

Delegated Report

Planning Ref: 25/00978/FUL
Applicant: MR RAM ODERA
Ward: Ratby Bagworth And Thornton



Hinckley & Bosworth
Borough Council

Site: 329A Station Road, Bagworth, Leicester

Proposal: Change the use from Shop (Class E) to restaurant (Class E) with hot food takeaway (Sui Generis) and associated works

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. This is an application for a change of use from a shop (Class E) to a restaurant (Class E) with hot food takeaway (Sui Generis) and associated works.

2.2. At the time the application was submitted the application details stipulated the change of use had not commenced but during the application process the change of use was implemented.

3. Description of the site and surrounding area

3.1. This application site is located to the north of Bagworth, along Station Road, the main spine route through the settlement. The site is within an area identified for mixed uses as set out within the Site Allocations and Development Management Policies DPD 2016. Residential dwellings lie opposite and to the south of the site.

3.2. Flats are located above the row of commercial units within which this proposal is situated.

4. Relevant planning history

- 23/01009/FUL – Installation of canopy and ventilation flue to restaurant (Class E) – APPROVED.

5. Publicity

5.1. Letters were sent out to neighbouring/nearby properties.

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

- Unsuitable location – would detract from rural character of the area
- Odour and noise concerns – from extractor equipment
- Traffic and delivery concerns – increased vehicle movements, parking problems, safety issues for pedestrians
- Light pollution from illuminated signage
- Late opening hours would cause disturbance/nuisance for nearby residents

6. Consultation

6.1. No objection has been received from:

- LCC Highways
- Environment Agency

- HBBC Environmental Protection Team
- HBBC Waste Team
- HBBC Drainage

6.2. No comments have been received from the Parish Council.

7. Policy

7.1. Core Strategy (2009)

- Policy 10: Key Rural Centres within the National Forest

7.2. Site Allocations and Development Management Policies DPD (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

7.3. Bagworth, Thornton and Stanton Under Bardon Neighbourhood Plan (Not yet made examination took place in September 2025)

- Policy TT1 – Traffic Management
- Policy BE1 – Support for existing businesses and employment opportunities
- Policy BE2 – Support for new businesses and employment

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

8. Appraisal

8.1. Key Issues

- Principle of development
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Planning Balance

Principle of development

8.2. Paragraph 2 of the National Planning Policy Framework states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. 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, permission should not usually be granted unless other material considerations indicate otherwise.

8.3. The current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016) and the Bagworth, Thornton and Stanton Under Bardon Neighbourhood Plan – (although this is not yet made but the examination took place in September 2025).

8.4. The application site is located within the settlement boundary of Bagworth along the main spine route of the village as identified within the Development Plan Policy

Maps and the Neighbourhood Plan. This application seeks permission for a change of use of 329A Station Road Street from Class (E) to a restaurant and hot food takeaway (sui generis use class).

- 8.5. Bagworth plays an important supporting role as a key rural centre for the Borough and provides some local facilities for its immediate population.
- 8.6. Planning history shows that this building/unit has historically had a Class E use (as a shop) and is identified as an area for mixed uses within the Site Allocations and Development Management Plan Policies DPD 2016. In principle therefore the proposal is acceptable subject to material considerations.

Impact upon neighbouring residential amenity

- 8.7. 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 with in the vicinity of the site.
- 8.8. Paragraph 198 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.
- 8.9. There has been 1 objection received from a local resident/third party in relation to amenity issues. The objector states concerns in relation to odour and noise, nuisance from long opening hours and light pollution from illuminated signage. The closest residential land use is the first floor of the building and the impacts on these occupiers has been considered.
- 8.10. The Council's Environmental Health Team were consulted on the proposal and requested further information in respect of ventilation and extraction equipment. The details provided were considered to be satisfactory and the Environmental Health Team have no objections and do not recommend any conditions to the proposal as submitted. The waste team have also been consulted and raise no concerns or objections. The application is therefore acceptable with respect to noise, odour and vibration impacts.
- 8.11. This is an application for a change of use and therefore does not consider any advertisements or illuminated signs. A separate consent process within the planning system controls the display of advertisements would be required and would consider the impact of the advertisement/sign on amenity and public safety.
- 8.12. The proposal is located in a mixed use area as shown within the Site Allocations and Development Management Policies DPD 2016. It is therefore considered to be suitable with respect to residential amenity considerations and statutory consultees have raised no objections nor suggested conditions in this case.
- 8.13. As such, this application is considered to be acceptable in residential amenity terms and in compliance with Policy DM10 a and b of the SADMP and the requirements of the NPPF.

Impact upon highway safety

- 8.14. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. 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 highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.15. Paragraph 116 of the NPPF outlines that 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 would be severe.
- 8.16. The application details state that there are 10 car parking spaces, 2 accessibility spaces, motorcycle spaces and spaces for light good vehicles in close proximity to the site (directly outside and a nearby layby). It is acknowledged that these spaces are not solely allocated for this development but the parking areas/spaces are available in this location for users of the proposal. The application details state that this change of use would create the need for 2 full time members of staff.
- 8.17. The local highway authority have been consulted on this application and raise no objections to the proposed change of use and do not consider that the proposal will result in a material increase or a material change in the character of traffic in the vicinity of the site or would create any highway safety issues. They do not propose or recommend any conditions in this case. They are satisfied with the parking provision in this case.
- 8.18. It is considered that the proposal is acceptable in highway terms and satisfies Policy DM17 and DM10(g) and the requirements of the NPPF.

Planning Balance

- 8.19. 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.
- 8.20. The application is considered to be acceptable in principle and accords with Development Plan Policy.
- 8.21. The proposal is also considered to be acceptable when taking into account all of the material considerations set out above. There are no significant adverse impacts associated with this change of use and as such the application is recommended for approval.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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 in the consideration 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. Recommendation

10.1 Grant planning permission subject to the following conditions:

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 relates to the following approved plans only:
 - Block and Location Plan drawing number 2405/01/100 received 7 October 2025
 - Proposed Elevations drawing number 2405/01/350 received 9 October 2025
 - Mesh Grease Filter Details received 24 October 2025
 - Contra Rotating Cased Axial Fans received 24 October 2025
 - Activated Carbon Panel details received 24 October 2025
 - Email dated 30 October 2025 – between applicant, case officer and the environmental health officer

Reason: To ensure the development accords with the approved details.

3. The premises shall be used for a mixed use of restaurant (Class E) and hot food takeaway (Sui Generis) use and for no other purpose (including any other purpose in Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015), or any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification.

Reason: To ensure the proposed development is compatible with existing development in the locality in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

Monday – Friday 0800 – 2200
Saturday 0800 - 2300
Sundays and Bank Holidays 0800 - 2200

Reason: To protect the amenities of the occupiers of neighbouring residential units from noise and disturbance in accordance with Policies DM7 and DM10 of the Site Allocations and Development Management Policies DPD 2016 and the requirements of the NPPF.

INFORMATIVES

1. Notwithstanding the approved details this permission relates to the change of use of the premises only. Any other works required including advertisement consent will need a separate application.
2. In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted proactively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).