DELEGATED REPORT

Recommendation Made: 5 April 2011

Reference:- 11/00089/COU **Parish:- Hinckley**

Applicant:- Mrs Maria Wyatt
9 Myrtle Close
Barwell
Leicester
Leicestershire

Location:- 16 Lower Bond Street Hinckley Leicestershire LE10 1QU

Proposal:- CHANGE OF USE FROM A1 (RETAIL) TO TAKEAWAY (A5) AND CAFE (A3)

Introduction:-

This is an application for the change of use of a vacant shop (Class A1) to use as a sandwich shop, cafe and takeaway (A1/A3/A5).

The building is located within a predominantly commercial area, it is the most northern property in a row of four properties where the ground floors are in commercial use(one unit is currently vacant). The premises are three storey with flats on the first and second floors.

The site is located on the western side of Lower Bond Street. The land levels rise from south to north following the adjacent carriageway of Lower Bond Street. There is a public car park to the northern and western sides of the site.

The application proposes the use as shop, cafe and takeaway with opening hours of 8:00 to 14:00 Mondays to Saturdays, closed on Sundays. No alterations to the external appearance of the premises are proposed although a small extraction flue is shown on the rear roof plane. The floor plans show seating areas, a serving counter, toilets and kitchen to the rear.

A Design and Access Statement has been submitted with the application which states that the proposal will involve the sale of hot rolls, salads, breakfasts foods and the sale of drinks on and off the premises,

History:

None relevant to the consideration of this application

Consultations:-

No objection received from:

The Director of Environment and Transport (Highways)
The Head of Community Services (Land Drainage)

No objection subject to condition received from The Head of Community Services (Pollution)

No comments received from neighbours notified or site notice displayed.

Development Plan Policies:-

Central Government Guidance

Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4) sets out planning policies for sustainable economic growth. Policy EC10 sets out various criteria for determining planning applications for economic development.

Planning Policy Statement 5 (PPS5): Planning for the Historic Environment published on 23 March 2010 replaced Planning Policy Guidance 15: Planning and the Historic Environment (PPG15). The document sets out the overarching planning policies on the conservation of the historic environment.

Local Development Framework Core Strategy 2009

Policy 1 Development in Hinckley

Hinckley Town Centre Area Action (2011)

Policy 13

Hinckley and Bosworth Local Plan 2001

BE1
BE7
T5

Supplementary Planning Guidance

The Shopping and Shop Fronts SPD seeks to enhance the vitality and viability of town centres, through ensuring that there is a balance and mix of retail and non-retail uses.

Appraisal:-

The considerations with regard to this application are the principle of the proposal in relation to policy, design and if there are likely to be any adverse impacts on neighbours amenity, the conservation area or highway safety.

Principle

The central policy documents which guide this type of development are;
- Planning Policy Statement 4: Planning for Sustainable Economic Growth
- Policy 13 of the Town Centre Area Action Plan SPD and
- Shopping and Shop Fronts SPD

Planning Policy Statement 4: Planning for Sustainable Economic Growth is the principal planning policy statement for development within town centres. It states one of its objctives for prosperous economies is competition between retailers and enhanced consumer choice. Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably. Policy EC14.3 confirms that development of less than 200 square metres does not require a sequential assessment

This site is considered to be an 'edge of centre location' for the purposes of PPS4. The adopted Local Plan policy relating to the designation of this area (other shopping areas) has now been superseded by the Town Centre Area Action Plan and it states that outside of primary shopping areas a mixed of A1-5 and D2 uses is acceptable.

The Shopping and Shopfronts SPD states that fume extraction and ventilation equipment will be a condition of any permission.

In this case, the proposal is for a cafe/takeaway use adjacent to other commercial units in an edge of centre location. It is considered that the approval of this application would be acceptable in terms of providing a mix of commercial opportunities within the local area subject to a consideration of extraction equipment which is dealt with elsewhere in the report.

Design

The building is currently in a poor state of repair, the proposal will bring the vacant unit back into use improving its appearance. There are no external changes to the building apart from a small flue proposed on the rear roof plane of the single storey element. This is controlled by condition.

