
Change of use to B1 (Business)

Report Item No
A7

70A North Street Whitwick Coalville Leicestershire

Application Reference
14/00248/FUL

Applicant:
Mr Neil Wright

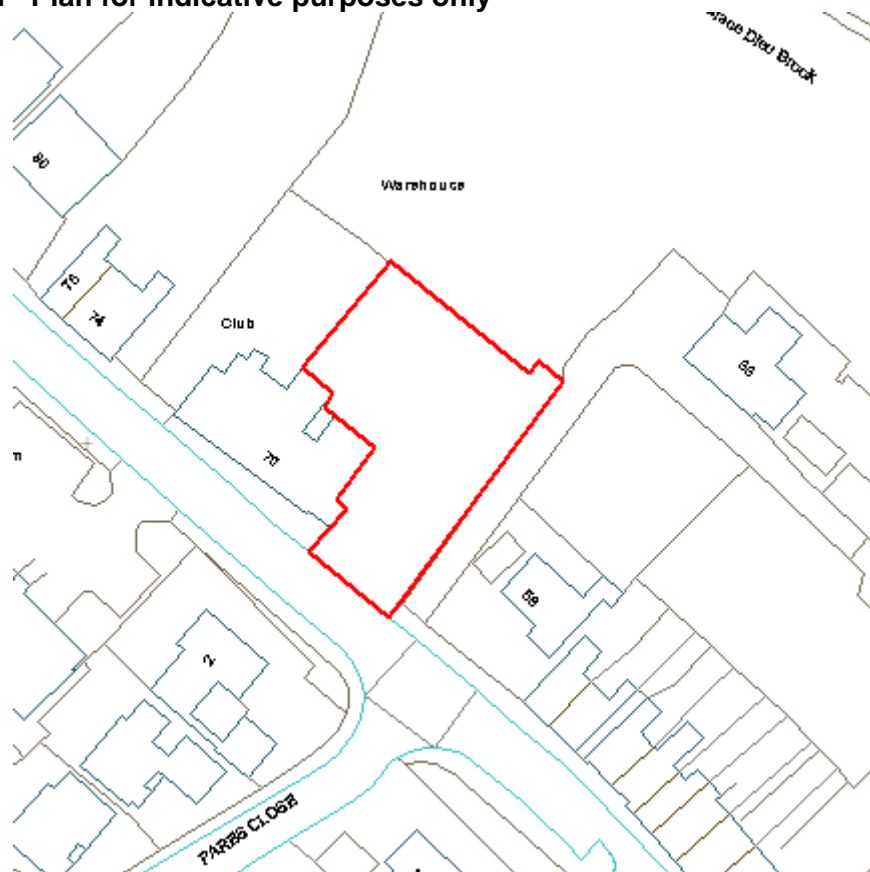
Date Registered
12 March 2014

Case Officer:
James Mattley

Target Decision Date
7 May 2014

Recommendation:
PERMIT

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS AND REASONS FOR APPROVAL

Call In

The application falls to be determined by the Planning Committee as the application has been called in by Councillor Woodward as part of the DEL1 process.

Proposal

The application comprises the change of use from an undertakers to B1 (Business), forming a light industrial workshop and supporting office at 70A North Street, Whitwick.

Consultations

Neighbour objections have been received in respect of the proposal with regards mainly to car parking and ownership issues. Whitwick Parish Council have also raised concerns over these issues. The County Highway Authority raise no objections subject to the inclusion of relevant planning conditions.

Planning Policy

The development is considered to comply with the relevant policies of the North West Leicestershire Local Plan as well as guidance contained within the National Planning Policy Framework.

Conclusion

The principle of the development is considered to be acceptable. The proposal is not considered to affect residential amenity in the area, have any significant detrimental design impacts or conflict with highway safety. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3, E4, T3 and T8. It is therefore recommended that the application be permitted.

Members are advised that the above is a summary of the proposals and key issues contained in the main report below which provides full details of all consultation responses, planning policies, the Officer's assessment and recommended conditions, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

The application comprises the change of use from an undertakers to B1 (Business), forming a light industrial workshop and supporting office. Hours of operation are proposed to be 0700 to 1800 hours Monday to Friday and 0800 to 1200 hours on Saturdays with no working on Sundays and Bank Holidays. There are proposed to be 8 full time employees and 2 part-time employees, creating the equivalent of 3 additional full time jobs.

The property is to the rear of the site with hardstanding to the foreground and to the side which is used for parking. To the centre of the site is the club with residential properties to each side. This includes a number of properties on Pares Close. There is open space to the rear and the Grace Dieu Brook.

