

Reference: 15/00630/FUL

Applicant: Mr P Ghuman

Location: 10 The Borough Hinckley

Proposal: 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

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as requested by Cllr Bray due to concerns with noise and disturbance to neighbouring residents.

This application seeks planning permission for the change of use from a betting shop to a drinking establishment on the ground floor with 3 no. studio apartments on the first floor.

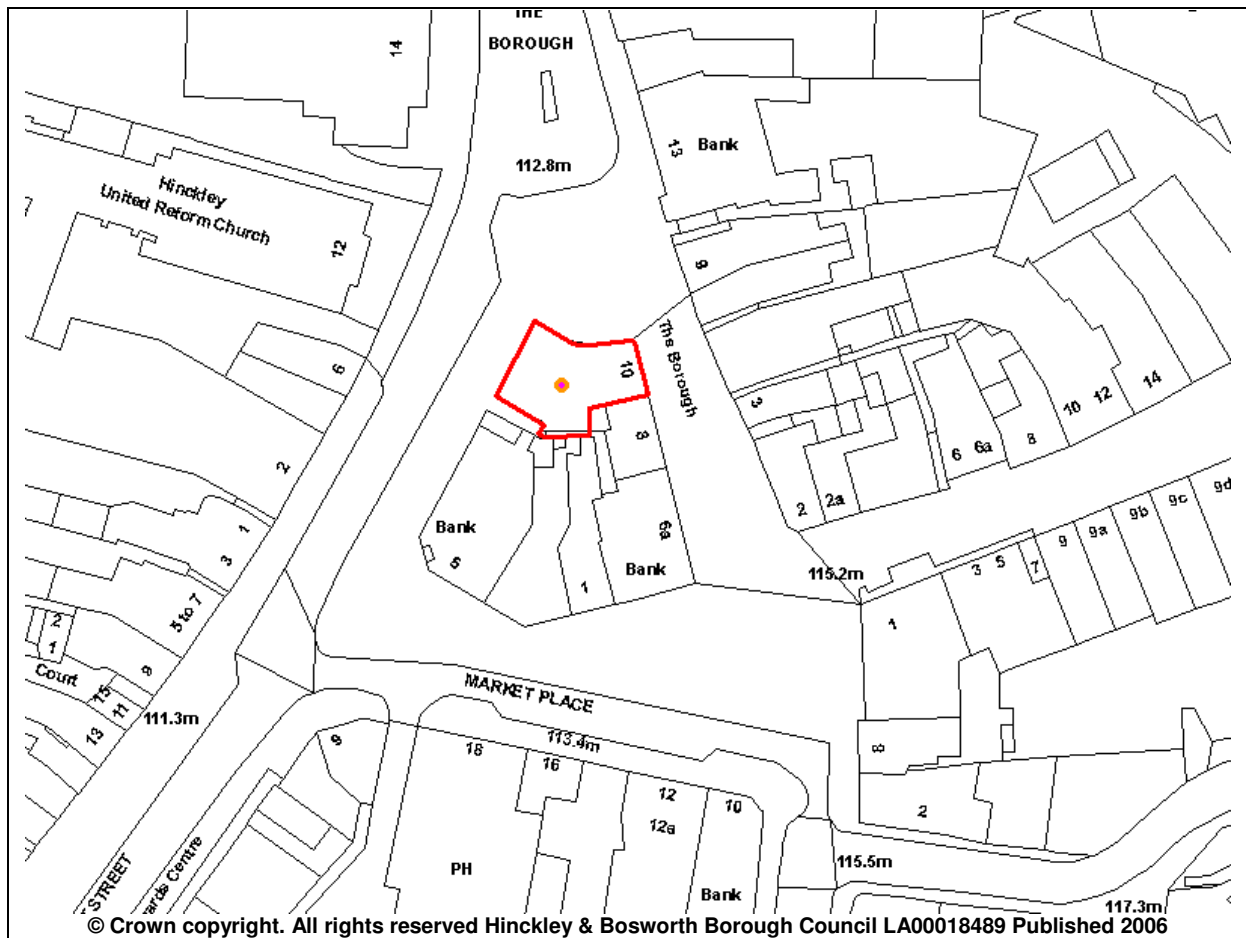
The application site is located within the town centre of Hinckley in an area designated as a secondary shopping frontage in the Local Plan. The application site comprises a building located on a corner plot with Regent Street to the west and The Borough to the east which is a pedestrianised area. In the vicinity of the site is a mix of uses that comprise primarily of shops, banks and cafes. To the south west of the site along Market Place and Regent Street there are several bars and pubs. There are several residential flats at first floor level along The Borough.