Neighbours Amenity

The nearest neighbours to the unit are residents of flats located directly above the commercial units. The proposed hours are typical daytime working hours for commercial properties in and urban area and are not considered to be unreasonable or likely to cause any significant detriment to the amenity of nearby neighbours.

Hours of Operation - the applicants have requested restricted opening hours of 8:00 to 14:00 Mondays to Saturdays, closed on Sundays. However it is suggested that an hours of operation condition limiting the hours to 08.00 and 18.00 on Mondays to Saturdays and at no time on Sundays and public bank holidays, would be more appropriate in line with a similar cafe operation at 58 - 60 Lower Bond Street whilst protecting immediate neighbours amenity.

The issue of potential smells nuisance to nearby residents from the proposed use has been considered by The Head of Community Services (Pollution) and the proposed flue assessed. The Head of Community Services (Pollution) has suggested a condition in order to ensure that the potential for smells nuisance is satisfactorily dealt with. However, if a more intensive use of the premises was proposed which required a larger flue, then he would wish to ensure that the details formed part of a further application. Any external flue on the premises would require planning permission.

Conservation Area

In terms of the Town Centre Conservation Area, the proposed use is considered to be acceptable as it will retain the existing shop front and will result in a positive effect enhancing the character and appearance of the Conservation Area.

The applicants are aware that an extraction flue needs to be carefuly considered and the current proposed flue is considered acceptable in that it is small scale and located to the rear of the building. The Head of Community Services (Pollution) has confirmed that, for the type of food to be provided, the small flue is likely to be acceptable subject to agreeing details of the internal filters. This accords with the conservation area location. It is suggested that a note to applicant be included to inform the applicants that if the cooking methods from the premises alters and a further extraction system is required in future, then a large external flue is likely to be unacceptable within the conservation area location.

Whilst this application does not give consent for advertisements on the building, it is suggested that a note to applicant be included to advise the applicants that any advertisement material should pay regard to traditional building and the Conservation Area location.

Highway Safety

The Director of Environment and Transport (Highways) has no objection to the application given the location and proximity to public car parking areas.

Conclusion

This application is considered to comply with adopted development plan policy and the Town Centre Area Action Plan. It is considered that the application will have a positive effect on the character and vibrancy of the commercial area by bringing this vacant premises back into use. The application is therefore recommended for approval.

RECOMMENDATION :- Permit subject to the following conditions :-

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant

provisions of the development plan, as summarised below, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan and would not be to the detriment to residential amenity or highway safety and would enhance the character and appearance of the Hinckley Town Centre Conservation Area.
Hinckley & Bosworth Borough Council Local Plan (2001) :- BE1, T5 and the Supplementary Planning Document 'Shopping and Shop Fronts' (adopted 2007)
Hinckley & Bosworth Borough Council Core Strategy (2009):- Policy 1
Hinckley Town Centre Area Action (2011):- Policy 13

1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2 The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site location plan, block plan and Drawing

3 The cafe use hereby approved shall only be open to the public between 08.00 and 18.00 on Mondays to Saturdays and at no time on Sundays and public bank holidays.

4 No development shall take place until a scheme for ventilation of the premises, which shall include installation method, maintenance and management has been submitted to and agreed in writing with the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises are first brought into use for the development hereby approved and maintained in use thereafter.

Reasons :-

1 To comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2 For the avoidance of doubt and in the interests of proper planning.

3 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

4 To ensure that the proposed use does not become a source of annoyance to nearby residents to accord with policy BE1 of the Hinckley & Bosworth Local Plan.

Notes to Applicant:-

1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.

2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.

3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.

4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

5 The applicant should be aware that the property is located within the Hinckley Town Centre Conservation Area and as such, any advertisement material proposed to be displayed should pay particular regard to the character and appearance of the area.

6 The applicant should note that, due to the location of the premises within the Hinckley Town Centre

Conservation Area, any extraction system needs to be carefully considered. If cooking methods at the premises change resulting in the need to apply for planning permission for a larger extraction system, it is likely that a system located on the external wall/roof of the premises is liklely to be unacceptable.

Contact Officer:- **Louise Forman** **Ext 5682**