

**Planning Committee 28 March 2017**  
**Report of the Head of Planning and Development**



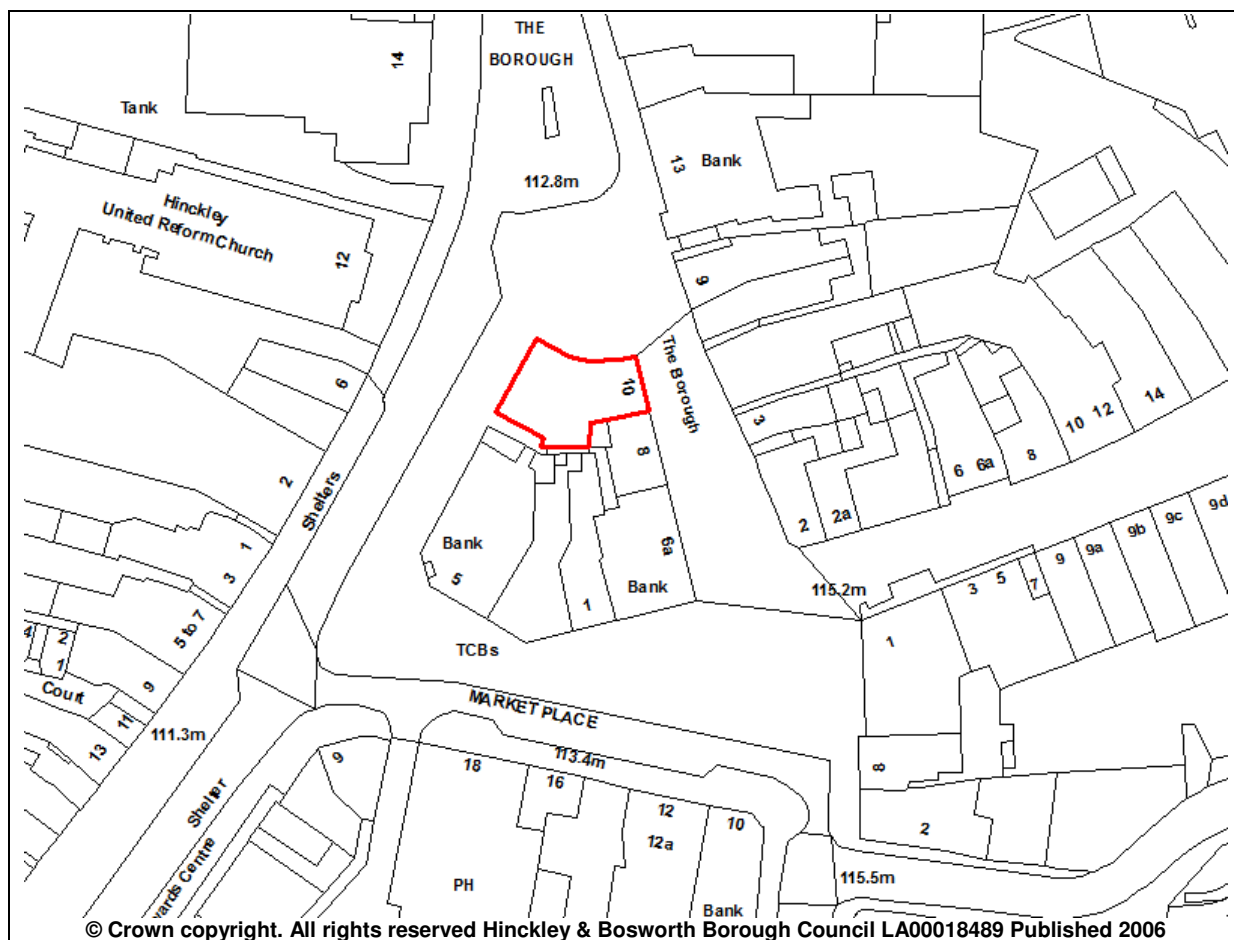
Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**Planning Ref:** 17/00080/FUL  
**Applicant:** Mr Arginda Singh  
**Ward:** Hinckley Castle

**Site:** 10 The Borough Hinckley

**Proposal:** Change of use from a betting shop (sui generis use) to a restaurant (A3 use) and 5 no. apartments



**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 application seeks planning permission for the change of use from a betting shop to a restaurant on the ground floor with 5 one-bedroom flats on the first and second floors.
- 2.2. The application was originally submitted proposing 7 flats on the first and second floors. However, follows concerns raised by the case officer regarding amenity of the occupiers of the proposed residential units and the impact on the conservation

area resulting from the proposed bin storage provision and roof lights, revised plans have been submitted.