The existing building 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 with a side access and storage area onto Regent Street. There is no existing car parking serving the building.

Following concerns raised by officers in regard to noise and waste storage, a revised plan was submitted to indicate a storage area adjacent to the side access and the addition of an internal lobby to reduce noise escape. Additional information was submitted relating to the commercial opening times of the business and to confirm there would be no cooking on-site or a requirement for an extraction system.

Relevant Planning History:-

None relevant.



Consultations:-

No objections subject to conditions have been received by:-

- Street Scene Services (Waste)
- Environmental Health (Pollution)
- Conservation Officer

Site notice displayed and neighbours notified - three letters of objection received raising the following issues:-

- a) there will be noise and disturbance affecting the occupiers of nearby flats
- b) there are ample pubs in Hinckley and the proposed is unnecessary

Policy:-

National Policy Guidance

- National Planning Policy Framework (NPPF) 2012
- National Planning Practice Guidance (NPPG) 2014

Hinckley & Bosworth Core Strategy (2009)

Policy 1: Development in Hinckley

Hinckley & Bosworth Local Plan (2001)

Policy RES5: Residential Proposals on Unallocated Sites

Policy IMP1: Contributions towards the Provision of Infrastructure and Facilities

Policy REC3: New Residential Development - Outdoor Play Space for Children

Policy BE1: Design and Siting of Development

Policy BE7: Development in Conservation Areas

Policy T5: Highway Design and Vehicle Parking Standards

Policy Retail 3: Secondary Shopping Frontages, Hinckley Town Centre

Hinckley Town Centre Area Action Plan (2011)

Emerging Site Allocations & Development Management Policies DPD

Appraisal:-

The main considerations in the determination of this application are:-

- Principle of development
- Design and impact upon the character of the conservation area
- Impact upon neighbouring residential amenity
- Play and open space
- Other matters (waste storage, car parking provision, external plant machinery and building regulations)

Principle of Development

Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved.

There are two principles to be addressed as part of this application; the location of the proposed residential development and the change of use from a betting shop to a drinking establishment.

Residential Development

The site is within the settlement boundary of Hinckley. Hinckley is a sub-regional centre and identified as a sustainable location for new development in Policy 1 of the Core Strategy. Policy RES5 of the Local Plan supports new residential development provided that it is within the boundaries of a settlement and that the siting, design and layout do not conflict with relevant plan policies. Paragraph 23 of the NPPF states 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. Therefore, the application site is considered to be in a sustainable location and is acceptable in-principle, subject to all other planning matters being appropriately addressed.

Change of Use

Local Plan Policy Retail 3 seeks to ensure that the ground floor use of properties which form part of the designated secondary shopping frontage, as shown on the proposals map, are retained for retail. Subject to fulfilling the criteria within the policy, change of use may be allowed for the sale of food and drink, financial and professional services and laundrettes. The Local Plan policy does not allow for provision of drinking establishments within the

secondary shopping frontage and therefore the proposed change of use would be contrary to the Local Plan.

Policy 13 - Hinckley Town Centre Shopping Areas, of the Hinckley Town Centre Area Action Plan states that 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. Drinking establishments are A4 uses and therefore proposal is consistent with this policy which supersedes Local Plan Policy Retail 3.

Notwithstanding the above, the NPPF seeks to ensure the vitality of town centres and sets out how local planning authorities should support local centres. The NPPF states that primary frontages are likely to include a high proportion of retail uses which may include food, drinks, clothing and household goods. Secondary frontages provide greater opportunities for a diversity of uses such as restaurants, cinemas and businesses. Additionally, bars and pubs are defined as main town centre uses on page 53 of the NPPF. The Development Plan policies are considered to be consistent with the NPPF.

At present, the application site is vacant. The last use for the site was a betting shop which is a Sui Generis use. Betting shops were formerly classified as A2 uses however this has recently changed and therefore the existing use is not an approved use in accordance with Policy Retail 3 of the Local Plan or Policy 13 of the Area Action Plan.

The proposed use would not be consistent with Policy Retail 3 of the Local Plan. However, Policy 13 of the Area Action Plan, which is the most up-to-date policy, allows for a greater diversity of uses along secondary frontages and therefore the proposed drinking establishment is considered to be acceptable in-principle. As the application site is vacant, and has been for some time, it is considered that the proposed use will provide a use that supports the vitality of the town centre and makes a positive economic contribution.

