

Planning Committee 12 September 2017
Report of the Head of Planning and Development

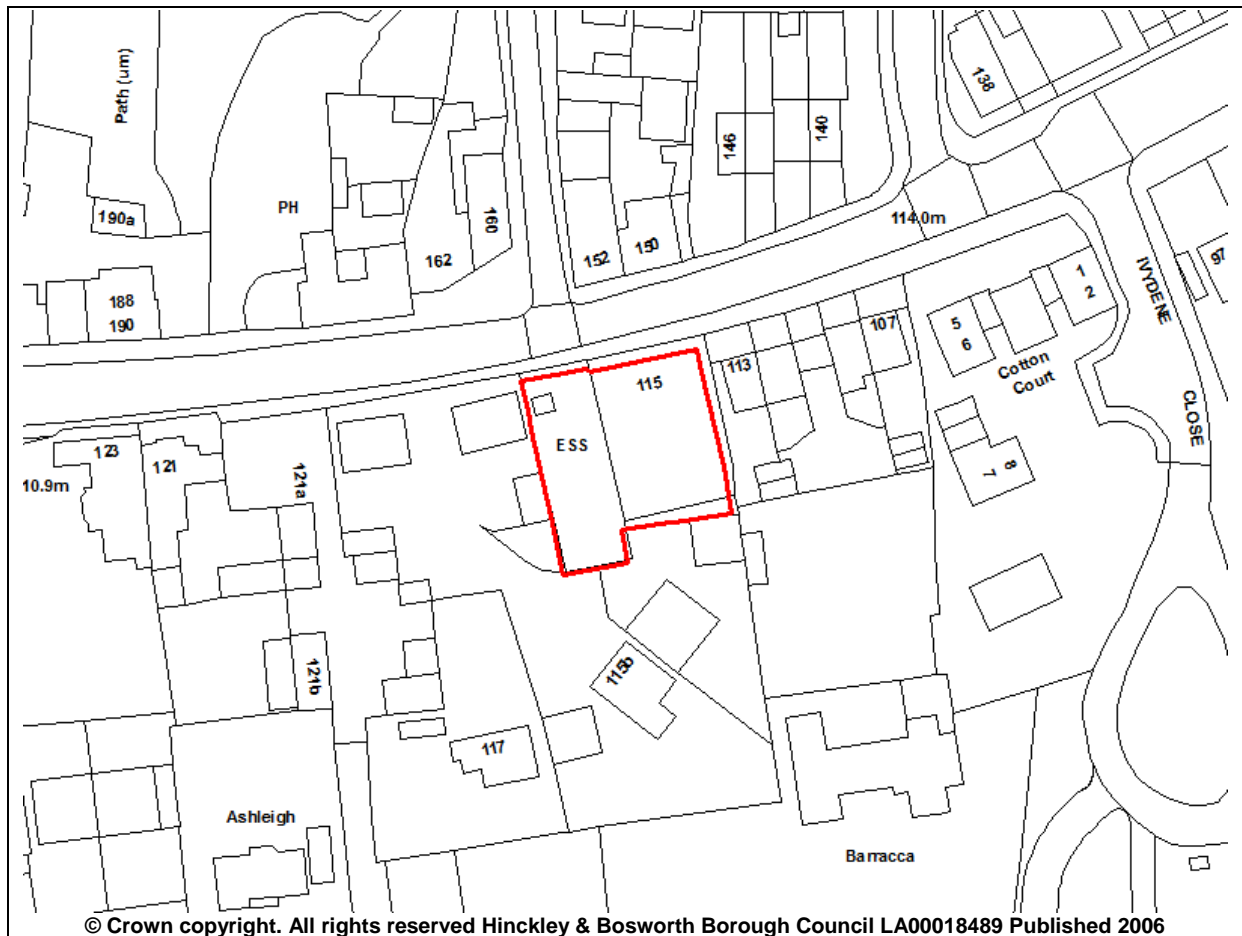


Hinckley & Bosworth
Borough Council

Planning Ref: 17/00353/FUL
Applicant: Mr Avtar Dhami
Ward: Earl Shilton

Site: 115 High Street Earl Shilton

Proposal: Change of use of first floor to 3 no. apartments and ground floor to mixed retail and café use



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

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

2. Planning Application Description

- 2.1. The applicant proposes to convert the ground floor of the property from a carpet shop (A1 use class) to a general retail store with a café to the rear of the premises (A1 use class). In addition, it is proposed to convert the first floor from a gym (D2 use class) into three flats (C3 use class). There would be no external alterations to the front or east elevation; the only changes proposed to the west and rear

elevation involve the addition of windows to serve the flats. The site also has a private parking area which would accommodate five vehicles.

3. Description of the Site and Surrounding Area

- 3.1. The site is located within the settlement boundary of Earl Shilton; the property is currently used as a carpet shop with a private gym operating at first floor level. To the west of the site are two newly developed residential properties and there are two further newly developed residential properties to the rear of the site. To the east of the site are existing residential properties which are in close proximity of the application site. To the opposite side of the High Street there is a cluster of shops including a restaurant, beauty salon and several small independent retailers.

4. Relevant Planning History

| | | | |
|---------------|------------------------|---------|------------|
| 14/01005/GDOD | Demolition of building | Refused | 05.12.2014 |
|---------------|------------------------|---------|------------|

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.
- 5.2. Five letters of objection have been received from five different addresses; the issues raised are summarised below:
- 1) Safety concerns in relation to reversing over the pavement onto the main road as drivers would be unable to turn and leave in a forward direction
 - 2) Deliveries and customer visits will be made whilst parking on High Street in the narrowest part of the road
 - 3) Issues raised in regard to the proposed opening hours being too long and the plan to open 7 days a week.
 - 4) The installation of new windows on the west elevation would intrude upon the neighbour's privacy.
 - 5) No details have been provided in relation to proposed ventilation/control of odours from the food preparation.

6. Consultation

- 6.1. Leicestershire County Council (Highways) has stated that the availability of sustainable transport choices and the parking facilities that will be retained/provided mean that the application cannot be deemed to cause severe harm when taking into account the previous/existing use of the site. The Local Highways Authority has no objection to the proposal subject to the imposition of conditions.
- 6.2. No objections received from:
- HBBC Environmental Health (Drainage)
- 6.3. No objections received subject to conditions from:
- HBBC Environmental Health (Pollution)
 - HBBC Waste Services
- 6.4. No comments were received from Earl Shilton Town Council

7. Policy

- 7.1. Core Strategy (2009)
- Policy 2: Development in Earl Shilton

- 7.2. Earl Shilton and Barwell Area Action Plan (AAP)
- Policy 26 is relevant but has been replaced by Policy DM22 of the Site Allocations and Development Management Policies DPD

- 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
 - Policy DM22: Vitalising District, Local and Neighbourhood Centres

- 7.4. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2012)
 - Planning Practice Guidance (PPG)

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

Assessment against strategic planning policies

- 8.2. Paragraphs 11 - 13 of the National Planning Policy Framework (NPPF) state that the development plan is the starting point for decision taking and that the NPPF is a material consideration in determining applications. Policy DM1 of the SADMP and Paragraph 14 of the NPPF set out a presumption in favour of sustainable development, and states that development proposals that accord with the development plan should be approved.
- 8.3. Policy DM1 of the Site Allocations and Development Management Policies DPD (SADMP) sets out a presumption in favour of sustainable development and states that proposals that accord with the development plan should be approved unless other material planning considerations indicate otherwise.
- 8.4. The site is located within the settlement boundary of Earl Shilton which is defined as a key urban area by Policy 2 of the Core Strategy (2009) and the SADMP. As the site is within the settlement boundary there is a presumption in favour of sustainable development, provided that as the development accords with other policies within the SADMP.
- 8.5. As part of this application; it is proposed to convert the ground floor into a retail store; an A1 use with a café to the rear. It has been indicated that the café would also be an A1 use as it has been initially proposed that the café would be a Subway (i.e. a shop for the sale of cold food for consumption off the premises). Therefore, as the existing use on the ground floor is an A1 use (carpet shop) no planning permission is actually required for the proposed change of use of the ground floor.
- 8.6. It is proposed to convert the first floor of the development into residential properties, Policy DM22 of the SADMP states that the use of upper floors of retail premises within district, local and neighbourhood centres, for residential use, will be supported where they accord with other policies in the SADMP.

- 8.7. It is therefore considered that the principle of development is sustainable and in accordance with Policy DM1 and DM22 of the Site Allocations and Development Management Policies DPD subject to other material planning considerations.

Design and impact upon the character of the area

- 8.8. Policy DM10 of the SADMP requires developments to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.9. There are no proposed external changes to the principal elevation which fronts onto the High Street or to the east elevation which is adjacent to 113 High Street. Changes are proposed to the west elevation facing 115D High Street and the rear elevation facing 115C High Street as detailed below.
- 8.10. The proposed changes to the west side elevation would be the addition of four windows at first floor level to serve the proposed flats, and at ground floor level to the rear of the premises would be an emergency exit door and an additional window. It is considered that these additions would not have an adverse impact on the character of the area or the building itself, and would in fact break up and provide relief to a currently blank elevation.
- 8.11. To the rear elevation two windows would be inserted at first floor level which would serve a kitchen/dining area to one of the proposed flats and a bathroom window which would be obscurely glazed. The rear elevation would be visible from 115C High Street, it is considered that the addition of two windows to this elevation is minimal and would have no adverse impact upon the character of the surrounding area or the building itself.
- 8.12. It is therefore considered that the proposed changes are minimal in terms of their impact on the building itself and would not adversely impact the character of the area; given that the principal elevation of the building would be retained in its current form. It is therefore considered that the development is in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 of the SADMP states that developments will be permitted providing that the development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings including matters of air quality (including odour) and noise, vibration and visual intrusion.
- 8.14. Comments were received from residents raising concerns that no details have been provided in regard to ventilation details for the café. The applicant has indicated that the proposed end user would be Subway and therefore there would be no cooking on the premises as all the food is delivered pre cooked. Subsequently there is no need for a ventilation system to be installed. After discussions with HBBC Environmental Health (Pollution) it has been suggested that given that the end user could change; a condition should be imposed to require that in the event that this occurs, that details of an adequate ventilation system would need to be submitted and approved to ensure it does not become a source of annoyance to local residents.
- 8.15. It is proposed that the café would be open between the hours of 07:00 to 23:00 hours Monday to Sunday including bank holidays. The premises are located within a district centre and are located within the Earl Shilton Town Centre. As noted above; the change of use on the ground floor does not require planning permission and there is no existing time restriction in relation to the use of this property. To the opposite side of a road is a restaurant which is open to 22:30. As this

application gives the Local Authority the opportunity to condition the hours of operation it would be reasonable to condition the hours in line with those of the restaurant on the opposite side of the road. It is therefore considered that the café/retail store would have no adverse impact on neighbouring properties and is considered to be in accordance with Policy DM10 of the SADMP.

- 8.16. To the east elevation it is proposed that four windows would be installed at first floor level with one of the windows being an obscure glazed window serving a bathroom. The remaining three windows would serve a kitchen/lounge and two bedrooms. The nearest residential property would be 113 High Street; the side wall of which is 10 metres away. The side elevation of 113 High Street is blank and there is also a garage located to the rear of the premises. Therefore, there would be no issues of overlooking between the two properties.
- 8.17. In terms of the rear elevation; one of the proposed windows to the rear elevation would be obscurely glazed as it would serve a bathroom; the remaining windows would be clear glazed which would all serve habitable rooms and would be acceptable in terms of amenity. The nearest residential property is 115C High Street, this property is set at an angle with the application site and has one window to the side elevation of the property which does not serve a habitable room. The building closest to the application site property is the garage to 115C High Street; with the rear garden to this property being behind the dwelling to the south of the site. It is considered that there would only be minimal overlooking; mainly of the driveway of 115C High Street and the proposal is therefore considered to be in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

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. Leicestershire County Council (Highways) has been advised by local residents that there are concerns with parking issues in the area. The current use of the site is an A1 use (carpet shop); the proposed use as a retail store would generate similar levels of traffic albeit over longer periods due to the proposed hours of operation of the café. Also, there are existing parking restrictions on the highway near the site which means that no on-street parking can spill onto the main carriageway and interfere with the free flow of traffic. In addition there are public car parks in the area, and the proposed development would provide parking for the flats and cycle parking for the flats, staff and customers of the café; there is also a frequent bus service past the site. Therefore, given the availability of sustainable transport choices, and the parking facilities that will be retained; the proposed development would not cause severe harm in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.
- 8.20. Policy DM18 of the SADMP states that all proposals for new development will be required to provide an appropriate level of parking provision. The applicant is proposing to provide five car parking spaces for the flats, staff and customers of the café. It is considered that with the site being located in close proximity to Earl Shilton Town Centre with a number of car parks in the local vicinity that there would be sufficient parking provision for the development. LCC Highways recommend that conditions are imposed to ensure no gates are added to the access and that the parking spaces are marked out. It is considered that these conditions are

reasonable. Therefore the provision of parking is acceptable and in accordance with Policy DM18 of the Site Allocations and Development Management Policies DPD.

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 Earl Shilton, and therefore there is a presumption in favour of sustainable development in accordance with Policy DM1 of the SADMP. As discussed within the report; the proposal to use the ground floor for retail and as a café would not require planning permission.

10.2. In regard to the conversion of the first floor for residential use; residential accommodation above properties in A1 use is common place in town centre and is supported through Policy DM22 of the SADMP. The external elevational changes proposed to the premises would not adversely affect the character of the existing building or the character and amenity of the surrounding area and there would be no significantly adverse impact on the residential amenity of neighbouring properties as a result of the proposals.

10.3. It is therefore considered subject to appropriate conditions that the development is in accordance with Policy DM1, DM10, DM17, DM18 and DM22 of the Site Allocations and Development Management Policies DPD.

11. Recommendation

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

- Planning conditions outlined at the end of this report.

11.2. That the Head of Planning and Development 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: Existing

Elevation, Proposed Elevation, Proposed Ground Floor Plan, Existing Ground Floor Plan, Existing First Floor Plan, Site Location Plan received by the Local Planning Authority on the 13 April 2017; and Amended Site/Block Plan and Amended proposed car park layout received by the Local Planning Authority on the 12 June 2017 and Proposed First Floor Plan received by the Local Planning Authority on the 21 August 2017.

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 occupation of the development hereby permitted, vehicle and cycle parking facilities shall be provided, as shown in the 'Proposed Car Park Layout' plan, these shall be hard surfaced and made available for use within the site. The parking area so provided shall not be obstructed and shall thereafter be permanently so maintained.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area; and in the interests of the sustainability of the development and to encourage alternative transport choice in accordance with Policy DM18 of the Site Allocations and Development Management Policies DPD.

4. If any vehicular access gates, barriers, bollards, chains or other such obstructions are to be erected they shall be set back a minimum distance of 5 metres behind the highway boundary and shall be hung so as not to open outwards.

Reason: To enable a vehicle to stand clear of the highway whilst the gates are opened/closed and protect the free and safe passage of traffic, including pedestrians, in the public highway in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD.

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any Order revoking and re-enacting that Order with or without modification) the proposed ground floor should be an A1 Use as a retail shop/café and no other uses inclusive of that order, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that if a material change of use of the premises occurs this could require a suitable ventilation system which could harm the amenity and character of the surrounding area in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD.

6. The shop and café shall not be open to the public other than between the hours of: 0700 to 22:30 hours Monday to Sunday including 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.

7. Before first occupation of the flats; the windows serving the bathrooms on the rear (south) and west elevation shall be fitted with obscure glazing to Pilkington Level 3 and shall be permanently retained in that condition thereafter.

Reason: To ensure that the development protects the residential amenity of neighbouring 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 or call 01455 238141.
2. This planning consent is for the change of use to a shop/café on the ground floor with flats on the first floor. A further planning application would be required for the proposed display of adverts and any external changes to the shop front.