

Delegated Report

Planning Ref: 24/00604/CONDIT
Applicant: Mr and Mrs Garnett
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: Help Out Mill Restaurant Shackerstone Lane Newton Burgoland

Proposal: Variation of Conditions 2 (Approved Plans) and 3 (Materials) of planning permission 22/01049/FUL and Condition 2 (Approved Plans) of Listed Building Consent 22/01050/LBC. Changes to windows, materials, and relocation of tank.

1. Recommendations

- 1.1. **Grant permission for the variation of 22/01049/FUL and 22/01050/LBC** subject to:
- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission. Section 19 of the Planning (Listed Buildings and Conservation Areas) Act 1990 allows variation of conditions attached to a Listed Building Consent.
- 2.2. In this case, applications 22/01049/FUL and 22/01050/LBC granted full planning permission and Listed Building Consent respectively for the conversion of a former restaurant outbuilding into a two-bedroom dwelling at Help Out Mill Restaurant, Shackerstone Lane, Newton Burgoland.
- 2.3. This application seeks permission for the variation of Condition 2 (Approved Plans) of both applications and Condition 3 (Materials) of 22/01049/FUL to enable the development to provide alterations including:
- Relocation of boiler and flue.
 - Repositioning of the proposed oil tank close to the northern elevation.
 - Replacement of three existing timber framed windows on a like-for-like basis across the northern and southern elevations.
 - Retention of the existing glazed screen entrance doors and adjacent circular window on the northern elevation.

3. Description of the Site and the Surrounding Area

- 3.1. Help Out Mill is a complex of C19 buildings that are subject to a single Grade II* Listing Entry along Shackerstone Lane, Newton Burgoland. However, further information is provided on the Leicestershire & Rutland Historic Environment Record (HER) which suggests that a mill has been on the site since 1330.
- 3.2. The Help Out Mill complex comprises of The Mill House, The Mill and The Old Granary. All three structures within the Help Out Mill complex are constructed with a red brick finish and slate roofs.
- 3.3. The Help Out Mill closed in 1970, and it is believed to have been the last water-driven mill in Leicestershire that supplied flour. The special architectural and historic interest of the Grade II* Listed Building complex is by virtue of the survival of a roller mill with all its fittings in such a complete state in The Mill. This is considered to be extremely rare, especially when it appears with the earliest system of water powered grind stones.
- 3.4. To the north of the Mill is a linear block of former outbuildings, which have been converted into two cottages (The Granary Cottage and the Sence Cottage), an office and a former restaurant. The site also encompasses gardens and grounds, including paddock land that extend to about 3.18 acres.
- 3.5. The former restaurant is adjacent to the two existing dwellings and forms the most eastern element of the linear block of outbuildings within the site that is closest to the Help Out Mill. The restaurant ceased trading in 2019 and has been permanently closed since this date. It is likely that the former restaurant outbuilding was also originally a small number of cottages, but there have been alterations to its form including the insertion of several cart openings along the ground floor, some of which were infilled with brick, and some became windows and doors to serve the operation of the building.
- 3.6. The building is two-storey in massing, and it is constructed with red facing brickwork and clay roof tiles. The former restaurant outbuilding is considered to have historic and architectural value by virtue of its association with, and location within the curtilage of, the Grade II* Listed Building Help Out Mill complex.
- 3.7. The Help Out Mill complex is outside of any identified settlement boundary and within the open countryside. The site is on the banks of the River Sence, which runs from north to south through the site, and it is surrounded by open fields.
- 3.8. The Help Out Mill complex is 373m to the east of the site's access onto Shackerstone Lane and it is 290m to the east of the granary is Top House Farm and 342m to the south of the site is the Grade II Listed Building, Tiveys Farm. Odstone is 1.4km to the west of the site and Newton Burgoland is 1.4km to the northwest of the site.

- 3.9. The application site lies within Flood Zone 3, which is land defined by the Planning Practice Guidance (PPG) as having a high probability of flooding.

