

Delegated Report

Planning Ref: 24/00293/FUL

Applicant: Mr A Jahromi

Ward: Groby

Site: CeX, 46 Castle Street, Hinckley, Leicestershire, LE10 1DB



Hinckley & Bosworth
Borough Council

Proposal: Change of use from Class E to mixed use (Class E & C3) and first floor rear extension

Recommendations

1.1. Refuse planning permission subject to the reasons at the end of this report.

2.0 Planning application description

- 2.1. The proposal is for the change of use from Class E to mixed use (Class E & C3) and first floor rear extension. The proposal will include the creation of three first floor flats in C3 use to replace the existing storage area in Class E use. The proposed first floor extension is to extend over an existing single storey ground floor rear extension which would be approximately 11.9m deep and have a flat roof. One window is proposed per flat at the rear of the proposed 1st floor with two existing windows forming the windows for the remaining flat at the front of the 1st floor.
- 2.2. All flats would be accessed directly from Castle Street with a stairs leading to a 1st floor landing area. All three flats (flat 1 at the front of the 1st floor and flat 2 & 3 at the rear of the proposed 1st floor) consist of a single bedroom, shower room and an open plan kitchen/living/dining area. Flat 1 has 2 front windows. Flat 2 & 3 would have 1 rear window each and 2 roof lights each (one for the bedroom and one for the kitchen area).
- 2.3. Flat 1 at the front would be 49sqm. Flat 2 would be 43sqm and flat 3 would be 37sqm. Nationally described space standards for 1 bed, 1 person residential units need to be 37 sqm at a minimum so the proposed flats are just about acceptable in terms of internal space.
- 2.4. The appearance of the building from castle street would be largely unaffected by the development, except for the central window on the first floor which is to be bricked up. The ground floor of the property is to remain the same. The storage area for the shop would now be at the rear of the ground floor area.
- 2.5. As no parking is proposed the development is to be promoted for those who rely on sustainable travel.
- 2.6. The proposed flat roof extension to the rear will use materials and fenestration to match the existing.

Description of the site and surrounding area

- 3.1. The site is located within the Hinckley Town Centre Conservation Area but is not a listed building. It is surrounded by a mixture of commercial and retail units, restaurants, and cafes. The property fronts Castle Street and has direct access to the rear of the site via Stockwell Head. At the rear is Castle Street car park. The

existing building consists of a Shop with Class E(a) retail at ground floor level. The first floor serves as storage space for the retail space below. The footprint of the site measures approximately 155 sqm.

- 3.2 The adjoining terrace 40- 44 Castle Street has similar retail use at ground floor and residential use at 1st floor.
- 3.3 Castle street is a pedestrianised main street in the town centre and contains a diverse mixture of independent stores and national retail outlets. With Castle Street being pedestrianised the site is primarily accessible by foot, with public transport being approximately a five minute walk away from the site. Buses serving this area include 6, 6a ,6b, 7, 7a, 8 which are operated by Arriva midlands. Services 148 and 158 are operated by Sapphire buses.
- 3.4 Hinckley town centre has rail and bus linkages. The current bus station is located within the town centre whilst Hinckley Railway Station is located off Hawley Road, approximately 600m south of Hinckley town centre. The station is situated on the main Leicester to Birmingham train line. Across Castle Street from the property is another car park, a park and Hinckley Leisure Centre.
- 3.4 The existing building is a two storey property with large shop front across most of the width of the ground floor and rendered facing wall to the front. The rear elevation has red brick facing walls with the first floor being stepped back from a flat roof on the ground floor.
- 3.5 It forms one of a collection of retail units designed and constructed during the 1960s and has a scale and appearance typical of this period which is considered uncharacteristic with the traditional qualities of the conservation area. For these reasons the building is identified as being part of weak area within the Hinckley Town Centre Conservation Area Appraisal (2013). Overall the building is of no historic or architectural interest with it being considered to make a negative contribution to the character and appearance, and thus significance, of the conservation area.

Relevant planning history

20/10159/PREHMO- Change of use to x3 one-bedroom flats

Publicity

- 5.1. The application has been publicised by posting a site notice within the vicinity of the site and letters sent out to neighbours. The application was also advertised in the Leicester Mercury.
- 5.2. No comments received.

