Delegated Report

Planning Ref: 25/00614/FUL
Applicant: Mr Bilal Gigil
Ward: Earl Shilton

Hinckley & Bosworth Borough Council

Site: 57 Wood Street Earl Shilton Leicester

Proposal: Change of use of first-floor to restaurant/café in conjunction with existing ground-floor use

1. Recommendations

1.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. The application seeks full planning permission for the change of use of the first-floor of 57 Wood Street, Earl Shilton from storage to a restaurant/café (Class E) in conjunction with the existing ground-floor use.

2.2. No amendments or alterations are proposed to the existing structure.

3. Description of the site and surrounding area

3.1. The application site compromises a two-storey terraced building situated within the settlement boundary and district centre of Earl Shilton.

3.2. The building is situated within a cluster of commercial uses to the south of Wood Street such as a financial advisors, an Indian restaurant/takeaway and a motor parts shop. The site is currently in use as a barber shop to the ground-floor with storage to the first-floor.

4. Relevant planning history

80/00383/4

- Erection of vehicle workshop and spare parts store with showroom and offices over
- Outline Approval
- 30.09.1980

01/00821/COU

- Change of use from retail to taxi office
- Planning Permission
- 13.09.2001

04/01397/COU

- Change of use to (a3) hot food takeaway
- Refused
- 23.02.2005

17/00209/GDOT

- Installation of 12.5 metre high monopole with 3x antennas, 2x cabinets and associated development
- Refused
- 20.04.2017

25/00615/ADV

- Non-illuminated fascia sign
- Advertisement Consent
- 12.08.2025

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.

5.2. Following the publications, three objections have been received which are summarised below:

- Highway safety and parking concerns;
- Non-compliant fire exits and existing rear extension;
  (Officer response: This is not a material planning consideration and instead a matter that needs to be addressed with Leicestershire Building Control Partnership)
- Safety concerns as the fire service allegedly confirmed part of the property is not fit for purpose;
  Officer Note- This would be reviewed by Building Control.
- Waste storage concerns.

6. Consultation

6.1. No representations have been received from:

- Earl Shilton Town Council

6.2. The comments from the below consultees have been incorporated into the body of this report:

- Environmental Agency;
- HBBC Drainage;
- HBBC Environmental Health (Pollution);
- HBBC Waste.

7. Policy

7.1. Earl Shilton and Barwell Area Action Plan (ESABAAP) (2014)

- Policy 22: Development and Design
- Policy 26: Vitalising District, Local and Neighbourhood Centres

7.2. Core Strategy (2009)

- Policy 2: Development in Earl Shilton

7.3. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM22: Vitalising District, Local and Neighbourhood Centres

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Leicestershire Highways Design Guide (2024)

8. Appraisal

8.1. Key Issues

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

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. The NPPF is a material planning consideration in planning decisions.

8.3 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development. Policy DM1 of the Site Allocations and Development Management Policies (SADMP) also provides a presumption in favour of sustainable development. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development.

8.4 However, 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, development permission should not usually be granted unless other material considerations indicate otherwise.

8.5 The current Development Plan consists of the adopted Core Strategy, the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) and the Earl Shilton and Barwell Area Action Plan (2014) (ESABAAP). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.

8.6 The Core Strategy, the SADMP and the ESABAAP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 34 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.

8.7 Nevertheless, in accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. Therefore, this report sets out the relevant adopted Core Strategy, SADMP and ESABAAP polices and refers to the NPPF and notes any inconsistencies between them.

8.8 The site is situated within the settlement boundary of Earl Shilton and is identified as a sustainable location for development. Policy 2 of the Core Strategy supports development within the Earl Shilton settlement boundary.

8.9 The application site is located within a District Centre as defined within the Hinckley and Bosworth Town and District Centres Study (2017). Policy DM22 of the SADMP and Policy 26 of the ESABAAP outline that to ensure the continued vitality and viability of district centres the change of use from A1 (now F5/E), or A2 (now E) retail or loss of A1 or A2 retail uses within district centres will only be permitted where the proposal would not result in an over proliferation of any one use type in the centre, other than A1 retail, with particular reference to hot-food takeaways A5 (now Sui Generis).

8.10 The proposed change of use would see the expansion of the buildings extant (Class E). It is recognised that the district centre of Earl Shilton already hosts a number of extant Class E businesses, nevertheless this use type is very common within a district centre and a development which is strongly welcomed by the Local Planning Authority (LPA). It is therefore considered that the proposed change of use would not result in an over proliferation of one use within the centre.

Design and impact upon the character of the area

8.11 Policy DM10 of the adopted SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

8.12 Policy 22 of the EABAAP seeks to ensure that developments do not have a detrimental impact upon the character or appearance of the host building or the surrounding area and respect the scale, proportions, height and materials of the existing building, neighbouring structures and overall street scene.

8.13 The proposal does not seek any alterations to the existing shop frontage or any of the buildings other external elevations. As such, the proposed development would not have any adverse visual impacts upon the surrounding street scene and would preserve the character and appearance of the area in accordance with Policy DM10 of the SADMP and Policy DM22 of the ESABAAP.