4. Relevant Planning History

4.1 23/01235/DISCON

- Application to discharge Condition 5 (Waste) and Condition 6 (SuDS) of planning application 22/01049/FUL
- Discharged
- 27.02.2024

4.2 22/01050/LBC

- Proposed conversion of former restaurant out-building into 2 bedroom dwelling in the grounds of Grade II* listed property at the Help Out Mill, Shackerstone, Leicestershire.
- Listed Building Consent.
- 03.02.2023

4.3 22/01049/FUL

- Proposed conversion of the ground floor of outbuilding into 2 bedroom dwelling, proposed new windows and brick infill, replacement of doors with windows and internal alterations
- Permitted
- 15.12.2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.

- 5.2. No responses have been received.

6. Consultation

- 6.1. There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Conservation Officer
- HBBC's Drainage Officer
- HBBC's Waste Management Officer

- 6.2. Historic England and the Local Highway Authority did not comment on the proposal. Shackerstone Parish Council did not respond to the planning application.

- 6.3. No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- N/A.

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM15: Redundant Rural Buildings
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (2022)

8. Appraisal

8.1. The principle of development, siting and design of the proposed change of use and alterations have already been established through the earlier grant of the extant planning permission on the site.

8.2. As this application only involves the alteration of the development's materials, retention of features that were previously altered and the repositioning of the boiler, flue and oil tank the key issues in respect of this application are therefore:

- Heritage matters and design and impact upon the character of the area
- Other Issues
- Conditions

Design and Impact upon the Character of the Area

- 8.2 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment and heritage assets. All proposals affecting the setting of Listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 8.3 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.4 Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.5 Sections 66(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 place a duty on the Local Planning Authority when considering whether to grant Listed Building Consent to have special regard to the desirability of preserving the building, its setting, and any special features of special architectural and historic interest which it possesses.
- 8.6 Section 16 of the National Planning Policy Framework provides the National Policy on conserving and enhancing the historic environment. When considering the impact of a proposed development on the significance of a designated historic asset, great weight should be given to the asset's conservation. Paragraph 193 states that, in determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
 - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability
 - c) the desirability of new development making a positive contribution to local character and distinctiveness.
- 8.7 Following discussion with the Council's Conservation Officer, the variations to the approved scheme are considered to either retain the existing arrangement and appearance of the elevations of the property, or where alterations are proposed they are very minor in extent and have an appropriate form and appearance.
- 8.8 By virtue of these factors, the proposed variations are considered to ensure that the historic and architectural interest of the curtilage Listed Building at the Help Out Mill are preserved and that the approved works continue to be compatible with its significance. Therefore, the scheme is in accordance with the duty under S66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies DM4, DM10, DM11, and DM12 of the SADMP and Section 16 of the NPPF.

Other Issues

- 8.9 The proposed amendments are not considered to result in any adverse impacts to residential amenity, highway safety, or off-street vehicle parking provision within the site.
- 8.10 Therefore, the application and the development remain compliant with Policies DM10, DM17 and DM18 of the SADMP.

Conditions

- 8.11 Planning permission 22/01049/FUL was subject to 7 planning conditions, and Listed Building Consent 22/01050/LBC was subject to 2 planning conditions.
- 8.12 Time cannot be extended or altered for Section 73 applications and, as such, Condition 1 (Time) of both applications needs to refer to the original 3-year time scale for implementation of the development.
- 8.13 Condition 2 (Approved Plans) of both applications require amending to highlight the new revised plans.
- 8.14 Conditions 03 (Matching Materials), 04 (Flood Mitigation Measures), and 07 (Parking and Turning Facilities) remain reasonable and necessary to ensure satisfactory development of the site, to reduce risk of flooding to the proposed development and its future occupants, and to ensure adequate off-street parking provision is provided.
- 8.15 Conditions 05 (Waste and Refuse) and 06 (Sustainable Water Drainage System) were discharged by Discharge of Conditions application 23/01235/DISCON. Therefore, these conditions need revising to ensure that they are implemented in accordance with the approved plans.
- 8.16 Therefore, all the conditions remain reasonable and necessary to ensure satisfactory development of the site. No additional conditions are considered to be necessary.

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;
 - (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).

10. Conclusion

- 10.1 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation

- 11.1 **Grant planning permission for the variation of 22/01049/FUL and 22/01050/LBC** subject to:

- Planning conditions detailed at the end of this report.

- 11.2 **Conditions and Reasons for the Variation of Planning Permission 22/01049/FUL:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original planning permission 22/01049/FUL on 15 December 2026.

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 shall not be carried out otherwise than in complete accordance with the submitted application details, received by the Local Planning Authority as follows:

- Existing Elevations – Drg No. (504)-2219-GWP-01-00-DR-A-)PA-0006 (submitted: 07.11.2022)
- Existing Floor Plans P03 (submitted: 13.11.2023)
- Proposed Demolition Floor Plans P10 (submitted: 28.06.2024)
- Proposed Elevations P11 (submitted: 28.06.2024)

- Proposed Floor Plans P13 (submitted: 28.06.2024)
- Proposed Site Plan P07 (504)-2219-GWP-01-00-DR-A-(00)-0002 (submitted: 19.06.2024)
- Site Location Plan (504)-2219-GWP-01-00-DR-A-(PA)-0001 (submitted: 19.01.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, DM10, DM11, and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

3. The materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing property.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development shall be carried out in accordance with the submitted Flood Risk Assessment (ref 00.22224.FRA/3 Date: 20.12.22) and the following mitigation measures it details:

- Finished floor levels shall be set no lower than existing (95.70) metres Above Ordnance Datum (AOD) as detailed within Page 9 of Section 6 and Page 12 of Section 7 of the Flood Risk Assessment.
- Flood resilient construction should be considered to a height 600mm above the 100-year level and 22% climate change flood event level (95.31) metres Above Ordnance Datum (AOD) as detailed within Page 9 of Section 6 and Page 12 of Section 7 of the Flood Risk Assessment.

These implementation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The development hereby permitted shall be implemented in full accordance with Waste Plan submitted to the Local Planning Authority on 22 December 2023, which was approved by the Local Planning Authority on 27 February 2024 via Discharge of Conditions application 23/01235/DISCON.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a

flooding problem, and to minimise the risk of pollution in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. The development hereby permitted shall be implemented in full accordance with sustainable water drainage system details submitted to the Local Planning Authority on 19 February 2024 and the Drainage Plan submitted to the Local Planning Authority on 22 December 2023, which were approved by the Local Planning Authority on 27 February 2024 via Discharge of Conditions application 23/01235/DISCON.

Reason: To ensure that there is adequate provision of waste and recycling storage and so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Container Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Section 46 of the Environmental Protection Act 1990.

7. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Former Restaurant - Proposed Site Plan, drawing number (504)-2219-GWP-00-DR-A-(PA)-0002 Rev P05. Thereafter the onsite parking and turning provision shall be kept available for such use in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

11.3 **Conditions and Reasons for the Variation of Listed Building Consent 22/01050/LBC:**

1. The development hereby permitted shall be begun before the expiration of three years from the date of the original planning permission 22/01049/FUL on 15 December 2026.

Reason: To conform with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, received by the Local Planning Authority as follows:

- Existing Elevations – Drg No. (504)-2219-GWP-01-00-DR-A-)PA-0006 (submitted: 07.11.2022)

- Existing Floor Plans P03 (submitted: 13.11.2023)
- Proposed Demolition Floor Plans P10 (submitted: 28.06.2024)
- Proposed Elevations P11 (submitted; 28.06.2024)
- Proposed Floor Plans P13 (submitted: 28.06.2024)
- Proposed Site Plan P07 (504)-2219-GWP-01-00-DR-A-(00)-0002 (submitted: 19.06.2024)
- Site Location Plan (504)-2219-GWP-01-00-DR-A-(PA)-0001 (submitted: 19.01.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM4, DM10, DM11, and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).