

Planning Committee 23 February 2016
Report of the Chief Planning and Development Officer



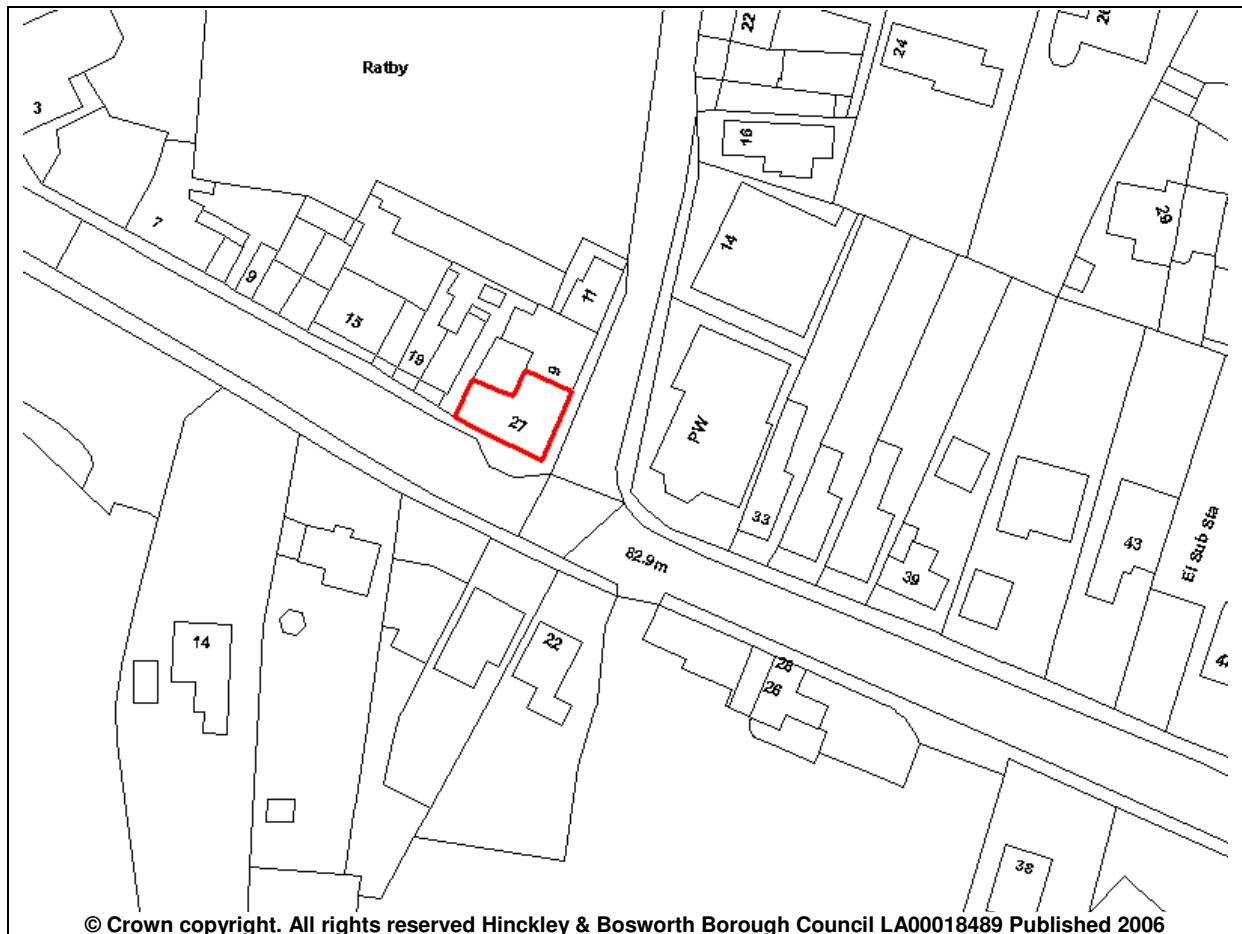
Hinckley & Bosworth
Borough Council

A Borough to be proud of

Planning Ref: 15/01090/FUL
Applicant: Harrison Spice
Ward: Ratby Bagworth And Thornton

Site: 23 Station Road Ratby

Proposal: Erection of new ventilation system to reduce odours emitted



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined in section 11 of this report.

1.2. That the Chief Planning and Development Officer be given powers to determine the final detail of planning conditions.

2. Planning Application Description

2.1. The applicant is seeking planning permission for the erection of an improved ventilation system to the rear of the premises. The proposed flue has a number of technical details on the flue to ensure that odour and noise is reduced to a minimum. The new proposed flue will include carbon filters, grease filters and

appropriate silencers on the flue. It is proposed that the flue will be 1 metre above the ridge level of the property which would include a Swedish type discharge cowl fitted which will ensure that the air jets to another 2 to 3 metres into the air.

- 2.2. The flue will be fitted with suitable brackets and supports and will have anti vibration mountings installed to minimize any vibration within the system.
- 2.3. It is proposed that carbon filters will be used to neutralize any odour that may be generated; these will be fitted in a location so that the applicant can easily change the filters and maintain the ventilation system.

