

**Planning Committee 2 March 2021
Report of the Planning Manager**

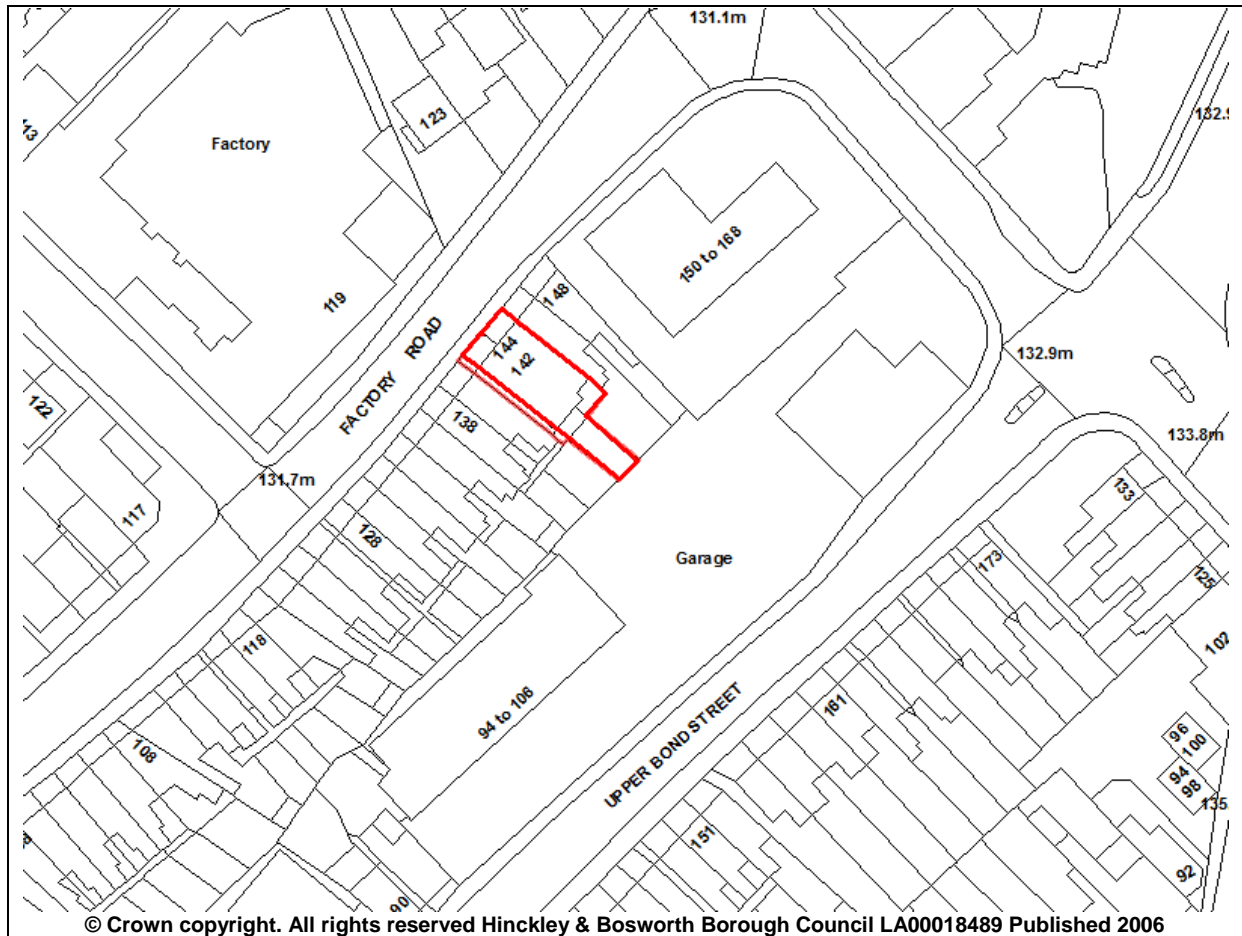
**Planning Ref: 20/01273/FUL
Applicant: Mr Haughton
Ward: Hinckley DeMontfort**



**Hinckley & Bosworth
Borough Council**

Site: Mark Jarvis 142 - 144 Factory Road Hinckley

Proposal: Change of Use from Sui Generis (Betting Shop) to Sui Generis (Thai Massage Parlour)



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

1.2. That the Planning Manager 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 change of use of the premises from a betting shop (sui generis) to a Thai massage parlour (sui generis).