Impact upon neighbouring residential amenity

8.14 Policy DM7 of the adopted SADMP states that development should not cause noise or vibrations of a level which would disturb areas that are valued for their tranquillity in terms of recreation or amenity

8.15 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.

8.16 Policy 22 of the ESABAAP seeks to ensure that developments do not adversely affect the privacy and amenity of nearby residents and occupiers of adjacent buildings.

8.17 No extensions or alterations are proposed to the property that are likely to result in any loss of privacy or loss of light impacts, nor overlooking or overbearing impacts to neighbouring residential amenity.

8.18 Due to the nature of development, it is necessary to assess the control of noise between the proposed use and the surrounding residential accommodation at first-floor level.

8.19 The Council's Environmental Health Officer has reviewed the submitted odour and noise assessments. With regard to odour the Odour Impact Assessment predicts a low odour impact provided the recommendations within the report are carried out. Similarly, the Noise Impact Assessment does not predict a significant impact provided that the recommendations within the report are carried out. Conditions are considered necessary to secure these details.

8.20 Alongside the above, the Council's Environmental Health Officer further suggests conditioning the hours of operation to those stated in the application form 12:00-23:00 Monday-Sunday, including Public holidays in order to safeguard residential amenity.

8.21 In light of the above, the development is considered to be acceptable under Policies DM7 and DM10 of the adopted SADMP, subject to planning conditions.

Impact upon highway safety

8.22 Highway safety and parking provision concern have been raised.

8.23 Paragraph 115(b) of the NPPF states that planning decisions should ensure that developments provide safe and suitable access to the site for all users. Ultimately, 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, following mitigation, would be severe, taking into account all reasonable future scenarios in accordance with Paragraph 116 of the NPPF.

8.24 To support this, Policy DM17 of the adopted SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.

8.25 Policy DM18 of the adopted SADMP requires developments to demonstrate an adequate level of off-street parking provision.

8.26 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 highway authority. Currently this is the Leicestershire Highway Design Guide (LHDG) (2024).

8.27 The LHDG states that hot food takeaways require one car parking space to be provided per 4sqm. The proposal provides 43.00sqm of floorspace, requiring a parking provision for a minimum of 10 vehicles.

8.28 The site does not benefit from off-street parking and therefore would fail to comply with the LHDG. The Local Highway Authority (LHA) have not been consulted in this instance, nonetheless given the sites district centre location and the fact the proposed use could operate to the ground-floor without planning permission at present, the lack of parking provision is not considered to merit refusal in isolation.

8.29 The proposed development would therefore not have any adverse impacts upon parking provision or highways safety and would satisfy Policies DM17 and DM18 of the adopted SADMP, and Paragraph 115(b) and 116 of the NPPF.

Impact upon drainage

8.30 Policy DM7 of the adopted SADMP seeks to ensure that development doesn't create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against in line with National Policy.

8.31 The application site is situated within Flood Zone 1 and is limited to the change of use of the premises only.

8.32 Neither the Councils Drainage Officer or the Environmental Agency have raised objections to the scheme.

8.33 The proposed development would therefore not have any adverse impacts upon drainage and would satisfy Policy DM7 of the adopted SADMP.

Impact upon waste

8.34 Waste concerns have been raised.

8.35 The Council's Waste Team have raised no objections to the proposal. The existing/proposed waste management facilities have been demonstrated on the submitted plans which will be subject to conditions.

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.

10. Conclusion

10.1. The proposal is located within the settlement boundary of Earl Shilton where there is a presumption in favour of sustainable development.

10.2. The proposed change of use would not have a significant visual impact upon the surrounding street scene and subject to an operational hours/use condition, noise impact assessment and odour impact assessment condition, would not result in a significant impact on residential amenity. The proposal would neither result in any adverse highways safety, drainage or waste impacts.

10.3. The proposal would therefore be in compliance with Core Strategy Policy 2, Policy 22 of the EABAAP, Policies DM1, DM7, DM10, DM17, DM18 and DM22 of the adopted SADMP, the LHDG and the overarching principles of the NPPF and is recommended approval subject to the below conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 **Conditions and Reason**

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 shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

   - Site Location Plan, Drg No. 000; and
   - Proposed Site Plan, Drg No. B100; and
   - Proposed Floor Plans, Drg No. B101; and
   - Proposed Elevations, Drg No. B103; and
   - Proposed Section, Drg No. B104 as received by the Local Planning Authority on the 11th September 2025.

   Reason: To ensure a satisfactory form of development in accordance with Policies DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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

   - 12:00 - 23:00 Monday-Sunday (including Bank Holiday's)

   Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby approved shall be implemented in strict accordance with the Noise Impact Assessment as received on the 16th April 2026.

   Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory noise and disturbance in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The development hereby approved shall be implemented in strict accordance with the Odour Impact Assessment as received on the 16th April 2026.

   Reason: To protect the amenities of the occupiers of neighbouring residential properties from unsatisfactory disturbance in accordance with Policies DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.3 **Notes to applicant**

a) The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at building.control@blaby.gov.uk or call 0116 272 7533.

b) A separate consent may be required under the Town and Country Planning (Control of Advertisement) Regulations 2007 in respect of the display of advertisements on these premises. Advice may be sought from the Local Planning Authority.