Consultation

- 6.1. LCC Highways: No objections.
- 6.2. HBBC Conservation: No objections. Substantive response, included within the impact upon the character of the conservation area.
- 6.3. HBBC Waste Management: No objections
- 6.4. HBBC Drainage: No objections.
- 6.5. HBBC Pollution: No objections provided the recommendations of the Noise Impact Assessment are implemented

Policy

7.1. **Site Allocations and Development Management Policies DPD (2016)**

- Policy DM1: Presumption in Favour of Sustainable Development
- 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
- Policy DM22: Vitalising District, Local and Neighbourhood Centres

7.2. **Core Strategy (2009)**

- Policy 1: Development in Hinckley
- Policy 4: Hinckley Town Centre
- Policy 16: Housing Density, Mix and Design

7.3. **National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.4. **Other relevant guidance**

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

7.5 **Hinckley Town Centre AAP (2011)**

- Policy 4: Britannia Centre/ Castle Street Strategic Development Area

Appraisal

8.1. Key Issues

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

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. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states 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 development plan in this instance consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).

8.4 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. The urban area

of the borough is divided into four settlements – Hinckley, Burbage, Barwell and Earl Shilton. Policy 1 of the Core Strategy identifies Hinckley as a sub-regional centre. It sets out support for new housing and seeks to diversify existing housing stock in the town centre to cater for a range of house types and sizes as supported by Policy 15 and Policy 16.

- 8.5 The housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply. Any future planning application would therefore need to be determined against Paragraph 11(d) of the NPPF (2019) whereby permission should be granted unless the heritage policies of The Framework provide a clear reason for refusing the development or if the adverse impacts of permitting the development would significantly and demonstrably outweigh the benefits of the proposed development, when assessed against the policies in the Framework taken as a whole.
- 8.6 The application site is located in the Hinckley settlement boundary. As such, there is a presumption in favour of development in accordance with Policy DM1 of the SADMP. In this regard, development in the proposed location would be acceptable. However, as per the above, the proposed introduction of three separate residential units requires assessment against paragraph 11(d) of The Framework. Each of the three first floor flats would comprise one bedroom. The Housing Needs Study 2019 recommends that housing comprising only one bedroom should only take up the lowest percentage of the Hinckley and Bosworth Market Housing mix. The evidence suggests that there is a higher demand for 2/3 bedroom housing. The pre-application response advised that should a full application be made for 3 x 1 bedroom apartments sufficient justification would need to be provided by the applicant to demonstrate a need for the size of accommodation proposed. No justification has been provided. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure. However, the PPG is clear that obligations for affordable housing should not be sought from applications of 10 or less residential units or where a site area does not exceed 0.5ha. The proposal would not accommodate 10 dwellings and is less than 0.5ha and therefore would not require affordable housing contributions. .
- 8.7 Policy 4 of the Hinckley Town Centre AAP seeks to improve the retail offering along Castle Street. Policy DM22 of the SADMP seeks to ensure the vitality of centres. It encourages residential uses on the upper floor of retail premises according to the important role that this kind of mixed use can play in increased activity and natural surveillance.
- 8.8 The upper floor of the existing host building serves as storage space for the existing Class E(a) retail use. The application proposes a change of use from Class E(a) retail to mixed use Class E(a) retail and Class C3(a) dwelling houses, removing the upper floor existing storage to make way for three residential units. Residential development is supported as a characteristic main town centre use. The application proposes a mixed use development whereby the existing retail use of the host building would be maintained at ground floor level and residential introduced above. In this regard it is therefore considered unlikely that the proposed development would significantly alter or harm the vitality of the Hinckley town centre and would likely be in accordance with Policy 4 of the Hinckley Town Centre AAP and Policy DM22 of the SADMP.

Design and impact upon the character of the Conservation Area

- 8.9 Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.10 Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraph 201 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
- 8.11 Policy 1 of the Core Strategy seeks to ensure development respects Hinckley's industrial heritage through the sympathetic reuse of existing buildings. It also requires development to respect the character and appearance of Hinckley town centre conservation area.
- 8.12 Policy DM10 of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features with the intention of preventing development that is out of keeping with the surrounding area.
- 8.13 Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced and proposals which seek to improve neutral and negative areas inside conservation areas, which also lead to the overall enhancement of the conservation area, will be supported.
- 8.14 Policy DM23 of the SADMP seeks to ensure that high levels of design and local distinctiveness across shop fronts is maintained.
- 8.15 Policy 4 of the Hinckley Town Centre AAP seeks to ensure active frontages on Castle Street.
- 8.16 According to the proposed floor plan, the proposed change of use would not include any alterations to the host building's elevation fronting Castle Street apart from the loss of the central 1st floor window. When viewing from Castle Street, the proposed development would appear to have little effect upon the character or appearance of the conservation area or town centre street scene in this regard. The proposed first floor extension would be to the rear of the host building, extending upon an existing single storey projection and would be approximately 11.9 metres in depth.
- 8.17 The proposed 1st floor rear extension would have a flat roof and materials to match the existing. From Chapel Yard/ Stockwell Head the view of buildings along Castle Street is characterised by varied projections. The two storey units 40-44 Castle Street west of the host building project further that the single storey rear of the existing host building. It is therefore considered that in terms of overall scale and footprint, the proposed first floor extension would be read in the context of the existing Chapel Yard/Stockwell Head street scene and would be a proportionate, respectful and acceptable addition in this regard. Due to the extent and form of the proposed works, the development does not provide the opportunity for any particular enhancement to the character and appearance of the building and the wider conservation area. The ground floor retail element of the host building would remain and there would be no design changes to this element.