- 2.3. There are some external alterations proposed, these include the insertion of sky lights to the roof and the installation of a flue to serve the restaurant.

### **3. Description of the Site and Surrounding Area**

- 3.1. The application site is located within the town centre of Hinckley in an area designated as secondary shopping frontage in the Hinckley Town Centre Area Action Plan. The site is located within the Hinckley Town Centre Conservation Area. The site comprises a building on a corner plot with Regent Street to the west and The Borough to the east; which is a pedestrianised area. Within the vicinity of the site is a mix of uses that comprise primarily shops, banks and cafes. To the south west of the site along Market Place and Regent Street are several bars and pubs. There are several residential flats at first floor level along The Borough.
- 3.2. The building on the application site is currently vacant with the last use being a betting shop on the ground floor and office/storage at first floor level. The main entrance fronts onto an area of hard landscaping to the north west with a side access onto Regent Street. There is no existing car parking serving the building.
- 3.3. There is an extant planning permission, ref: 15/00630/FUL, for the change of use of the ground floor to a drinking establishment with 3 residential units above.

### **4. Relevant Planning History**

15/00630/FUL	Change of use of ground floor of building from a betting shop to a drinking establishment and 3 No. studio apartments at the first floor	Approved	23.09.2015
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### **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. No representations have been received

### **6. Consultation**

- 6.1. Leicestershire County Council (Highways) referred to their standing advice
- 6.2. Environmental Health (Drainage) has raised no objection
- 6.3. Waste Services commented that if bin storage is within the alleyway then it should be screened to avoid contamination
- 6.4. Conservation Officer has no objection subject to conditions

### **7. Policy**

- 7.1. Core Strategy (2009)
- Policy 1: Development in Hinckley
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
  - Policy DM10: Development and Design
  - Policy DM11: Protecting and Enhancing the Historic Environment
  - Policy DM12: Heritage Assets
  - Policy DM18: Vehicle Parking Standards

- 7.3. Hinckley Town Centre Area Action Plan
- Policy 13: Hinckley Town Centre Shopping Areas

- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
  - Planning Practice Guidance (PPG)

## **8. Appraisal**

### **8.1. Key Issues**

- Assessment against strategic planning policies
- Impact upon the character of the conservation area
- Amenity of future occupiers
- Impact upon neighbouring residential amenity
- Car parking provision
- Other matters

#### Assessment against strategic planning policies

- 8.2. There are two principal considerations to be considered: the change of use of the ground floor of the building and whether residential development above is acceptable.
- 8.3. Policy 13 of the Hinckley Town Centre Area Action Plan (AAP) states that the ground floor development along primary shopping frontages will be restricted primarily to A1 uses to protect the vitality and retail integrity of the town centre's retail core. In the rest of the Town Centre Area a mix of A1-5 and D2 uses will be acceptable. Policy DM22 of the SADMP states that to ensure the vitality and viability of district centres, the change of use from A1 or A2 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.
- 8.4. At present, the application site is vacant and has been since March 2009. The last use of the building was as a betting shop which is now classified as a Sui Generis use. Betting shops were formerly classified as A2 uses when the change of use from the bank took place. However, the classification has subsequently changed and therefore the change of use would not result in the loss of an A2 use but a Sui Generis use.
- 8.5. Restaurants are an A3 use class and therefore supported by Policy 13 of the AAP. There is a mix of uses within the vicinity of the application site including some cafes which also have an A3 use. However, the change of use to a restaurant would not lead to an over proliferation of A3 uses in the centre.
- 8.6. It is considered that the change of use of the ground floor of the building to a restaurant use is acceptable in principle in accordance with Policies 13 of the AAP and DM22 of the SADMP.
- 8.7. Hinckley is a sub-regional centre which is a sustainable location for new residential development. Policy 1 of the Core Strategy supports new residential development in Hinckley. Policy DM22 of the SADMP states that the use of upper floors of retail premises (A1-A5) within the district, local and neighbourhood centres, for residential use, will be supported where they accord with other policies in the Local Plan. Policy DM22 reiterates the aims of paragraph 23 of the NPPF which notes that Local Planning Authorities should recognise that residential development can play an important role in ensuring the vitality of centres and set out policies to encourage residential development on appropriate sites.