2.2. The application building has a floorspace of approximately 105 square metres. There are no material changes to the external elevations of the shop and the access would remain the same. The business is proposed to be operational

between the hours of 09:00 and 18:00 Monday-Friday, 10:00 and 15:00 on Saturdays and 10:00 and 15:00 on Sundays.

- 2.3. The proposed business would have 5 to 6 clients per day with massages taking either 30 or 60 minutes. The application proposes no changes to the exterior of the building.

3. Description of the site and surrounding area

- 3.1. The site is within the settlement boundary of Hinckley and Hinckley Town Centre Area Action Plan Boundary. It is adjacent to an employment area. The premises is currently a vacant shop which is up for let. Within Factory Road there are both commercial and residential properties.

4. Relevant planning history

00/00010/COU

- Change of use of dwelling to betting shop with flat above and new shop front to 142 and 144 factory road
Permission
02.02.2000

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. Seven letters of objection have been received regarding:

- 1) Inadequate parking
- 2) There are other vacant premises in the town centre which would be more suitable
- 3) Unsuitable use within residential street
- 4) No footfall within the area so business will not be viable
- 5) Operating hours trading will cause noise and disturbance to residents, particularly those with young children
- 6) The use is inappropriate for the area with lots of young families in the area
- 7) Value of neighbouring properties will decrease

6. Consultation

- 6.1. HBBC Pollution have no objections.
- 6.2. HBBC Waste have no objections subject to a condition.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 1: Development in Hinckley
- 7.2. Hinckley Town Centre Area Action Plan (2011)
- No specific policies
- 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
- 7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Good Design Guide (2020)

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 issues

Assessment against strategic planning policies

8.2 The application is situated within the settlement boundary and therefore there is a presumption in favour of sustainable development under policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) as long as the proposal is in accordance with the relevant policies of the SADMP.

8.3 Policy 1 of the Core Strategy seeks to ensure there is a range of employment opportunities within Hinckley. Although this business would be small in scale it would require 3 employees and would diversify employment within the area.

8.4 The application site is within the Hinckley Town Centre Area Action Plan boundary however there are no directly relevant policies. Although the premises has had planning permission to operate as a betting shop since at least 2000 the site has not been allocated for retail use within the Core Strategy, AAP or SADMP.

8.5 Concerns have been raised in respect of the proposed use being unsuitable in a residential area. However, the premises already operates on a commercial basis as a betting shop. There are other commercial uses within the street scene and wider vicinity of the site – this is covered in more detail in the next section. It is therefore considered that the use is acceptable in principle, subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the area

8.6 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.

8.7 There are no external changes proposed to the application site which is an existing commercial premises. The character within the street scene is mixed use with both residential properties and commercial premises. There is a commercial premise directly opposite the application site. To the rear of the premises there is a designated employment area which fronts Upper Bond Street.

8.8 The statement submitted with the application states there would be 5 to 6 clients per day. Due to the premises already operating as a shop it is considered that there would be a decrease in the footfall that is currently experienced at the premises and therefore this would not have a material impact upon the character of the area. Further to this, the proposed hours of operation are contained within sociable hours and so the proposed use would operate at times of the day that would be compatible with the mixed use character of the area.

8.9 The change of use would not result in any physical alterations to the external fabric of the building and it is assumed that the footfall would decrease. As such it is not

