area

- 3.1 The application site comprises a two-storey detached building located on the eastern side of King Street within the settlement boundary of Barwell and within Barwell Conservation Area. The site is currently vacant, but the site has been previously utilised for commercial uses.
- 3.2 The surrounding area comprises a mix of commercial and specialist uses. Immediately adjacent is Barton Buildings, which accommodates a ballet academy, dance studio, theatre facilities, and costume hire services. Connected to this is SJT Textiles and New Guard Coating Ltd, with additional businesses such as Quality Roofing Specialists located further along George Street. Barton Buildings is referenced in the Employment Land Review 2024, noting its current use for dance and theatre-related activities.

4. Relevant Planning History

4.1 97/00847/FUL

- First floor extension to form showroom
- Permitted
- 12.11.1997

5. Publicity

5.1 The application has been publicised by sending out letters to local residents and a site notice. Following the submission of amended plans, a further round of consultation was undertaken with local residents.

5.2 In total, ten responses were received from six separate addresses, five of which were in objection to the scheme, and one did not object or support the development, but raised concerns with the submission. In summary, concerns raised by members of the public included:

- Exacerbation of existing on-street parking issues
- Harm to neighbouring residential amenity
- Highway safety concerns
- Lack of suitable off-street vehicle parking
- Loss of privacy
- Noise Pollution
- Security concerns

5.3 Concerns were also raised in relation to the reduction in property values of nearby dwellings and damage caused to neighbouring properties through the construction of the development.

Case Officer Comment: Planning Practice Guidance confirms that planning is concerned with land use in the public interest, so the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not considered to be a material consideration within the determination of this application. Any damage caused by this development to neighbouring properties is a civil matter that must be addressed outside of the planning process.

5.4 A member of the public also referred to Condition 04 of planning permission 97/00847/FUL, which required the window on the southern elevation of the scheme to be obscure glazed.

Case Officer Comment: Whilst this was a condition implemented in a previous planning permission; the current application is not seeking planning permission from the Local Planning Authority. The determination of a Prior Approval application, such as this development, and any associated conditions must relate to the limitations of the relevant Class of the GPDO.

In this instance, the conversion of a commercial building to a dwellinghouses via Class MA of Part 3 of Schedule 2 of the GPDO does not include any limitations in relation to a scheme's impact on neighbouring residential amenity such as any potential loss of privacy or overlooking impacts. Therefore, these concerns cannot be taken into account within the determination of this Prior Approval application in these site-specific circumstances.

6. Consultation

- 6.1 Barwell Parish Council made comments in objection to the development due to concerns regarding overdevelopment of the site and lack of parking for the proposed development.
- 6.2 The Council's Environmental Health Department did not object to the application, subject to the provision of a pre-commencement planning condition in relation to protecting the proposed dwellings from adjacent commercial operations.
- 6.3 Leicestershire County Council as the Local Highway Authority advised that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe, subject to planning conditions.
- 6.4 No objections have been received from the Council's Drainage Department or the Council's Conservation Officer. Leicestershire County Council as the Lead Local Flood Authority did not comment on the application.
- 6.5 No further responses have been received.

7. Policy

- 7.1 Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('GPDO').
- 7.2. National Planning Policies and Guidance
- National Planning Policy Framework ('NPPF') (2024)
 - Planning Practice Guidance ('PPG')

8. Appraisal

- 8.1. The determination of this application is assessed on whether the proposed development falls meets the criteria of Class MA of Part 3 of Schedule 2 of the GPDO, which relates to development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 of the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order within that Order.

8.2. For the purposes of Class MA, development is not permitted if:

- (b) unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval

The use of the building fell within Class E as specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of this application for Prior Approval.

- (d) if land covered by, or within the curtilage of, the building—

- (i) is or forms part of a site of special scientific interest;
- (ii) is or forms part of a listed building or land within its curtilage;
- (iii) is or forms part of a scheduled monument or land within its curtilage;
- (iv) is or forms part of a safety hazard area; or
- (v) is or forms part of a military explosives storage area;

The application site does not form part of any of the areas specified within Paragraph MA.1(d) of Class MA.

- (e) if the building is within—

- (i) an area of outstanding natural beauty;
- (ii) an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and Countryside Act 1981;
- (iii) the Broads;
- (iv) a National Park; or
- (v) a World Heritage Site;

The site is not within any of the areas specified within Paragraph MA.1(e) of Class MA.

- (f) if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or

The site is not occupied under an agricultural tenancy.

- (g) before 1 August 2022, if—

- (i) the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
- (ii) the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3.

The proposed development is not of a description falling within Class O of this Part, nor would the development have been permitted under Class O immediately before 1st August 2021.

- 8.3. Subject to the above, development under Class MA is permitted subject to the developer applying to the Local Planning Authority for a determination as to whether prior approval of the Authority will be required as to:

- (a) transport impacts of the development, particularly to ensure safe site access

The development utilises an existing unamended access onto King Street. Given the existing nature of this access and the site's existing use as a commercial building, Leicestershire County Council as the Local Highway Authority ('LHA') considered the proposed access to be acceptable in these site-specific circumstances and the proposed use would not exacerbate any existing highway safety issues.

Concerns have been raised by members of the public and the Parish Council in relation to the development's level of off-street parking provision. The LHA have confirmed that they would normally require five off-street parking spaces for this form of development in accordance with the Leicestershire Highway Design Guide ('LHDG').

However, it is noted that the application site is in a highly sustainable location in terms of travel in a town centre location, which is within 190m of several bus stops, which provide services to Hinckley and Leicester City Centre.

The LHA have also stated that there is evidence of on-street parking in the area and there is a free car park nearby on Stanley Street should there be visitors to the site. In addition, the LHA have noted that there are several Traffic Regulation Orders ('TROs') in the surrounding area in the form of double yellows, which are considered to deter inconsideration parking on junctions within the vicinity of the site.

By virtue of these factors, and the existing commercial use of the site that would generate trips and parking requirements in its own right, it is therefore considered that the scheme would not result in unacceptable impacts on highway safety and the impacts of the road would not be severe in these site-specific circumstances.

- (b) contamination risks in relation to the building;

In consultation with the Council's Environmental Health Department, the application site is not considered to have any contamination risks.

- (c) flooding risks in relation to the building;

The site lies within Flood Risk Zone 1, and no concerns have been raised by the Council's Drainage Department or the County Council as the Lead Local Flood Authority to this development. Therefore, the proposal is not considered to result in any unacceptable flood risks in these site-specific circumstances.

- (d) impacts of noise from commercial premises on the intended occupiers of the development;

The site does neighbour commercial business, and the Applicant has agreed to the pre-commencement condition requested by the Council's Environmental Health Department in relation to protected the proposed flats from noise adjacent commercial operations.

- (e) where—

- (i) the building is located in a conservation area, and
- (ii) the development involves a change of use of the whole or part of the ground floor

the impact of that change of use on the character or sustainability of the conservation area;

The building is located within the Barwell Conservation Area. The proposed plans submitted with the application confirm that no alterations of the proposed that would affect the external appearance of the building, so its current character and the positive contribution this makes to the significance of the Conservation Area would be preserved. The only structures proposed would be a bin store and cycle store within an internal courtyard. These structures would be of a modest scale and be sited inconspicuously so in my opinion would have no adverse impacts upon the character of the conservation area. By virtue of these factors, the development does not result in any significant harm to the character of the site or the Barwell Conservation Area.

- (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses;

The scheme is considered to provide an adequate level of natural light to all the proposed habitable rooms, subject to a planning condition that ensures that the kitchens within Flats 2 and 5 are not separated from the bedrooms.

- (f) the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;

The application site is not located near any areas important for heavy industry, waste management, storage and distribution or a mix of such uses.

- (h) where the development involves the loss of services provided by—
- (i) a registered nursery, or
 - (ii) a health centre maintained under section 2 or 3 of the National Health Service Act 2006, the impact on the local provision of the type of services lost; and

The development does not involve the loss of services provided by a registered nurse or a health centre maintained under Section 2 or 3 of the National Health Service Act 2006.

- (i) where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building

The development meets the fire risk condition of article 9A because the building is not 18m or higher and does not contain 7 storeys or more as required by The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021.

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; and
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - (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.

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. Conclusion

10.1. The application meets the conditions of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is therefore considered that the application is acceptable and is in accordance with the conditions and the provision of Paragraph W of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

11. Recommendation

11.1 **Prior Approval Required and Granted** subject to conditions outlined at the end of this Report.

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Amended Floor Plans and Elevations (submitted: 13.11.2025)
- Site Location Plan, Proposed Site Plan, Drg No. VD24732 (submitted: 23.09.2025)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. Prior to the commencement of development, a Construction Traffic Management Plan, including, as a minimum, details of the routing of construction traffic, vehicle parking facilities for site workers and visitors, loading and unloading of materials, materials storage and a timetable for their provision, shall be submitted to, and approved in writing by, the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To reduce the possibility of deleterious material (mud, stones etc.) being deposited in the highway and becoming a hazard for road users, to ensure that construction traffic does not use unsatisfactory roads and lead to on-street parking problems in the area in accordance with the National Planning Policy Framework (2024).

3. Prior to the commencement of development, a scheme for protecting the proposed flats from noise from adjacent commercial operations shall be submitted to, and approved by, the Local Planning Authority. All works which form part of the scheme shall be completed before any of the permitted dwellings are first occupied.

Reason: To protect the residential amenities of the future occupiers of the development hereby permitted 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).

4. The development hereby permitted shall not be occupied until such time as details of the secure and under cover cycle parking have submitted to, and approved by, the Local Planning Authority. The agreed cycle parking provision shall then be implemented prior to any of the permitted dwellings are first occupied and thereafter, the onsite cycle parking provision shall be kept available for such use in perpetuity.

Reason: To promote travel by sustainable modes in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2024).

5. The development must keep the living and kitchens of Flat 2 and Flat 5 undivided from their respective bedrooms in perpetuity.

Reason: To ensure that an adequate provision of natural daylight is provided all habitable rooms within the development in accordance with Paragraph MA.2.2(f) of the of Class MA of Part 3 of Schedule 2 of Class MA of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

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 building.control@blaby.gov.uk or call 0116 272 7533.