There is a detailed history on the site. This includes 07/01664/FUL for the change of use of shop to indoor play centre with associated car parking which was withdrawn, 08/00043/FUL for the change of use of shop to indoor play centre with associated car parking which was approved and 13/00336/FUL for the change of use from D2 (Assembly and Leisure) to a funeral directors (A1 use class) with ancillary functions room which was approved.

Additional/amended information and plans have been submitted during the course of the application to show the car parking arrangements and legal information regarding title deeds to show that the car parking spaces are available.

2. Publicity

13. No neighbours have been notified (Date of last notification 4 September 2014)

Site Notice displayed 25 March 2014

3. Consultations

Whitwick Parish Council consulted 20 March 2014

County Highway Authority consulted 20 March 2014

4. Summary of Representations Received

Whitwick Parish Council: expressed concerns that there are no parking spaces allocated to the building the subject of the application.

County Highway Authority: originally provided standing advice for the Local Planning Authority to consider parking. Following the concerns that were expressed the County Highway Authority has provided more detailed comments in which they requested alterations to the car parking layout in order to allow cars to turn within the car parking area. On the basis of the latest amended plan the County Highway Authority raises no objection subject to the imposition of relevant conditions.

Neighbours: one letter received from the Club, objecting on the grounds that the applicant does not have any car parks to the landlocked building. Both car parks to the rear belong to the club and the applicant does not have the right to determine where spaces should be marked and where bins are to be placed along with a suggested cycle rack outside the club's emergency door. The club has not entered into any verbal or written agreement with the applicant to use

the car park.

One letter objecting on the grounds that the car parking layout gives concern, the applicant does not own any land other than the footprint of the building and has no scope for car parking, are aware there is a covenant on the adjacent club allowing the occupiers of the property at 70a to park on their land for a limited amount of time but there is also a covenant the other way round allowing the club to restrict the use of 70a to warehousing only. Aware planning does not take into account covenants but the situation is that the applicant has no parking associated with the building whatsoever or access to the building without relying on easements and covenants.

One letter objecting on the grounds that the hours of use would be extensive, the use would be the only industrial use in a 95% residential area, the building is surrounded by housing and is not suitably located to have any form of industrial usage. All residents are worried about noise and do not want noisy machinery for 11 hours per day.

5. Relevant Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The Department of Communities and Local Government published the National Planning Policy Framework (NPPF) on 27 March 2012. The NPPF brings together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. The NPPF contains a number of references to the presumption in favour of sustainable development. It states that local planning authorities should:

- approve development proposals that accord with statutory plans without delay; and
- grant permission where the plan is absent, silent or where relevant policies are out of date unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.

The NPPF (Para 215) indicates that due weight should be given to relevant policies in existing development plans adopted before 2004 according to their degree of consistency with the Framework. The closer the policies in the development plan to the policies in the Framework, the greater weight they may be given.

North West Leicestershire Local Plan:

Policy S2 relates to development within Limits to Development.

Policy E3 relates to residential amenity.

Policy E4 relates to visual amenity.

Policy T3 relates to highway standards.

Policy T8 relates to parking.

Submission Version Core Strategy

At a meeting of the Full Council on 29 October 2013, the District Council resolved to withdraw the Submission Core Strategy.

6. Assessment

Principle

The site is within the Limits to Development of the settlement and the proposed use, B1 light industry, is generally an acceptable use within residential areas. The area is mixed in terms of use with the club to the front of the site but is predominantly residential. As such the proposed use is considered acceptable in principle subject to impacts upon design, amenity, highway safety and any other material considerations.

Residential Amenity

The building has been used for a variety of purposes including an indoor play area and a funeral directors. A B1 use is considered to be compatible with residential properties in terms of noise, disturbance, hours of use, deliveries etc. and, therefore, it is considered the residential amenities of occupiers of neighbouring properties would not be unduly harmed by the proposal.

The applicant has suggested operating times between 0700 to 1800 hours Monday to Friday and 0800 to 1200 hours on Saturdays with no working on Sundays and Bank Holidays. The existing planning permission on the site for an A1 use restricts the hours of operation between 0830 to 1800 hours Monday to Friday and 0830 and 1200 hours on Saturdays and not at all on Sundays. The previous operating times that have been agreed on the site would appear to be more appropriate for a B1 use. A condition could be attached to the grant of any planning permission in order to secure appropriate operating times.

It is, therefore, deemed that the development would not have any significant detrimental impact upon neighbouring residential amenities and is considered to be acceptable in relation to Policy E3 of the Local Plan.

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Highway Safety

The site would be served by parking to the front of the building and parking to the side. The application originally stated that there would be a total of 14 spaces (of which 12 were stated as usable), 6 disabled spaces, 2 motorcycle spaces and 4 cycle spaces. The application form does however state the parking plan submitted is slightly optimistic as it shows a total of 19 spaces.

Concern has been raised by neighbours that the applicant does not have control over the parking as stated in the application.

In response to these concerns, the applicant was advised to clarify the situation on the site with regard to ownership and to provide a scaled car parking plan which demonstrated a workable car parking arrangement. An amended plan was submitted showing two car parking options and the County Highway Authority (CHA) have been asked to provide comments on the amended car parking proposals. The CHA stated the following:

As the building has an existing use attached to it, we are able to raise little objection to the proposal, even though the parking arrangement is constrained. None of the parking proposals (Parking1 or Parking2) are acceptable as they requires cars to reverse out into the highway,

however a modified version of parking1 removing spaces 6-9 will allow cars to turn within the carpark to the west of the site and exit in a forward direction.

There is good visibility on the approach along North Street and a speed reducing feature in front of the property, which gives protection to cars reversing out from the eastern carpark, so reversing from this location is acceptable.

This arrangement will provide 13 carparks which should be acceptable as the application proposes 8 full-time and 2 part-time employees. There are TROs adjacent to the site which prevent parking in inappropriate locations should there be any short term shortfall for visitors.

The applicant has submitted a further amended plan to address the comments made by the CHA and car parking spaces 6-9 have been removed in order to allow turning facilities on the site. The CHA raise no objection to the proposed scheme subject to the car parking spaces being surfaced and marked out and thereafter maintained in perpetuity.

In terms of whether the applicant has control over the car parking spaces, the land registry details supplied appear to demonstrate that the applicant is able to utilise all of the car parking spaces with the exception of two spaces. The two spaces appear to be available to the working men's club between the hours of 8.00am to 6.00pm Monday to Friday (inclusive) and 8.00am to 12.00 noon on a Saturday but exclude all Bank Holidays. Whilst this would be more of a legal issue, rather than a planning matter, the proposed use may generally not coincide with the existing use of the adjoining building (used as a Working Men's Club) and so if these uses do share the car parking, in practice, this is likely to be acceptable.

A condition would be required for the car parking to be marked out and surfaced as shown on the submitted plan prior to the first use of the building and thereafter retained. If there is any legal reason why these spaces cannot be laid out or utilised then that would prevent the planning permission being implemented.

In terms of the ownership/legal issues that have been raised it is also noted that the Local Planning Authority has granted previous planning applications on the site (13/00336/FUL and 08/00043/FUL) based on the same site area.

Having regard to all of the above, and that the County Highway Authority has no objections; it is not considered that the proposal would conflict with highway safety policies T3 and T8 in the Local Plan or the advice contained in the County Council's 6C's document.

Design and Visual Impact

The proposal relates to a change of use and proposes no external alterations. As such no objection is raised on visual grounds and the scheme is considered to be acceptable in relation to Policy E4 of the Local Plan.

Conclusions

The principle of the development is considered to be acceptable. The proposal is not considered to affect residential amenity in the area, have any significant detrimental design impacts or conflict with highway safety. There are no other relevant material planning considerations that indicate planning permission should not be granted. The proposal is deemed to comply with the relevant policies in the Local Plan, in this case S2, E3, E4, T3 and T8. It is therefore recommended that the application be permitted.

RECOMMENDATION - PERMIT subject to the following condition(s):

- 1 The development 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).

- 2 The use hereby permitted shall only operate between 0830 hours and 1800 hours Monday - Friday, and between 0830 hours and 1200 hours on Saturdays and not at all on Sundays.

Reason - To ensure that the use operates in a satisfactory manner and does not unduly disturb adjoining occupiers or prejudice local amenity generally, and to ensure that adequate off-street parking provision is available to reduce the possibilities of the proposed development leading to on-street parking problems in the area.

- 3 No gates shall be erected to either vehicular access.

Reason - To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway.

- 4 No walls, planting or fences shall be erected or allowed to grow on the Highway boundary exceeding 0.9 metres in height above the level of the adjacent carriageway.

Reason - To afford adequate visibility at the accesses to cater for the expected volume of traffic joining the existing highway network and in the interests of general highway safety.

- 5 Before first use of the development hereby permitted, the car parking layout shown on the approved plan, shall be surfaced and marked out and shall thereafter be retained in perpetuity.

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.

- 6 The use of the premises shall be strictly limited to Class B1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that order.

Reason - Changes to other uses normally permitted by the Town and Country Planning (General Permitted Development) Order 1995 would be harmful to the amenities of the area.

Notes to applicant

- 1 Planning permission has been granted for this proposal. The Local Planning Authority acted pro-actively through positive engagement with the applicant during the determination process which led to improvements to the scheme. The Local Planning Authority has therefore acted pro-actively to secure a sustainable form of development in

PLANNING APPLICATIONS- SECTION A

line with the requirements of the National Planning Policy Framework (paragraphs 186 and 187) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended).