

**Planning Committee 28 August 2018  
Report of the Interim Head of Planning**

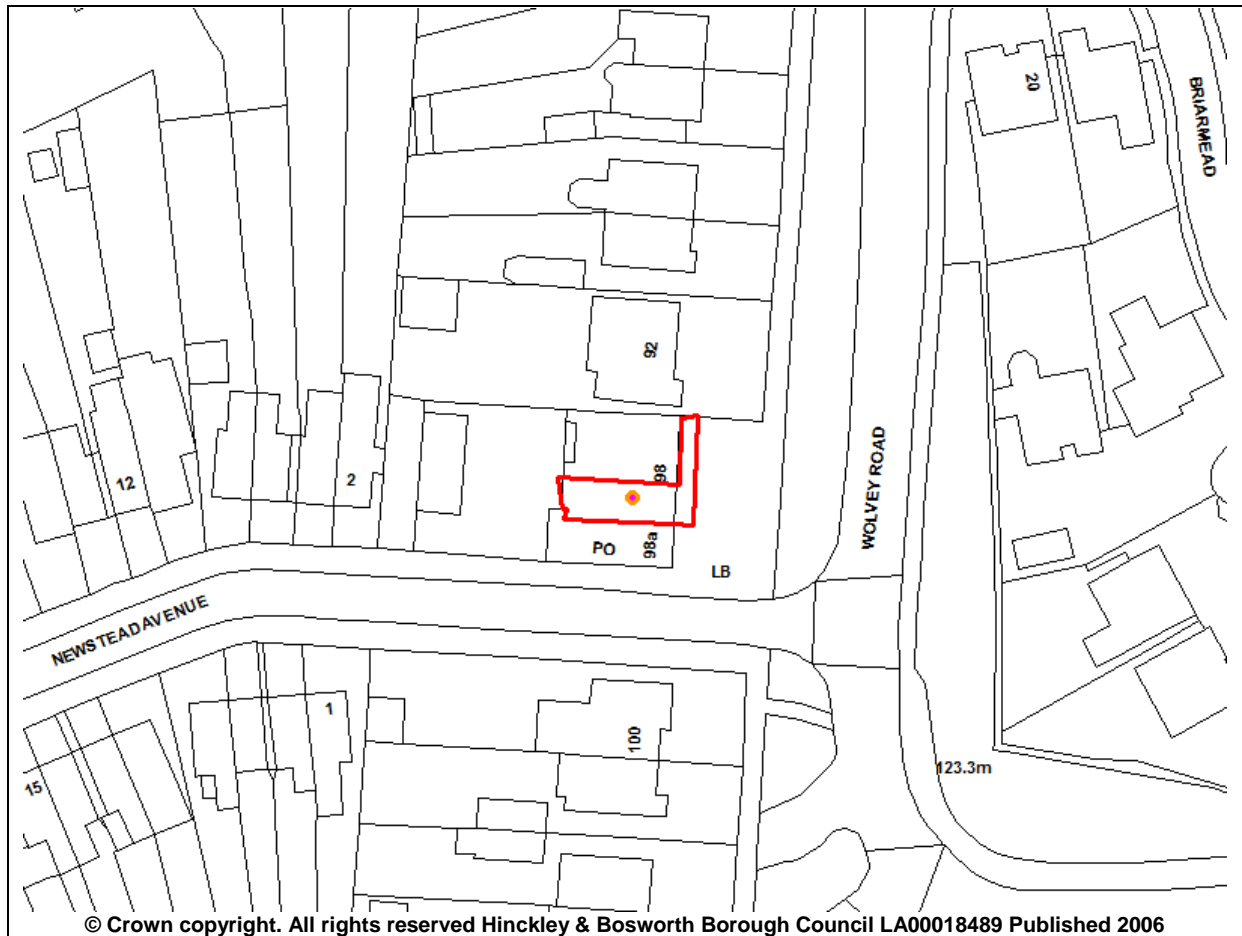


Hinckley & Bosworth  
Borough Council

**Planning Ref:** 18/00581/FUL  
**Applicant:** Mr A Bignell  
**Ward:** Burbage Sketchley & Stretton

**Site:** 98 Wolvey Road Burbage

**Proposal:** Change of use from A1 to A3 (Cafe) & Erection of Lean to Canopy  
(Part Retrospective)



**1. Recommendations**

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

- Planning conditions outlined at the end of this report.

1.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

**2. Planning Application Description**

2.1. This application seeks full planning permission for the retention of the existing A3 café, and for the erection of a canopy to the front elevation, which would span across the width of the existing café and associated pantry, which is the adjoining unit. The application site comprises of a site area of approximately 93.5 square metres.