8.18 Conservation Officer comments were 'This is an application for the change of use and extension of the first floor of 46 Castle Street, Hinckley, to residential use. The application building is located within the Hinckley Town Centre Conservation Area. The building is two storeys in height with a flat roof. It has a large shop front across most of the width of the ground floor, a rendered finish to the facing walls and three simple square windows to the first floor. The rear elevation has red brick facing walls and is functional in appearance with the first floor being stepped back from a flat roof ground floor. It forms one of a collection of retail units designed and constructed during the 1960s and has a scale and appearance typical of this period which is considered uncharacteristic with the traditional qualities of the conservation area. For these reasons the building is identified as being part of weak area within the Hinckley Town Centre Conservation Area Appraisal (2013). Overall the building is of no historic or architectural interest with it being considered to make a negative contribution to the character and appearance, and thus significance, of the conservation area.

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 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.

Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced and proposals which seek to improve neutral and negative areas inside conservation areas, which also lead to the overall enhancement of the conservation area, will be supported.

The single alteration to the front elevation of the building to facilitate the change of use is the removal of the central first floor window and rendering the gap to match. This is a minimal change to the appearance of the front elevation which is considered to have no material impact upon the character of the conservation area or the significance of any listed buildings within the wider setting of the front elevation of the building.

The proposed rear extension to the first floor will extend back and follow the same footprint as the ground floor. It has a flat roof form with facing brick and upvc windows that match the existing rear elevation and flanking buildings. It is considered that the extension will sit comfortably upon the rear elevation of the building, being of an appropriate scale, siting, form and appearance and as such would have a neutral impact upon the character and appearance of the conservation area. Due to the extent and form of the proposed works the development does not provide the opportunity for any particular enhancement to the character and appearance of the building and the wider conservation area.

Overall, it is considered that the proposal would maintain the character and appearance of the Hinckley Town Centre Conservation Area and preserve its significance, thus the proposal would comply 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'.

- 8.19 It is considered that the proposed development is an acceptable addition to the conservation area and satisfies the relevant planning policies and legislation.

Impact upon neighbouring residential 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 The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. Proposals should demonstrate there will not be a loss of amenity to a habitable room by loss of light or outlook. The SPD states that habitable rooms include living rooms, bedrooms and kitchens. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 8.22 Paragraph 135 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.23 Paragraph 191 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. Development should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and the quality of life.
- 8.24 Paragraph 193 of the NPPF states that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
- 8.25 The Environmental Health Officer has no objections to the proposed subject to a condition being imposed on any permission, if granted, to ensure the noise abatement assessment is implemented in full.
- 8.26 The proposed internal layout of the development shows that the ground floor unit will remain as existing. The proposed floor plan for the 1st floor (Drg No. PL-P-003 Rev XX shows three 1st floor one bedroom flats. As mentioned above Flat 1 at the front would be 49sqm. Flat 2 would be 43sqm and Flat 3 would be 37sqm. Nationally described space standards for 1 bed, 1 person residential units need to

be 37 sqm at a minimum so the proposed flats are just about acceptable in terms of internal space. Although it is noted that the HBBC GDG does seek for accommodation to exceed nationally described standards.

- 8.27 Flat 1 at the front would have 2 functioning windows with the middle window not being openable or only appearing as a window from a streetscene perspective. 1 window would serve the living room area and 1 window would serve the bedroom. No roof lights are proposed but it is considered that due to the width of the proposed and the limited depth of this flat that 2 windows would provide a sufficiently living conditions for any future occupier.
- 8.28 Flat 2 and 3 at the rear of the proposed 1st floor and very deep and very narrow, both flats would be approx. 16m in depth and 2.5m in width they are small and the layout of the units appears contrived and the functionality of the space questioned. Only 1 window is proposed at the rear of each flat with proposed windows at the rear being small and north facing. For each flat a roof light is proposed for the bedroom and kitchen area but it is not considered the lighting arrangements are appropriate for such long units or provide good enough living conditions for future occupiers.
- 8.29 On site, it was noted that the windows at the rear face a car parking. The outlook of these windows is not ideal for the occupier in terms of privacy.
- 8.30 Overall, the proposal would introduce two small units (Flat 2 & 3), which are small and narrow in plan form and importantly without adequate natural light. Given that the proposal includes no external amenity space, the quality of the internal living space is particularly important. The proposal presents poor and contrived design and would not provide a high standard of amenity for future users contrary to the policy DM10(a) of the SADMP, the Good Design Guide SPD and the NPPF.

Drainage

- 8.32 Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.33 The site is located within flood zone 1 indicating a low risk of surface water flooding. No concerns have been raised over the increase risk of flooding from the development.
- 8.34 The Borough Councils Drainage Officer has no objection to the proposal, and the proposal meets policy DM7.

Impact upon highway safety

- 8.35 Policies DM17 and DM18 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety and requires new development to provide an appropriate/justified level of parking provision.
- 8.36 The County Highways department were consulted as part of the application, and have confirmed that they do not have any objections to the proposed scheme. They confirmed that whilst no off-street parking is afforded to the proposed one bedroom flats that given the proposed is in a town centre location with multiple public car parks in the area, sustainable travel options to the site are possible. Also as a result of a package of

Traffic Regulation Orders on the network in the vicinity of the site in the form of double yellow lines in and around the area, the LHA does not consider the proposals even with no provision for off street car parking would generate inappropriate parking on the highway network in the vicinity of the site. Given the advice received from County Highways it is considered that the proposal is in general accordance with Policies DM17 and DM18 of the SADMP.

Planning balance

- 8.37 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.
- 8.38 The proposed conversion of the premises to a mixed use of retail and 3 flats is acceptable in principle and accords with policy 1 of the Core Strategy. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. Therefore, the 'tilted' balance in paragraph 11(d) (ii) of the Framework applies and permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.39 The Government is committed to significantly boosting the supply of housing through the Framework. The proposal would result in the delivery of 3 flats within an urban location with good access to services and facilities and sustainable transport options. The site is a sustainable location for residential development. The proposal would result in economic benefits through the conversion of the building, albeit for a temporary period. Additionally the residents of the proposed development would provide ongoing support to local services. However, given the scale of the development these benefits are attributed limited positive weight.
- 8.40 However, in this instance, it has been identified that significant harm would be caused to the future occupiers of the flats, as the proposed internal layout does not provide an acceptable level of natural light to units 2 & 3, at the rear of the proposed 1st floor, contrary to policy DM10 of the SADMP, the Good Design Guide SPD and the NPPF. In addition the 2 proposed flats at the rear are considered too long and too narrow to provide satisfactory living conditions for future occupiers. The proposal has therefore failed to comply with policy DM10(a) of the SADMP and national policy in the NPPF.

9.0 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.

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).

Conclusion

10.1. The 'tilted' balance in paragraph 11(d) (ii) of the Framework applies where permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this instance, it has been identified that significant harm would be caused to the future occupiers of the flats, as the proposed internal layout does not provide an acceptable level of natural light to units 2 & 3 at the rear of the proposed 1st floor or provide a satisfactory layout for any future occupier, contrary to the policy DM10 of the SADMP, the Good Design Guide SPD and the NPPF.

Recommendation

11.1 **Refuse planning permission** subject to:

- Planning reasons outlined at the end of this report.

11.2 **Reasons**

1. The proposed internal layout of the development will not provide an acceptable level of natural light to residential units 2 or 3 at the rear. The proposal will not provide a high standard of amenity or a high standard of internal layout for future users and is contrary to policy DM10 of the Site Allocations and Development Management Policies DPD Good Design Guide SPD and paragraph 135 (a) & (f) of the NPPF.

Notes to applicant

1. This application has been determined having regard to the following documents and plans:

Site Location Plan

Proposed Site and Location Plans Drg No. PL-SP-002 Rev XX

Proposed Roof Plan Drg No. PL-P-004 Rev XX

Proposed Floor Plans Drg No. PL-P-003 Rev XX

Proposed Front & Rear Elevations Drg No. PL-E-002 Rev XX

Noise Impact Assessment

Heritage Impact Assessment

Design & Access Statement all submitted on 26.03.2024