3. Description of the Site and Surrounding Area

- 3.1. The property sits on the corner of Station Road and Chapel Lane with the majority of the premises fronting onto Station Road. The site is located within the Ratby Conservation Area, which is within the settlement boundary.
- 3.2. The property features large windows along Station Road elevation as part of a traditional shop frontage with the door to the premises located on the corner of Station Road and Chapel Lane. To the rear of the premises is a yard accessed via a passageway between No. 21 and the building, used for the storage of waste bins.
- 3.3. Adjacent to the premises is a row of traditional terraced residential properties No. 15 to No. 21. To the other side of Chapel Lane is Ratby Methodist Church. Directly opposite the site are a number of detached residential properties Nos. 16, 18 and 20 which are set back from the highway behind front gardens/driveways.
- 3.4. There is no off-street parking within the site. Parking is available on street to the front of the property. Adjacent to the premises is a row of terraced houses which have no street parking available, on the opposite side of the road there are no restrictions in terms of parking and wait times.

4. Relevant Planning History

13/00350/COU	Change of use from A1 (Shop) to A3 (Cafe) (Retrospective)	Approved	30.07.2013
14/00277/CONDIT	Variation of condition 2 of planning permission 13/00350/COU to change opening hours to 17:00 - 22:30 Monday to Thursday 17:00 - 23:00 Friday to Saturday and 17:00 - 21:30 Sunday	Approved	28.05.2014

14/01283/COU

Change use from
restaurant to a mixed
use restaurant and
hot food takeaway
(retrospective)

Refused

03.06.2015

5. Enforcement History

- 5.1 On the 3 June 2015 planning permission was refused for the “Change of use from a restaurant to a mixed use restaurant and hot food takeaway (retrospective)” (Planning Reference: 14/01283/COU). Following the refusal of planning permission on the 18 June 2015 the Local Planning Authority issued an enforcement notice for this use to cease. The applicant has subsequently appealed this decision. No decision has been issued by the Planning Inspectorate in regard to this appeal. Therefore, currently the lawful use of the premises is still a restaurant (A3 Use).

6. Publicity

- 6.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 6.2. Nine letters of objection have been received from members of the public, with there points summarized below:
1. The odour and noise currently generated from the flue is unacceptable and the new flue proposed will not make any difference
 2. Where the flue is positioned is in a very small enclosed space and is approximately 4 to 5 metres away from residents enclosed yards
 3. The application states to reduce odours, we don't want any odours at all
 4. The proposed flue will be above the ridge level and will therefore have a negative effect on the Conservation Area
 5. The turbo fan even with silencers will still make a noise and restrict windows from being opened on warm evenings.

7. Consultation

- 7.1. Conservation Officer raised no objection to this proposal.
- 7.2. Street Scenes (Waste) raised no objection to this proposal.
- 7.3. Environmental Health (Pollution) have consulted with the ventilation engineer and are satisfied with the proposed scheme subject to the following conditions recommended:
1. The extractor fan on the external wall in the kitchen shall not vent air to the outside and shall be used for air intake only
 2. A maintenance schedule in line with manufacturer's guidelines for each component of the system shall be submitted to and approved in writing by the Local Planning Authority. Maintenance shall be undertaken in line with the

approved maintenance schedule unless an amendment has been agreed in writing by the Local Planning Authority

3. A log of all maintenance undertaken in line with the maintenance schedule approved shall be kept on site for inspection by the Local Planning Authority as required.

Environmental Health (Pollution) has also recommended a suitably worded note to applicant to ensure that all staff are fully educated on the use of the ventilation system.

7.4 Environmental Health (Drainage) had no comments to make in regard to the application.

7.5 Ratby Parish Council have not provided any comments in regard to the application.

8. Policy

8.1. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8.2. Hinckley and Bosworth Local Plan (2001)

- Policy BE1: Design and siting of development
- Policy BE7: Development in Conservation Areas

8.3. Emerging Site Allocations and Development Management Policies DPD Submission Version (Dec 2014)

- 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

9. Appraisal

9.1. Key Issues

- Assessment against strategic planning policies
- Impact upon the character of the area
- Impact upon neighbouring amenity

Assessment against strategic planning policies

9.2. The premises are able to lawfully operate as a café/restaurant, which was granted planning permission in 2013. A variation to the restaurant's opening hours was approved in 2014. The site is located within the settlement boundary of Ratby. The erection of a new improved ventilation system will reduce the impact the current ventilation system has on local residents. Therefore, this proposed development does not conflict with the presumption in favour of sustainable development as set out in the National Planning Policy Framework.

Impact upon the Character of the Area

- 9.3. Policy BE1 of the Local Plan and Policy DM10 of the emerging site allocations and development management policies DPD require developments to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 9.4. The flue is to be constructed to the rear of the premises and will therefore have no impact on the Conservation Area. However, the cowl fitted to the top of the flue will exceed the ridge height of the flue and will be seen from Chapel Lane. The premises have a varying amount of different ridge levels and therefore at the lowest point it may be possible to see approximately 50 centimeters of the flue. The flue is proposed to be finished in galvanized steel. However, to reduce the potential impact this may cause on the Conservation Area it is reasonable to impose a condition to ensure that the flue above top of the ridge is finished in a suitable material to reduce the impact this may have on the Conservation Area. If this condition is imposed, it will be in accordance with Policy BE1 of the adopted Local Plan and Policy DM10 of the emerging site allocations and development management policies DPD.

Impact upon Neighboring Residential Amenity

- 9.5. Policy BE1 of the adopted Local Plan is considered to have a high degree of conformity with the NPPF and can therefore be given significant weight in the determination of this application. The policy relates to the design and siting of development and seeks a high standard of design to safeguard and enhance the existing environment through a criteria based policy. Policy BE1 (criterion i) seeks to ensure that the development does not adversely affect the occupiers of neighbouring properties.
- 9.6. When considering this application two of the key impacts are on noise and odour potentially generated by the flue. Currently to the rear of the premises is an unauthorised flue which has been in situ since August 2014. Since, its installation the Council has received a number of complaints from local residents about the impact the flue has caused with unacceptable odour and noise being generated which has affected properties adjacent to the premises and properties on the other side of Station Road.
- 9.7. The applicant has hired a qualified ventilation engineer to install an improved flue to the rear of the premises. The flue is designed with several features to reduce odour and noise which could be generated by the flue. The flue will also be installed with silencers to reduce the noise generated by the turbo fans installed; this is also confirmed with the installation of the ventilation flue as it will be installed with vibration pads to reduce noise further.
- 9.8. The purpose of the turbo fan is to ensure that the odour is released at a velocity high enough into the air so this reduces any odour generated significantly. This is to ensure that any odour generated will exceed the height of the properties on Station Road. As the premises is lower the height of the properties on Station Road are higher and therefore a turbo fan will ensure that the velocity is powerful enough to ensure the odour is dispersed at least 2 to 3 metres higher into the air. As a result the proposed flue will be a significant improvement to the area and will reduce the amount of odour and noise. Environmental Health (Pollution) has recommended a number of conditions to be imposed on the development. These conditions relate to maintenance of the ventilation system and a log to ensure that the ventilation system is being maintained properly. These conditions are all appropriate and

therefore not considered unreasonable. It is considered that the proposal is considered in accordance with Policy BE1 of the adopted Local Plan 2001.

10. Conclusion

- 10.1. The installation of an improved ventilation system will reduce the amount of odour and noise generated from the premises. The ventilation system will be constructed to a high standard with a number of features included on the flue to ensure it meets environmental health standards. To function correctly the flue will extend slightly above the ridge height. A suitably worded condition is proposed to ensure that the finish on the top of the flue is in keeping with the local area. Furthermore, it is recommended that the proposed ventilation system be approved as it is in accordance with Policy BE1 and Policy BE7 of the adopted Local Plan.

11. Recommendation

11.1. Grant subject to conditions

- 11.2. In dealing with the application, through ongoing negotiation the local planning authority has 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.

11.3. Conditions and Reasons

1. This development hereby permitted shall start before the expiration of three years from the date of this permission.

***Reason:** To comply with 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: Existing and Proposed Plan (Scale 1:100, Drawing No: Sheet 1), Existing and Proposed Elevations (Scale 1:100, Drawing No: Sheet 2) received by the Local Planning Authority on the 16 November 2015 and Block and Site Plan (Scale: 1:200) received by the Local Planning Authority on the 30 December 2015 and External rear elevation (Scale 1:100, Drawing No. Sheet 1) received by the Local Planning Authority on the 5 February 2016.

***Reason:** To define the permission.*

3. Prior to the commencement of development a maintenance schedule in line with manufacturer's guidelines for each component of the system shall be submitted to and approved in writing by the Local Planning Authority. Maintenance shall be undertaken in line with the approved maintenance schedule unless an amendment has been agreed in writing by the Local Planning Authority.

***Reason:** To ensure that the flue is maintained so it does not become a source of annoyance for neighbours in accordance with Policy BE1 (criterion i) of the adopted Local Plan.*

4. A log of all maintenance undertaken in line with the maintenance schedule referred to in condition 3 above shall be kept on site for inspection by the Local Planning Authority as required.

Reason: *For the avoidance of doubt.*

5. The fan on the external wall facing Chapel Lane, in the kitchen shall not vent air to the outside and shall be used for air intake only.

Reason: *To ensure that the extractor fan does not become a source of annoyance for neighbours in accordance with Policy BE1 (criterion i) of the adopted Local Plan.*

6. Prior to the commencement of development, samples of the external finish of the flue shall be submitted in writing and approved by the Local Planning Authority.

Reason: *To ensure that the flue is of a suitable design and fits into the character of the Conservation Area in accordance with Policy BE1 and BE7 of the adopted Local Plan.*

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 or call 01455 238141.
2. Education of all staff on how to use the full ventilation system is paramount in ensuring its success. All possible controls should be installed to limit operator error that may reduce efficiency of the system.