For the above reasons, it is considered that the change of use of the ground floor to a drinking establishment and the location of residential development at first floor are acceptable in principle in accordance with Policy 1 of the Core Strategy (2009), Policy RES 5 of the Local Plan (2001), Policy 13 of the Area Action Plan and the provisions of the NPPF.

Design and Impact Upon the Character of the Conservation Area

Policies BE1 and BE7 of the Local Plan seek to ensure a high standard of design and preserve or enhance the special character of conservation areas. This is supported by chapters 7 and 12 of the NPPF.

This application comprises internal works to the building only and therefore would not impact on the external visual appearance of the building. However, it is evident from the street that the building is currently vacant and the proposed use would bring the building back into use which would enhance the appearance of the conservation area. Supporting text in the Hinckley Town Centre Area Action Plan notes that the town centre contains a number of under-utilised buildings and that gateways into the town centre on all approaches are poor. The re-use of the building would utilise the building and improve the visual perception of the town centre when approaching the centre along Regent Street due to the prominent location of the building.

There is an existing alleyway to the side of the building, joining Regent Street, where waste storage bins are currently stored. The waste storage bins would continue to be stored in this area and although there would likely be additional bins resulting from the development, it is

not considered that they would have a detrimental impact on the visual appearance or character of the conservation area given the size of the storage area.

The Conservation Officer has commented that the building has been identified as a local important building in the Hinckley Town Centre Conservation Area Appraisal, however as the application involves no external alterations no objection has been raised.

It is considered that the proposal would preserve the character of the conservation area and will result in a development that re-uses a currently vacant site. The proposal is therefore in accordance with saved Policies BE1 and BE7 of the Local Plan (2001).

Impact Upon Residential Amenity

Policy BE1 of the Local Plan states that planning permission will be granted where the development does not adversely affect the occupiers of neighbouring properties and is not adversely affected by activities in the vicinity of the site which are likely to cause a nuisance to the occupiers of the proposed development.

Consideration of the noise impacts resulting from the drinking establishment are required for the existing residential properties at first floor level in close proximity to the site and the potential impact on the proposed new residential properties to be located at first floor above the drinking establishment. The applicant has identified that the drinking establishment is proposed to operate between the hours of 09:00 and 22:30 which would be controlled by way of a condition.

Following concerns relating to noise impacts raised by officers an Acoustic Report by Sanctuary Acoustics dated August 2015 was submitted to establish the potential impacts. Below is a summary of the findings of the report:-

- A noise survey was conducted on Saturday 25 July to Sunday 26 July 2015
- For the proposed ground floor bar it is planned it will operate between 9.30am and 10.30pm. During this time period the lowest measured background noise level at the first floor façade was 39.4dB(A) between 9.45pm and 10.00pm
- It is recommended that any mechanical ventilation associated with the ground floor Bar such as condenser noise for the air conditioning system should be no greater than 34.4dB(A) at the façade of the first floor dwellings so 5dB below existing background noise levels
- It is recommended entertainment noise should be 10dB below existing background noise levels to allow for fluctuations in noise levels. This would mean entertainment noise at the façade of the dwellings should be no greater than 29.4dB(A) and inaudible within the dwellings
- The external façade is constructed from double leaf brick which should be improved up on with a new plaster skim, or with Soundbloc plasterboard to attenuate noise. Separating partitions should rise up to the roofline or the underside of the first floor with suspended ceilings below to reduce noise transfer. The suspended ceiling to the Bar should be suspended on either separate joists, acoustic hangers or fixed to resilient Bars attached around the top of the ground floor wall
- Typical noise levels in Bars and restaurants have been referenced with guidance detailed in the Defra Pubs and Clubs documentation. It is also recommended due to the noise sensitive nature of the site that a noise limiter be considered when designing the Bar's sound system, recommended upper levels would be between 80 - 84dB(A).

The findings of the report conclude that, subject to detailed mitigation measures being implemented, the proposed ground floor use will not have a detrimental impact on the occupiers of the proposed dwellings at first floor level and other properties in the vicinity of the application site.

Environmental Health (Pollution) has raised no objection subject to a condition requiring the applicant to submit a detailed noise mitigation scheme prior to the commencement of development.

It is likely there would be some noise/disturbance to neighbouring properties as a result pedestrians moving to and from the drinking establishment. However, given the location of the site in the centre of town, it is expected that there would be some level of noise/disturbance as a result of people using facilities in the surrounding area and due to the restrictions on opening hours it is not considered that any disturbance would be significantly detrimental to result in the proposal being considered unacceptable from an amenity perspective.

It is considered that the proposal, subject to a detailed mitigation scheme, is acceptable and will not have a detrimental impact on the occupiers of neighbouring properties or the proposed dwellings. The development is considered to be in accordance with saved Policy BE1 of the Local Plan (2001).

Play and Open Space

Policy REC3 of the Local Plan requires where there is a net gain of a dwelling, a financial contribution towards play and open space. In this instance, there is no existing open space within 400 metres of the site and as such a contribution cannot be requested under the terms of the current policy.

Other Matters

Waste Services recommended a condition requiring adequate provision for waste and recycling storage. Following the consultation response an amended plan was submitted showing that the space for storage bins was capable of storing 4 large bins. It is considered that the storage area is sufficient for the purposes of waste and recycling storage.

The application makes no provision for car parking for the occupiers of the proposed dwellings or pedestrians using the drinking establishment. Given the location within the centre of Hinckley with good access to public car parks, facilities, services and public transport it is not considered necessary to provide car parking for the future occupiers of the proposed dwellings.

The applicant has stated that there would be no hot food served on-site and there will be no requirement for an extractor system or other plant machinery. The siting of external plant machinery has the potential to impact on the visual appearance of the building and impact upon neighbouring amenity. Although the applicant has no intention of installing equipment at this time, this may change in the future. Therefore, it is proposed to attach a condition requiring details of any extractor system or plant machinery to be submitted and approved by the local planning authority prior to installation as the applicant may choose to install such equipment in the future.

Concern was raised over the feasibility of the internal layout of the residential properties in regards to ventilation and fire safety if the application was successful in gaining planning permission. Whilst this is not a material planning consideration, informal discussions were had with Private Sector Housing and Building Regulations who confirmed some minor

internal changes such as relocation of doors may be required however there was nothing that would make the development unfeasible.

Conclusion

The application site is in a sustainable location within the settlement boundary of Hinckley where residential development is acceptable in principle. The drinking establishment element of the scheme is not consistent with Policy Retail 3 of the Local Plan, however Policy 13 of the Area Action Plan supports a greater diversity of uses along secondary shopping frontages and it is considered the proposal would provide economic and environmental benefits to the town centre. The proposals will not have a detrimental impact on the occupiers of neighbouring dwellings. The proposed development is considered to be in accordance with Policy 1 of the adopted Core Strategy, Policies RES5, BE1, BE7 and T5 of the adopted Local Plan, Policy 13 of the Area Action Plan, together with the overarching principles of the NPPF and is therefore recommended for approval subject to conditions.

RECOMMENDATION:- Grant subject to conditions.

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 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-AL-01-A - Planning application information received 17 July 2015.
- 3 Notwithstanding the recommendation in the Noise Assessment (Acoustic Report in Respect of the Proposed Re-development of the Former Banking Hall at 10 The Borough into a Ground Floor Bar with First Floor Dwellings Document 001) carried out by Sanctuary Acoustics and dated August 2015, development shall not commence unless and until a scheme for protecting the proposed dwellings and the amenity of the area from noise from the proposed licensed premises has been submitted to and approved in writing by the local planning authority; and all works which form part of the scheme shall be implemented prior to first occupation of the dwellings hereby permitted and retained and maintained thereafter.
- 4 The premises shall not be open for customers outside the following hours:-
09:00 - 22:30 Monday to Sunday
- 5 No development shall commence unless and until a scheme for the installation of an extractor system or any other external plant machinery, has been submitted to and approved in writing by the local planning authority. The equipment shall be installed and maintained in accordance with the submitted details thereafter.

Reasons:-

- 1 To comply with the requirements of Section 19 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.
- 2 For the avoidance of doubt and in the interests of proper planning.

- 3&4 To ensure that the development does not have an adverse impact on the amenities of surrounding properties in terms of noise to accord with Policy BE1 of the adopted Hinckley and Bosworth Local Plan.
- 5 To ensure that the development does not have an adverse impact on the amenities of surrounding properties in terms of noise and that the development has a satisfactory external appearance and in the interests of visual amenity to accord with Policies BE1 and BE7 of the adopted Hinckley and Bosworth Local Plan

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).

Contact Officer:- Richard West Ext 5809