

Delegated Report

Planning Ref: 23/01125/CLP

Applicant: Mr Navaneethan Maheswaran

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: 150 High Street, Earl Shilton, Leicester, Leicestershire LE9 7LQ

Proposal: Lawful Development Certificate for change of use of beauty therapy shop (Class E) into a restaurant (Class E)

Recommendations

- 1.1. **Grant Certificate of Proposed Lawful Use** subject to the reasons at the end of this report.

Planning application and site description

- 2.1. This is an application for Lawful Development Certificate for change of use of beauty therapy shop (Class E) into a restaurant (Class E). No increase in floor space or external alterations are proposed. The ground floor has an existing commercial area which will be redesigned with a kitchen, toilet, staff room, payment area and restaurant which would seat 39 people at a maximum.
- 2.2. The site relates to No. 150 High Street which is a central area with a large amount of retail, commercial premises. It is currently occupied by a Beauty shop. Planning permission is currently being assessed for the installation of a kitchen extractor.
- 2.3. There is no vehicular access to the proposed site and no parking is proposed, although there are a few car parks within 200m of the site. The restaurant would be open Monday to Sunday 11:00 to 22:00.

3.0 Relevant planning history

Application	Proposal	Decision	Date
23/01190/FUL	Installation of a kitchen extractor	Pending Consideration	
99/00103/FUL	Installation of security shutter	Planning Permission	10.07.2015

4.0 Publicity/Consultation

- 4.1. None required for this type of application.

5.0 Policy

- 5.1 Town and Country Planning Act 1990 (As amended)
- 5.2 Planning Practice Guidance (PPG)

6.0 Appraisal

- 6.1 Section 55 of the Town and Country Planning Act 1990 and the PPG both confirm that planning permission is only needed where there is a material change in use. Furthermore Article 3(1) of the Use Classes Order establishes that the use of a building for any other purpose in the same class shall not involve development of the land.
- 6.2 The application is for the use of the premises (No. 150 ground floor), as a restaurant with the 1st floor area to continue to be used as residential. The applicant considers that the

proposed use falls under Class E of the Use Classes Order which is the same use class as the previous use as a beauty parlour.

6.3 Officers agree that the proposed use of the site as a restaurant would fall within use class E. Whether a beauty shop/parlour/therapist is within use class E has been a matter disputed, including at appeal, following the amendments to the Use Classes Order in 2020. Previously, a beauty salon was likely to be classed as sui generis, however, recent planning appeals determine that they are now more commonly considered under use class E. Largely as Use Class E c) iii) includes 'any other services which it is appropriate to provide in a commercial, business or service locality'. In this case the business was open to visiting members of the public and is in a commercial area where a variety of business coexist. The proposal does not alter the character of the development as no alteration externally is proposed, therefore there is a minimal impact on amenity for surrounding neighbours. It is unlikely to give rise to a material change in terms of activity or additional impacts in respect of residential amenity considering the surrounding commercial area. Therefore in this case it is considered that the business would have met the description in Class E of 'a service which it is appropriate to provide in a commercial, business or service locality'.

6.4 There are no planning restrictions relating to the proposed use.

6.5 Therefore there is no material change of use to No. 150 High Street and on the balance of probabilities the certificate can be granted.

Equality implications

6.6 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.

6.7 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.

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

6.9 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).

7.0 Conclusion

7.1 The proposed use falls in line with the existing use class. The proposal does not constitute a material change of use and therefore a Certificate of Proposed Use under the Town and Country Planning (Use Classes) Order 1987 (as amended) and is recommended for approval.

8.0 Recommendation

Grant Certificate of Lawful Proposed Use

8.1 This application has been determined with consideration to the following submitted documents:

- Application Form
- Design and Access Statement
- Site Location Plan received on 24/11/2023