- 8.8. The application site is located within the settlement boundary of Hinckley and within the town centre as defined by the AAP map. The site has easy access to a range of services, facilities, employment and modes of sustainable transport. It is therefore considered the application site is located within a sustainable location.
- 8.9. The building has an extant planning permission for change of use to a drinking establishment (A4) at ground floor with the conversion of the upper floors to three residential units. This permission can still be implemented, therefore is considered to be the fall back position for the application site. This proposal seeks a net increase of two residential flats over and above what has been previously approved. Furthermore the previous application granted permission for A4 use (drinking establishments). The proposed residential units would now be located above an A3 (restaurant and café use). It is considered that residential development is acceptable in principle in accordance with Policies 1 of the Core Strategy and DM22 of the SADMP.
- 8.10. The proposed change of use to a restaurant with residential units above is considered to be acceptable in accordance with Policies 1 of the Core Strategy, 13 of the AAP and DM22 of the SADMP, subject to satisfying all other relevant policies and material planning considerations.

Impact upon the character of the conservation area

- 8.11. Policy DM10 of the 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. Policy 1 of the Core Strategy expects development to respect Hinckley's industrial heritage through sympathetic reuse of existing buildings unless it can be demonstrated that this is not achievable. Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.12. No.10 The Borough is an important local building within the Hinckley Town Centre Conservation Area. It is a prominent landmark building of considerable aesthetic and architectural value that contributes positively to the character and appearance and thus significance of the conservation area.
- 8.13. The proposal seeks to convert the building with a restaurant on the ground floor and five apartments over the first floor and within the existing roof space. The alterations to the external appearance of the building are the insertion of sky lights to the roof and the installation of a flue to serve the restaurant. The application also proposes bin storage.
- 8.14. Initially it was proposed to insert roof lights within the roof slopes fronting onto The Borough and Regent Street and bin storage was proposed in the alleyway fronting onto Regent Street. Following concerns raised by the case officer amended plans were submitted. It is proposed to insert skylights on the flat sections of the existing roof rather than on the roof slopes to retain their important aesthetic appearance. The roof lights will therefore not be visible to the wider conservation area.
- 8.15. The flue serving the kitchen of the restaurant would be located within the internal servicing area of the building where it would not be visible from The Borough or Regent Street.
- 8.16. The location of the bin storage area has now been amended in order to reduce the visual impact on the conservation area. The storage area is now proposed to be

located within the internal servicing area as opposed to the alleyway where it would be highly visible within the conservation area setting. The maximum depth of the required bins is 78cm and therefore it is possible to fit the bins through the doors. As the bins are to be located in the service area and pulled to kerbside on collection days, there is no requirement to screen the alleyway from view. It is considered there would be no detrimental impact on the external appearance of the building or wider conservation area.

- 8.17. The submitted plans also state that the existing steel frame within the roof space is to be removed and replaced with a new system to allow for the apartment layouts. These works would likely require temporary removal and replacement of the existing roof. In order to ensure that the current appearance of the roof is retained a Construction Method Statement should be secured by way of a planning condition prior to commencement of development.
- 8.18. Having paid special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area in accordance with the requirements of section 72 Planning (Listed Building and Conservation Areas) Act 1990 it is concluded that the proposed development would not impact on the special character and significance of the conservation area and would sympathetically reuse the existing building. The proposal is considered to be in accordance with Policy 1 of the Core Strategy and Policies DM10, DM11 and DM12 of the SADMP.

#### Amenity of future occupiers

- 8.19. Policy DM10 of the SADMP seeks to ensure that the amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site. Paragraph 17 of the NPPF seeks to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.20. The proposed units have a floorspace consistent with other flats in the surrounding area. The floorspace proposed are as follows:
- Apartment 1 – 30 sq m
  - Apartment 2 – 41 sq m
  - Apartment 3 – 39 sq m
  - Apartment 4 – 44 sq m
  - Apartment 5 – 50 sq m
- 8.21. Apartments 4 and 5 are located on the proposed second floor and are required to be larger due to the pitch of the roof making some areas close to the external elevations unusable. The floorspace proposed for the units is considered sufficient to provide space to meet modern living standards. The first floor units would be served by the windows in the elevations at first floor level and the second floor units served by sky lights and the kitchen/living area for apartment 5 would have windows facing into the service area to the rear of the building. Apartment 4's kitchen/living area would only be served by a skylight but this is considered to provide sufficient outlook to avoid an unacceptable sense of enclosure. The use of sky lights in the second floor would not cause an issue with building regulations and fire escape as the stair case would be required to be a protected route.
- 8.22. It is considered, on balance, that the proposed units would provide a reasonable level of amenity for future occupiers in accordance with Policy DM10 of the SADMP and paragraph 17 of the NPPF.

#### Impact upon neighbouring residential amenity

- 8.23. Policy DM10 of the SADMP seeks to ensure that development does not have a significant adverse effect on the privacy and amenity of nearby residents and

occupiers of adjacent buildings including matters of lighting, air quality, noise, vibration and visual intrusion.

- 8.24. Consideration of the noise impacts resulting from the restaurant are required for the existing residential properties at first floor level in close proximity to the site and the impact on the proposed residential units on the first and second floors.
- 8.25. A noise report has been submitted with the application. The noise report has the same information as for the previous application and makes references to the approved drinking establishment use. However, it is considered the noise report adequately assesses the existing background noise levels and makes recommendations based on future noise levels not exceeding the existing levels. The report concludes that a reasonable level of amenity could be achieved for the residential units proposed on the first and second floors and the development would not have an adverse impact on the occupiers of residential properties in the vicinity of the site. The report makes various recommendations of how noise mitigation can be achieved. Mitigation methods are to be secured by condition.
- 8.26. Following concerns raised by the case officer over the potential visual and noise impact of the flue, revised details of the siting were submitted. The flue is now proposed in an existing service area to the rear of the building. Although the flue noise levels have not been assessed, due to the location of the flue being at some distance from habitable rooms serving the proposed residential flats it is accepted by Environmental Health Officers that the flue could be provided without adversely affecting residential amenity, subject to detailed mitigation which will be secured by condition.
- 8.27. Environmental Health (Pollution) has raised no objection subject to conditions. The conditions require an updated noise report including the noise implications of the flue and the final design of the noise mitigation. Additionally, a condition is required to ensure the kitchen ventilation system is submitted and agreed to ensure it is compliant with the DEFRA document: Guidance on the control of odour and noise from commercial kitchen exhaust to ensure air quality.
- 8.28. The previous planning permission for a change of use to a drinking establishment had opening times restricted through a planning condition to 09:00 to 22:30 Monday to Sunday. The applicant has agreed the opening times of the restaurant to be restricted to 11:00 to 22:30 Monday to Saturday and 11:00 to 21:30 on Sundays. Opening times will be secured by condition.
- 8.29. It is likely there would be some level of noise and disturbance to neighbouring properties as a result of pedestrians moving to and from the restaurant. However, taking into account the location within the town centre, it is expected there would be some level of noise and disturbance as existing and therefore the additional noise and disturbance would not be considered sufficient to have a significant adverse impact on neighbouring amenity.
- 8.30. It is considered that the development would not have a significant adverse impact on neighbouring amenity; the residential units would have a reasonable level of amenity and would not be adversely impacted by activities within and in the vicinity of the site. The proposed development is considered to be in accordance with Policy DM10 of the SADMP.

#### Car parking provision

- 8.31. Policy DM18 of the SADMP states that all proposals for new development will be required to provide an appropriate level of car parking provision justified by an assessment of the site location, type of housing, other modes of transport available and appropriate design. Developments within Hinckley town centre should

demonstrate that they would not exacerbate existing problems in the vicinity with increased on-street parking.

- 8.32. The building is not currently served by any car parking. The application site is located within the town centre with easy access to facilities, services, employment and modes of public transport. Whilst in most circumstances it would be required that developments provide some level of on-site car parking provision, the proposed development is for the conversion of the existing building with no associated land and there is no potential for the provision of additional car parking. Furthermore there is an extant planning permission which was granted in 2015 for a similar scheme, albeit with two fewer residential units which did not require parking provision.
- 8.33. Leicestershire County Council (Highways) has been consulted on the application and commented that although the proposals do not include any vehicle parking; the local area is fully constrained with parking restrictions already and therefore no harm could be caused to the surrounding highway by residents wishing to park outside their apartments. The development would provide five one-bedroom units for rent which would be advertised as having no parking. Should the occupiers of the units require car parking they will have the option to use the local public car parks. However, it is anticipated the occupiers of these town centre units would be reliant on public transport in most instances. Bus and train stations are within easy walking distance of the application site.
- 8.34. In this instance, taking into account the site location being highly sustainable, the type of housing, availability of other modes of transport in close proximity to the site and lack of possibility of providing any car parking, the proposed development is considered acceptable in accordance with Policy DM18 of the SADMP.