- 2.2. It is proposed that the café would operate Monday to Friday 0600 to 1800, Saturday 0600 to 1530 and Sunday and Bank Holidays 0730 to 1300.
- 2.3. During the course of the application, a site plan was submitted of the forecourt area serving the existing café and pantry demonstrating that provision of 4 off street parking spaces is achievable. A 10 day re-consultation was carried out following submission of this plan.

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

- 3.1. The application site is situated within the settlement boundary of Burbage, and comprises of a two storey building, of individual design. The application site is positioned centrally on the ground floor between two A1 uses, to the south is a post office and the north, a sandwich shop which is a predominately cold take away use. The first floor, above the units, is in residential use.
- 3.2. The wider area comprises of predominately residential use, characterised by a range of detached and semi detached two storey dwellings.

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

13/10119/TCOUD      Changed to Class A3    Notification  
                                 Restaurant and Cafe  
                                 from Class A1 Shop  
                                 (Hairdressing)  
  
                                 To take affect from 6  
                                 January 2014

### **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; 17 letters from separate addresses raising the following objections have been received:-

- 1) Increased traffic
- 2) Increased parking issues
- 3) Increase in noise levels
- 4) Existing on street parking used as an unofficial park and ride for passengers taking the bus, resulting in cars being parked for hours in the street, this use will exacerbate this.
- 5) Impact upon pedestrian safety
- 6) Premises is located next to a post office which is used by elderly and infirm, the vehicles and canopy would result in accessing the post office more difficult for these users.
- 7) Concern that opening hours would be extended for summer months.
- 8) Further on street parking restrictions should be applied
- 9) Use more suited to a high street.
- 10) Cars already park on double yellow lines along Newstead Avenue.
- 11) Workers visit the pantry and eat their food in the vans and cars
- 12) Emergency services will be restricted trying to access the site.
- 13) Build up of fat from the Pantry has caused drainage issues in the past.
- 14) People eating food off the premises leave their litter
- 15) The canopy would further limit parking.
- 16) Cars are parked for longer due to the café.
- 17) Breach of planning is being ignored

- 18) Approving this application could lead to a premise license and increased opening hours
- 19) Staff and deliveries accessing the rear of the properties are unable to see pedestrians due to on street parking.
- 20) Canopy would be used as a smoking shelter.
- 21) Canopy is out of keeping with the street scene.
- 22) Smells from cooking fat
- 23) Patrons block neighbouring driveways, and they should be separated by bollards and signs erected
- 24) Customers of the café are not local
- 25) Accident waiting to happen between pedestrians and cars
- 26) Café has reached capacity, no need for additional seating outside
- 27) Extended hours will result in more cars
- 28) Lack of hygiene and collection of rubbish to the rear of the properties.

One letter has been received neither objecting nor supporting the application raising the following points:-

- 1) Supportive of the local business and the amenity it provides to the local neighbourhood, however assessment of traffic should be regarded. If there is no significant change or reduction it is therefore encouraged that the application is approved.
- 2) Herald Way is considerable for a residential housing site and it is not appropriate to encourage further traffic.

## **6. Consultation**

6.1. No objections, some subject to conditions, received from:-

HBBC Environmental Health (Pollution)  
 HBBC Environmental Health (Drainage)  
 Leicestershire County Council (Highways) refer to standing advice

6.2. Burbage Parish Council have no objections to the proposal subject to appropriate consideration from LCC (Highways)

6.3. Councillor Wright has objected on the following grounds:-

- 1) Development would be out of keeping with the area
- 2) Would be overbearing
- 3) Create nuisance
- 4) Concerns over traffic

## **7. Policy**

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage

7.2. 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 DM23: High Quality Shop Fronts and Advertisements

- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2018)
  - Planning Practice Guidance (PPG)

- 7.4. Other relevant guidance
- Burbage Neighbourhood Plan (Emerging)

## **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
- Other matters

#### Assessment against strategic planning policies

- 8.2. Policy DM1 of the adopted Site Allocations and Development Management Policies DPD (SADMP) and paragraph 12 of the National Planning Policy Framework (NPPF) provide a presumption in favour of sustainable development and states that planning applications that accord with the policies in the Local Plan should be approved unless material considerations indicate otherwise.
- 8.3. The relevant development plan documents in this instance consist of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP). The emerging Burbage Neighbourhood Plan (BNP) is still in development, not yet having been submitted to the local planning authority for comment prior to Examination by an Inspector and subsequent referendum. Therefore, only very limited weight can be afforded to this document at this time.
- 8.4. The application site is situated within the defined settlement boundary of Burbage. Policy 4 of the Core Strategy, which identifies that Burbage an important support role for Hinckley, and seeks to ensure there is a range of employment opportunities provided within Burbage and in close proximity to Hinckley.
- 8.5. Policy 1 of the draft Burbage Neighbourhood Plan supports development proposals within the settlement boundary of Burbage provided the proposal complies with other policies in the Neighbourhood Plan. Policy 21 seeks to protect existing A1 shop units from change of use for another purpose unless it can be demonstrated that it is no longer required or viable. As set out above, the emerging Burbage Neighbourhood Plan is still in development; not yet having been submitted to the Local Planning Authority for comment prior to Examination by an Inspector and subsequent referendum. Therefore only limited weight can be afforded to this document at this time.
- 8.6. Section 8 of the NPPF seeks to promote healthy and safe communities, paragraph 91 of the NPPF, seeks to promote social interaction and opportunities for meetings between people who might not otherwise come into contact, through mixed use developments. Paragraph 92 of the NPPF seeks to ensure and guard against the unnecessary loss of valued facilities and services, and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community, and ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
- 8.7. The application site, forms one of three units situated in an area which is predominately a residential area, situated a considerable distance from any District, Local and Neighbourhood Centres. The use has previously benefited from prior

approval for the change the use from A1 to A3 under Class D of the Town and Country Planning (General Permitted Development) Order 2015, for a two year period, this prior approval has subsequently expired, and this proposal seeks to resurrect and retain the use permanently. The proposed use provides a place of employment, and is an established facility of this type, within the area, which is removed from other local amenities. It is therefore considered that the provision of an A3, café is acceptable in principle in accordance with Policy DM1 of the SADMP, Policy 4 of the Core Strategy and the overarching principles in the NPPF.

#### Design and impact upon the character of the area

- 8.8. Policy DM10 of the adopted SADMP requires development to complement or enhance the character of the surrounding area. Policy DM23 ensure that new and refurbished shop fronts would maintain high levels of design.
- 8.9. The application site, forms a unit situated within a wider building, and centrally located between, a post office adjoining the application site to the south, and a pantry/sandwich shop to the north, associated with the application site. The application building, stands in a prominent position situated on the corner of Wolvey Road and Newstead Avenue. Within the street scene, character varies; however surroundings buildings are all two storey in scale, with a variety of hipped roof and pitched roof finishes. The application building, is of individual design and unreflective of any other building within the area, with its parapet roof design.
- 8.10. The proposal seeks to erect an oak framed canopy, to the front of the proposed café, and the adjoining pantry shop, with a mono-pitched tiled roof. This would provide a cover over an area of outdoor seating space, and provide shading to the front of the café. The proposed canopy would project from the front elevation by approximately 2.7 metres, which would be reflective of the projection of the neighbouring handrails serving the Post Office to the south of the application site. The canopy would span approximately 10.2 metres of the 11.7 metre width of the application building and the pantry to the north, to allow for the parking of bicycles outside of the canopy. The proposed canopy would have an overall height of approximately 3.5 metres, below the existing floor windows, reducing to approximately 2.7 metres, due to its mono-pitched design. Ground floor projections within the street scene can be observed along Wolvey Road, and therefore the proposed development of an oak framed canopy would not result in an adverse impact upon the character and appearance of the area. However the proposed canopy is to be finished with a slate effect which would be unreflective of the existing building, which is finished in a red tile. Therefore it is necessary to impose a condition relating to the submission of materials to ensure the development complements the existing building.
- 8.11. It is therefore considered that subject to condition, the proposal would be in accordance with Policies DM10 and DM23 of the SADMP.

#### Impact upon neighbouring residential amenity

- 8.12. Policy DM10 of the SADMP requires that development does not adversely affect the amenities or privacy of the occupiers of neighbouring properties.
- 8.13. Prior to the change of use of the property to an A3 use, the previous use was A1, hairdressers. There is a residential flat at first floor above the application site.
- 8.14. The proposed opening hours would be limited to Monday to Friday 0600 to 1800, Saturdays 0600 to 1530 and on Sundays and Bank Holidays 0730 to 1300. The use would bring with it associated vehicle movements, and comings and goings to the café. However the previous permitted use of the unit as A1, which would also have had an associated number of coming and goings not dissimilar to those envisaged

or the proposed use., In addition given the existing two A1 uses already present within this building, it is unlikely that this use would result in a material impact which would affect residential amenity over and above the previous, existing and permitted uses. It should also be noted that the previous A1 retail use was unrestricted in terms of opening hours, and therefore this application provides an opportunity to control hours of operation.

- 8.15. The café has been operating since 2014 with similar hours. Environmental Health (Pollution) has considered the application, and have raised no objection to the proposal. It should be noted that since the use has been present, Environmental Health have received no complaints relating to noise or disturbance. It is however considered reasonable to restrict the hours to ensure that the opening hours do not extend beyond that which has been applied for given the residential nature of the wider area.
- 8.16. The proposed canopy would extend up to the north boundary which is shared with No.92 Wolvey Road and screened by a hedge. No.92 is set away from No.98 Wolvey Road, by approximately 1 metre. The proposed canopy would project beyond the front elevation of this dwelling by 2 metres, however given the single storey height of the proposed canopy, the limited projection, and due to the presence of the existing mature hedgerow which is situated between the properties, the proposed development would not result in a detrimental loss of light, nor result in an overbearing impact to this dwelling.
- 8.17. It is considered that the proposal would therefore be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.18. Policy DM17 and DM18 relate to highway safety and vehicular parking standards. Policy DM17 states, that development proposals will be supported where there is no significant adverse impact upon highway safety. Development will also be supported if the location is in a sustainable location and other transport methods can be utilised.
- 8.19. Objections have been received during the course of the application relating to the proposed use on highways.
- 8.20. The application site was granted prior approval for the change of use from A1 to A3 under Part 4, Class D of the Town and Country Planning (General Permitted Development) Order 2015, for a period of 2 years, which expired in January 2016, however the use never reverted back to A1, and the applicant now seeks to permanently change the use of the site to A3. The proposal demonstrates that off street parking spaces for 4 vehicles can be provided to the front of the application site, and the adjoining pantry which is associated with the application site. It should also be noted that there is existing on street parking, opposite the application site, with facilities for bicycle parking also catered for adjacent to the existing on street parking along Wolvey Road, and a bus stop beyond, and therefore the application site is readily accessible by a range of sustainable transport choices.
- 8.21. Leicestershire County Council (Highways) have been consulted on the application, and have referred to their standing advice. According to Leicestershire County Council standing advice the proposal would not provide sufficient parking, however the application would be required to be deemed to cause severe harm in order to warrant a refusal on highway grounds, taking into consideration the sustainable travel options available. As such given the objections received and taking into consideration standing advice, formal observations have been requested and will be reported by way of late item.

### Other matters

- 8.22. Objections have been raised in respect of littering, however this is not a planning issue and would be controlled by waste services, however have no comments nor objections to the proposal. Littering offences should be reported to waste services so the appropriate course of action can be carried out if necessary. .
- 8.23. Parking enforcement and policing of parking related offences, is not a matter which planning can control, and these complaints should be made to the local police.
- 8.24. Objections have been received in respect of an anticipated future application for a premises license and later opening hours. Should the current application be approved, it would be subject to a condition restricting opening hours as detailed earlier in the report. Any extension to these opening hours would therefore require submission of an application to vary the condition and this would be considered afresh.

## **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 site is located within the settlement boundary of Burbage, and therefore there is a presumption in favour of sustainable development in accordance with Policy DM1 of the SADMP.
- 10.2. The proposed development by virtue of its scale, and proposed finish would complement the existing building and wider street scene, and would not result in any overbearing impact to any neighbouring properties. By virtue of the proposed operating hours the proposed use would not have a detrimental impact to surrounding residential dwellings.
- 10.3. It is therefore considered subject to appropriate conditions, that the development is in accordance with Policy DM1, DM10, DM17, DM18 and DM23 of the Site Allocations and Development Management Policies DPD and Policy 4 of the Core Strategy.

## **11. Recommendation**

- 11.1. **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report.

11.2. That the Interim Head of Planning be given powers to determine the final detail of planning conditions.

11.3. **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 otherwise than in complete accordance with the submitted application details as follows: Site Location Plan, Proposed floorplans and elevations received by the Local Planning Authority on the 12 June 2018 and parking layout plan received by the Local Planning Authority on the 3 August 2018

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

3. Prior to development of the canopy hereby approved, representative samples of the types and colours to be used on the external elevations of the proposed canopy shall be deposited with and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with those approved materials.

**Reason:** To ensure that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

4. The café hereby approved shall not be open to the public other than between the hours of 0600 to 1800 Monday to Friday, 0600 to 1530 Saturdays and 0730 to 1300 Sundays and Bank Holidays.

**Reason:** To ensure that the development does not become a source of annoyance for neighbouring residential properties in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

11.4. **Notes to Applicant**

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. This planning consent is for the change of use to a café. The display of Advertisements may require a separate consent.