considered that the proposal would have adverse impact upon the character of the area in accordance with Policy DM10 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.10 Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.11 Objections have been received on the grounds that the operational hours will cause noise and disturbance to residents, particularly those with young children. The proposed operating hours of the business are 09:00 – 18:00 Monday to Friday and 10:00 - 15:00 Saturdays and Sundays with a maximum of three members of staff on site at any one time.
- 8.12 The weekday hours mainly coincide with typical office working hours. It is proposed to operate for 5 hours per day at the weekend. It is considered that due to the appointment lengths of either 30 minutes or 1 hour and the cleanliness procedures that need to be undertaken between appointments clients will be limited on the weekend. The planning statement states 5 to 6 clients on a weekday so the number at the weekend will be significantly less. Notwithstanding this information it is considered, due to the reasons given above in regards to appointment lengths and cleanliness procedures, that even if this figure were to be exceeded it would not be exceeded significantly as to alter the assessment of impact upon neighbouring residential amenity.
- 8.13 It is also noted that the previous use was unrestricted in its opening times and therefore a limit to the opening hours could provide less impact and disturbance than the current permitted use.
- 8.14 Objections have been received regarding the use being an inappropriate use for the area which has young families due to the nature of some massage parlours. This application can only assess what has been applied for and therefore this application is recommending approval for a Thai massage parlour. If there is a material change of use further to the details submitted within this application this will need to be assessed in the future.
- 8.15 There are residential properties to the north-east and south-west of the site. The proposed use would not introduce anything which would cause any additional noise or disturbance to any neighbouring residential properties, from that which already exists.
- 8.16 Based on the submitted information, Environmental Health (Pollution) raises no objections to the proposal in terms of noise and disturbance caused to surrounding residents. Accordingly, based on the above, the proposal is considered to have no adverse effect on the residential amenity of the neighbouring dwellings and therefore complies with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.17 Policy DM18 of the SADMP states that proposals should ensure that there is adequate provision for on and off street parking for residents and visitors and there is no impact upon highway safety. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety.
- 8.18 Objections have been raised in respect of there being inadequate parking provided for the business.
- 8.19 The Local Highway Authority (LHA) understands the access to the proposal is along Factory Road, which is an unclassified road subject to a 30mph speed limit. The LHA are aware that the proposal is not providing any car parking facilities. The LHA

would normally require a shop to provide car parking spaces to meet the guidance set out in the Leicestershire Highway Design Guide (LHDG).

- 8.20 However, the LHA understands the existing Betting shop also does not provide car parking facilities on the site and at the front of the shop, the highway is supported by a Traffic Regulation Order (TRO) to restrict inappropriate on street parking. Beyond the TRO at the front of the proposal, the LHA are aware vehicles park on-street due to the residential nature of the area.
- 8.21 The Applicant has also stated in a Cover Letter which can be viewed on the LPAs website dated 4th December 2020, that the proposal will provide 6 massages a day. Therefore the LHA understands that trips to the proposal per day are likely to be less than the existing business meaning that the proposal will not exacerbate the current situation.
- 8.22 Notwithstanding this the site is well served by public transport with bus stops and regular bus services within walking distance of the site. Therefore the LHA considers the impacts of the proposed development on the road network would not be severe in accordance with the NPPF (2019).
- 8.23 Overall, it is considered that the proposed use would not result in any severe impacts in terms of highway safety and as such the proposal is considered to be in accordance with Policies DM17 and DM18 of the SADMP.

Other issues

- 8.24 Objections have been received in regards to there not being much footfall within the area compared to the town centre and therefore the business not being viable. The viability of the business in this instance is not a material planning consideration.
- 8.25 Objections have been received in regards to there being other more suitable premises within the town centre. This application cannot determine if another site is more acceptable only whether the proposed site is acceptable for this proposed use.
- 8.26 Objections have been received in regards the business causing the value of neighbouring properties to decrease. This is not material planning consideration.

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.
- 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. By virtue of the specific nature and level of the proposal, it is not considered that the development would result in any materially adverse impacts on the residential amenity of surrounding dwellings, either by way of noise and disturbance associated with vehicle movements or the nature of the business. The proposal would also not result in any severe harm in terms of highway safety or impact on the character of the surrounding area. Therefore, the application is considered to be in accordance with DM1, DM10, DM17 and DM18 of the SADMP and is therefore recommended for approval subject to conditions and the wider policies of the NPPF. The proposal is therefore recommended for approval subject to the following conditions.

11. Recommendation

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

- Planning conditions outlined at the end of this report

- 11.2 That the Planning Manager 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 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The Thai massage parlour shall not be open to the public outside the following times:-

09:00- 18:00 Monday - Friday

10:00 - 15:00 Saturday

10:00 - 15:00 Sunday

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

3. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).