#### Other matters

- 8.35. A viability statement has been submitted with the application identifying that the previous permission for change of use to a drinking establishment and 3 residential units of accommodation above is not viable. The statement highlights the overall construction costs and potential returns but with no details or evidence provided and the cost of purchasing the building has not been provided. For a viability assessment to be given weight in the determination of an application its needs to be detailed and independently reviewed as part of the application assessment. As the statement does not contain sufficient detail and has not been independently assessed, it is given no weight in the determination of this application.

### **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 in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

## **10. Conclusion**

- 10.1. The proposed change of use to a restaurant with residential units above is considered to be acceptable in accordance with Policies 1 of the Core Strategy, 13 of the AAP and DM22 of the SADMP, subject to satisfying all other relevant policies and material planning considerations.
- 10.2. The proposed development would not impact on the special historic character of the Hinckley Town Conservation Area. It is therefore considered the significance of the conservation area would be preserved. Subject to mitigation, the development would not have a significant adverse impact on neighbouring amenity; the residential units would have a reasonable level of amenity and would not be adversely impacted by activities within and in the vicinity of the site. Taking into account the site location, type of housing, other modes of transport and lack of possibility of providing any car parking due to the conversion, the lack of car parking is acceptable. The proposed development is considered to be in accordance with Policies 1 of the Core Strategy, Policy 13 of the AAP and Policies DM1, DM10, DM11, DM12, DM18 and DM22 of the SADMP.

## **11. Recommendation**

- 11.1. **Grant planning permission** subject to:-

- Planning conditions outlined at the end of this report.

### **11.2. 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 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, details and materials:

DSA-15056-PL-PRO-01-J - Proposed plans received on 6 March 2017

**Reason:** To ensure a satisfactory impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD.

3. Notwithstanding the recommendations in the document entitled 'Acoustic report in respect of the proposed re-development of the former banking hall at 10 The Borough' carried out by Sanctuary Acoustics and dated August 2015, development shall not commence until a scheme for protecting the proposed dwellings and the amenity of the area from noise from the proposed commercial premises has been submitted to and approved in writing by the Local Planning Authority. All works which form part of the approved scheme shall be completed prior to first occupation of any of the dwellings hereby permitted.

**Reason:** To ensure there is no adverse impact on neighbouring residential amenity and to ensure a good level of amenity for future occupiers of the residential units hereby permitted in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD.

4. No development shall take place until a scheme for ventilation of the commercial and residential units, which shall include installation method, maintenance and management has been submitted to and agreed in writing by the Local Planning Authority. The approved scheme shall be implemented

in accordance with the agreed details prior to any of the uses hereby permitted being brought into first use and shall be maintained as such thereafter.

**Reason:** To ensure there is no adverse impact on neighbouring residential amenity and to ensure a good level of amenity for future occupiers of the residential units hereby permitted in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD.

5. Prior to commencement of development, a Construction Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Statement shall include all the physical works required to implement the permission. All works shall be carried out in accordance with the approved statement.

**Reason:** To ensure the development does not have an adverse impact on the conservation area in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies DPD.

6. The ground floor use shall not be open for customers outside the following hours:

11:00 - 22:30 Monday to Saturday

11:00 - 21:30 Sunday and bank holidays

**Reason:** To ensure there is no adverse impact on neighbouring residential amenity and to ensure a good level of amenity for future occupiers of the residential units hereby permitted in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD.

7. Prior to the first occupation of the first residential unit, the bin store indicated on drawing number DSA-15056-PL-PRO-01-J - Proposed plans (received on 06/03/2017), shall be laid out in full and remain accessible and available at all times to all residents and occupiers of the development hereby approved.

**Reason:** To ensure there is no adverse impact on neighbouring residential amenity and to ensure a good level of amenity for future occupiers of the residential units hereby permitted in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD.