

Planning Committee 27th August 2024
Report of the Head of Planning

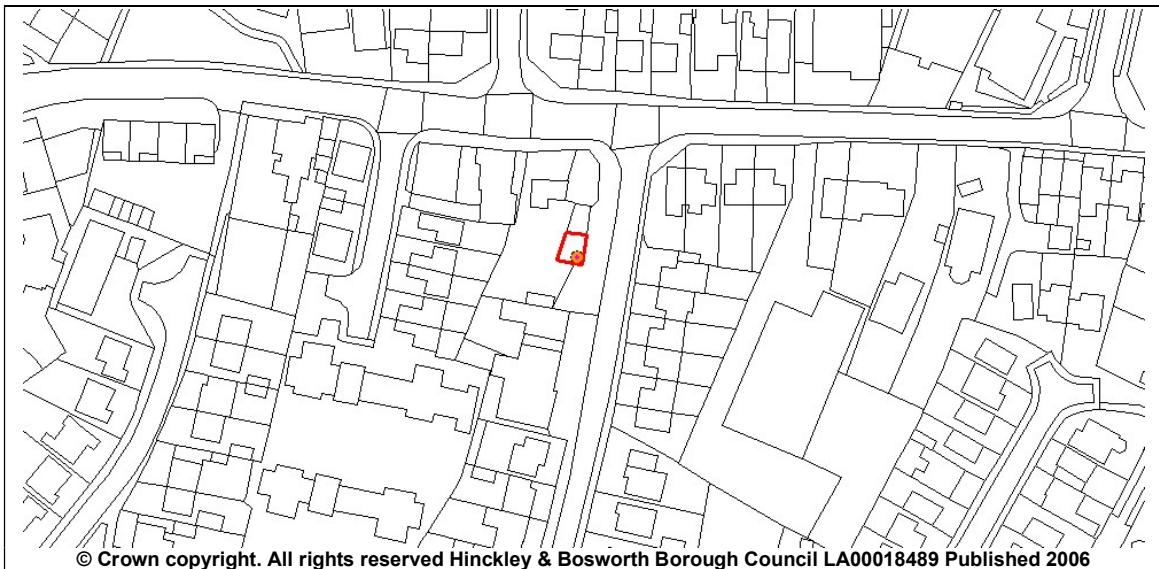


Hinckley & Bosworth
Borough Council

Planning Ref: 24/00503/FUL
Applicant: Mr Ali Kulhas
Ward: Newbold Verdon With Desford & Peckleton

Site: Clare's Bread And Butter 4 Arnolds Crescent Newbold Verdon

Proposal: Change of use from sandwich shop (Class E) to hot food takeaway (Sui Generis) including replacing an existing extract system



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions detailed at the end of this report.
- That the Head of Planning be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. This planning application seeks full planning permission for the change of use of a café (Use Class E(b)) use to a hot food takeaway (Sui Generis) at Clare's Bread and Butter, 4 Arnolds Crescent, Newbold Verdon. To facilitate this development, an existing extraction system is replaced. No further alterations are proposed to the property. Whilst the use of the site has not commenced, the new advertising for the use has already been implemented on site.

2.2. The use shall employ 2 full-time and 2 part-time members of staff and operate 16:00 to 23:00 (Monday to Friday), 12:00 to 23:00 (Saturday), and 12:00 to 22:00 (Sunday/ Bank Holidays).

- 2.3. The development is exempt from biodiversity net gain because it does not impact a priority habitat, nor 25sqm of on-site habitat.

3. Description of the Site and the Surrounding Area

- 3.1. The 40.8sqm application site is 30m south of Main Street on Arnolds Crescent within Newbold Verdon. Newbold Verdon is classified as a Stand Alone Key Rural Centre within the adopted Core Strategy (2009). The adopted Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016) identifies the application site within the Newbold Village Centre, Main Street, and Arnold's Crescent Retail Local Centre. Both Main Street and Arnolds Crescent are adopted but unclassified roads that are subject to a 30mph speed limit.
- 3.2. The site itself features a single storey semi-detached property with a flat roof, a buff brick finish, and uPVC windows and doors on its principal elevation. The property previously operated as a sandwich shop (Use Class E) until 2023.
- 3.3. The adjoined building to the north of the property is a commercial carpet and flooring shop. There is a layby immediately front of these two buildings. To the south of the site is a further selection of single storey structures that feature flat roofs and a buff brick finish, which are utilised as a pharmacy and a children's day nursey. With the exception of these properties, the character of the area is predominantly residential and features a variety of styles and designs of buildings.

4. Relevant Planning History

- 4.1 There is no relevant planning history.

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 Eight objections have been received from six separate households for the following reasons:
- Anti-social behaviour concerns.
 - The change of use does not positively contribute to the character of the area.
 - Conflict with the residential use of the area.
 - Extraction system concerns.
 - Increased traffic concerns.
 - Fire safety concerns.
 - Harm to the character of the area.
 - Highway safety concerns.
 - Littering concerns.
 - Waste management concerns.
 - Noise pollution
 - Odour pollution.

- Parking concerns.
- Pressure on existing infrastructure.
- The proposal does not contribute to the services within Newbold Verdon.

5.3 No further responses have been received.

6. Consultation

6.1 There have been no objections from the following consultees:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer (subject to conditions)
- HBBC's Waste Management Officer
- Local Highway Authority (LHA)

Pollution:

6.2 The Council's Pollution Officer confirmed that an odour assessment and full details of the kitchen ventilation system were required prior to the determination of the planning application. These details were supplied on 05 July 2024.

6.3 Following this, the Pollution Officer recommended that two planning conditions secure details of the ventilation of the premises and limits the operational hours of the site.

6.4 Newbold Verdon Parish Council did not respond to the planning application.

6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards
- Policy DM22: Vitalising District, Local and Neighbourhood Centres
- Policy DM23: High Quality Shop Fronts and Advertisements

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 (LHDG) (2022)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

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.

8.3 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). In accordance with Paragraph 225 of the NPPF, due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.4 Paragraph 85 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand, and adapt. Paragraph 88 of the NPPF states that planning decisions should enable the sustainable growth and expansion of all types of business in rural areas both through conversion of existing buildings and well-designed beautiful new buildings as well as the retention and development of accessible local services and community facilities such as local shops.

8.5 The development is located within the identified settlement boundary of a Stand Alone Key Rural Centre.

8.6 Policy 7 of the adopted Core Strategy states that the Council will ensure that there is a range of employment opportunities within Key Rural Centres.

- 8.7 Given the application site's location within the Newbold Village Centre, Main Street, and Arnold's Crescent Local Centre, the SADMP refers to adherence to Policy DM22 of the SADMP.
- 8.8 Policy DM22 of the SADMP states that additional retail provision within or adjacent to district, local, and neighbourhood centres will be permitted where:
- (a) It is demonstrated that there are no suitable and available existing vacant premises in the applicable or nearest centre; and
 - (b) The retail frontage is retained and/or enhanced and would not result in a break in the continuous retail frontage.
- 8.9 However, the existing use of the site is as a café (Use Class E(b)), which is not a retail use and therefore Policy DM22 of the SADMP is not applicable. Nevertheless, whilst no details have been provided regarding alternative suitable premises, the retail frontage is unaffected by this proposed change of use in accordance with Policy DM22(b) of the SADMP.
- 8.10 Paragraph 96 of the NPPF states that planning decisions should enable and support healthy lifestyles.
- 8.11 Whilst this change of use is unlikely to support healthy lifestyles, it cannot be demonstrated that the existing use as a café supported this aim either.
- 8.12 By virtue of these factors, the proposal is acceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 8.13 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.
- 8.14 The proposal represents a change of use from a café to a hot food takeaway Sui-Generis use. The site is adjacent to other commercial uses and is within a local centre that features an existing hot food takeaway, the Greedy Fish, which is 84m from the application site. Given the above, it is not considered that the change of use is likely to result in a significant adverse impact to the character of the area.
- 8.15 No external amendments are proposed to the property, with the exception of a replacement extraction system. Given the presence of the existing extraction system, this is not considered to result in any adverse impacts to the character of the surrounding area.
- 8.16 One non-illuminated fascia sign is shown on the front elevation with one LED backlit illuminated hanging sign.

- 8.17 It is noted that the illuminated hanging sign is existing and projects 85mm from the wall and has an area less than 1sqm. None of the signs' letterings exceed 0.45m in height, and the advertisements do not exceed 4.6m in height from ground level. The adverts reference the name and contact details of the business and some of the goods that are sold within the premises.
- 8.18 The illuminated projecting sign and the non-illuminated advertisement benefit from deemed consent in accordance with Class 5 of Part 1 of Schedule 3 of the Town and Country Planning (Control of Advertisements) Regulations 1992.
- 8.19 By virtue of these factors, the development is considered to be acceptable under Policy DM10 of the SADMP, subject to conditions.

Impact upon Residential Amenity

- 8.20 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.21 The Council's Pollution Officer confirmed that an odour assessment and full details of the kitchen ventilation system were required prior to the determination of the planning application.
- 8.22 These details were supplied on 05 July 2024. Following this, the Pollution Officer recommended that two planning conditions secure details of the ventilation of the premises and limits the operational hours of the site in the interests of safeguarding neighbouring residential amenity.
- 8.23 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.
- 8.24 In light of the above, the development is considered to be acceptable under Policy DM10 of the SADMP, subject to planning conditions.

Impact upon Parking Provision and Highway Safety

- 8.25 Policy DM17 of the 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.
- 8.26 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)).

- 8.27 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.28 Based on available records to the Local Highway Authority (LHA), there have been no recorded Personal Injury Collisions on Arnolds Crescent within the last five years.
- 8.29 There is no vehicular parking proposed as part of this application. Although the lay-by is not for the exclusive use of customers of the proposed hot food takeaway, customers would be able to use it to park clear of Arnolds Crescent without affecting the free flow of traffic on the highway.
- 8.30 The LHA are aware that the previous premises had no parking provision. As such, even though no vehicular parking has been proposed under this application, the LHA would not seek to object to the proposal on this basis.
- 8.31 Having regard to the specific circumstance of the site in conjunction with the scale and type of development proposed, the LHA is satisfied that the proposed development is unlikely to lead to an increase in indiscriminate parking in the vicinity of the site.
- 8.32 By virtue of these factors, the proposal does not create an unacceptable impact on highway safety or the road network in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

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 to be granted, subject to the imposition of appropriate conditions.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions detailed at the end of this report.
- That the Head of Planning be given powers to determine the final detail of planning conditions.

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 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 and Proposed Elevations 2409-102 (submitted: 20.05.2024)
- Existing and Proposed Ground Floor Plan 2409-101 (submitted: 20.05.2024)
- Proposed Signage 2409-103 (submitted: 20.05.2024)
- Proposed Site Plan (submitted: 06.08.2024)

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

3. No development shall take place until a scheme for ventilation of the premises, 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 before the premises are first brought into use for the development hereby approved and maintained in use thereafter.

Should there be a change in operator of the food premises that would result in the production of a higher level of grease/ odour, details of ventilation should be submitted to, and approved in writing by, the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details before the premises is first occupied by the operator and maintained thereafter.

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

4. The operating hours of the use of the premises shall be limited to:

Monday – Friday:	16:00 – 23:00
Saturday:	12:00 – 23:00
Sunday:	12:00 – 22:00

Reason: As requested by the Applicant and in order 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).

5. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to, and approved in writing by, the Local Planning Authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To support the policies within the Wheeled Bin and Container Policy (updated March 2018) and Section 46 of the Environmental Protection Act 1990, and to ensure that there is adequate provision of waste and recycling storage to protect the visual amenity and character of the surrounding area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.3. **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 or call 01455 238141.

All businesses have a duty of care to ensure that any waste is handled safely and within the law. Please ensure that there is adequate space on the property to store the waste containers for the business.

All waste produced by a business including (but not limited to) paper, cardboard, cans, retail packaging, and food wrappers/ waste is commercial waste. For this reason, it has to be legally discarded in a certain way via a trade waste service or transfer service and cannot be disposed of through the residential service. Bins should be maintained and stored so that they don't cause problems to neighbouring premises due to smells and should be stored correctly in a suitable container which needs to be closed or lidded.

Businesses should arrange their own business/ trade waste collection service. If you give your waste to someone else, you must be sure that they are authorised to take it, transport it, and recycle or dispose of it safely.