

Installation of new shop front and air conditioning unit
(retrospective application)

Report Item No
A5

Rose Of Bengal 42 Borough Street Castle Donington Derby
DE74 2LB

Application Reference
16/00160/FUL

Applicant:
Mr Hana Miah

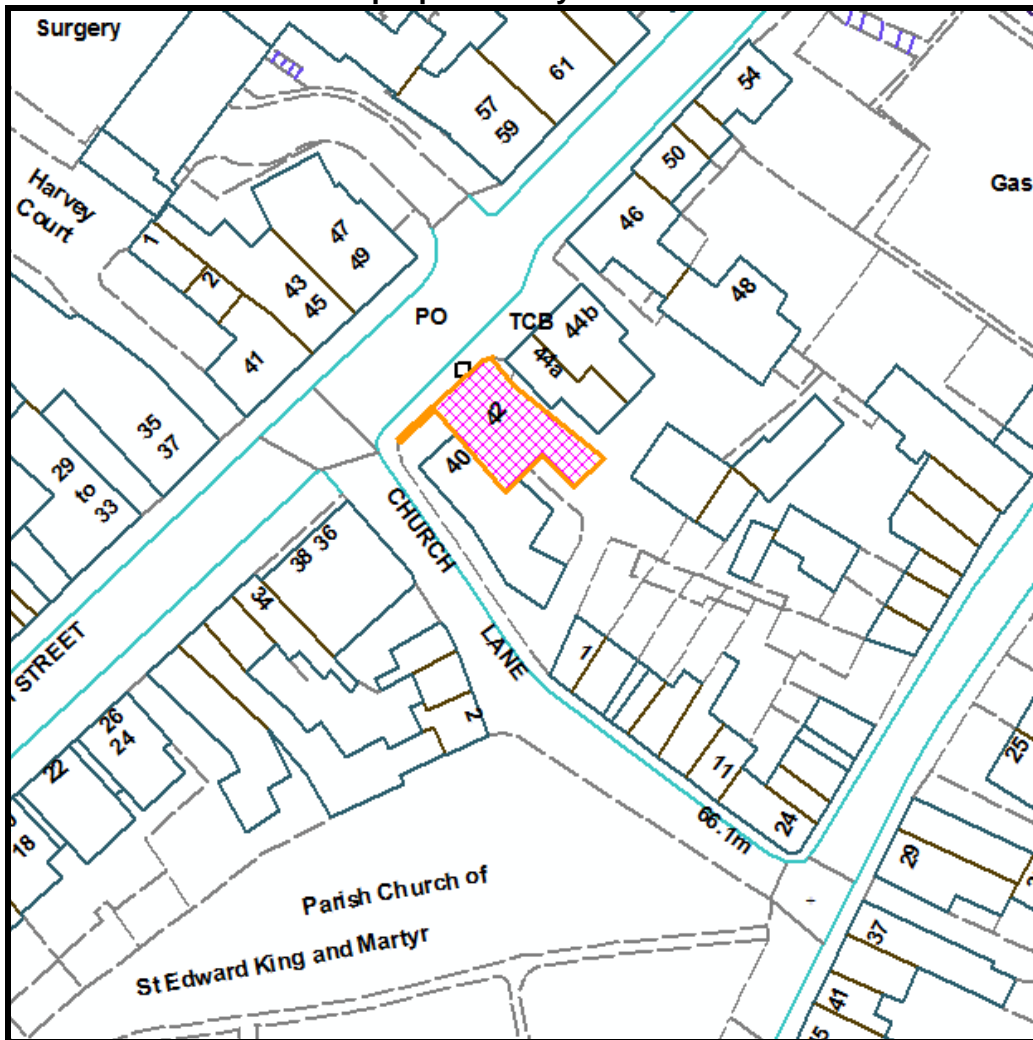
Date Registered
22 April 2016

Case Officer:
Adam Mellor

Target Decision Date
17 June 2016

Recommendation:
REFUSE

Site Location - Plan for indicative purposes only



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EXECUTIVE SUMMARY OF PROPOSALS

Call In

The application has been brought to the Planning Committee to allow Members to assess the design detailing and material of construction utilised in the replacement shop front.

Proposal

Retrospective planning permission is sought for the installation of a new shop front and air conditioning unit at the Rose of Bengal, 42 Borough Street, Castle Donington. The application site is situated on the southern side of Borough Street and is within the Castle Donington Conservation Area and Local Centre.

Consultations

No third party representations have been received although Castle Donington Parish Council have objected to the application.

Planning Policy

The proposed development is considered contrary to the aims of Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the National Planning Policy Framework, Policy E4 of the adopted North West Leicestershire Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Conclusion

In the opinion of the Local Planning Authority, because of the inappropriate design of the shop front as installed, the proposed development would have an adverse impact on the character and appearance of the Castle Donington Conservation Area. Therefore, the proposal would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

RECOMMENDATION - REFUSE.

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 recommendations, and Members are advised that this summary should be read in conjunction with the detailed report.

MAIN REPORT

1. Proposals and Background

Retrospective planning permission is sought for the installation of a new shop front and air conditioning unit at the Rose of Bengal, 42 Borough Street, Castle Donington. The site is located on the southern side of Borough Street and forms a semi-detached three storey building with a restaurant at ground floor level and flats above. The building is set at a higher land level than Borough Street, being approximately 1-1.8 metres higher. The previous shop front was made up of two large stained timber windows with glazing bars set on a red brick stall riser, with an off-centre door and its northern pane set back 300mm from its southern pane. The new shop front is made up of four equal sized uPVC windows (with no glazing bars) with a dark brown finish on a painted brick stall riser, with a door located at its northern end, and the whole shop front is on a straight alignment. The shop front is located on a modern single storey front extension which projects forward of the three storey older building. An air conditioning unit has also been installed on the northern elevation of the three storey building at ground floor level.

The site lies within the Castle Donington Conservation Area. No. 41 Borough Street is a Grade 2 listed building. Nos. 40, 43 & 45 and Nos. 47 & 49 Borough Street are designated in the Conservation Area Appraisal as unlisted buildings of interest. The site is identified on the Proposals Map for the adopted North West Leicestershire Local Plan as being within the defined Limits to Development and the Castle Donington Local Centre, with the surrounding area consisting of other commercial uses often with flats above.

The most recent application relates to the display of three externally illuminated fascia signs (15/00362/ADC) which was approved August 2015 and permission was also granted for a rear porch and alterations (02/01472/FUL) in March 2003. Other applications relate to the use of the site as a restaurant and for the sale of takeaway hot food (04/00641/VCI, 99/0036, 98/0506, 95/0101 and 92/0260 refer).

2. Publicity

12 no. neighbours have been notified (Date of last notification 26 April 2016)

Site Notice displayed 6 May 2016

Press Notice published 4 May 2016

3. Consultations

Castle Donington Parish Council consulted 26 April 2016

Airport Safeguarding

NWLDC Conservation Officer

Planning Enforcement

Head of Environmental Protection

4. Summary of Representations Received

The following summary of representations is provided. Members will note that full copies of correspondence received are available on the planning file.

Castle Donington Parish Council objects as the proposal does not conform to shop front/Conservation Area guidelines or match with other shops and suggests that the applicant

liaises with the Conservation Officer.

East Midlands Airport Safeguarding has no objection.

NWLDC - Conservation Officer has no objections.

NWLDC - Environmental Protection has no environmental observations.

Third Party Representations

No third party representations have been received.

5. Relevant Planning Policy

National Policies

National Planning Policy Framework

The NPPF (Paragraph 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.

Save where stated otherwise, the policies of the North West Leicestershire Local Plan as listed in the relevant section below are consistent with the policies in the NPPF and, save where indicated otherwise within the assessment below, should be afforded weight in the determination of this application.

The following sections of the NPPF are considered relevant to the determination of this application:

Paragraph 14 (Presumption in favour of sustainable development);
Paragraph 17 (Core planning principles);
Paragraphs 18-20 (Building a strong, competitive economy);
Paragraph 57 (Requiring good design);
Paragraph 60 (Requiring good design);
Paragraph 61 (Requiring good design);
Paragraph 69 (Promoting healthy communities);
Paragraph 123 (Conserving and enhancing the natural environment);
Paragraph 131 (Conserving and enhancing the historic environment);
Paragraph 132 (Conserving and enhancing the historic environment);
Paragraph 134 (Conserving and enhancing the historic environment);
Paragraph 137 (Conserving and enhancing the historic environment);
Paragraph 203 (Planning conditions and obligations);
Paragraph 204 (Planning conditions and obligations);
Paragraph 206 (Planning conditions and obligations);

Adopted North West Leicestershire Local Plan (2002)

The application site is within the Limits to Development as defined in the adopted North West Leicestershire Local Plan. The following Local Plan policies are relevant to this application:

Policy S1 sets out 13 criteria which form the strategy for the adopted Local Plan;
Policy S2 - Limits to Development;
Policy E3 - Residential Amenities;
Policy E4 - Design;

Policy T20 - Airport Safeguarding;

Draft Consultation North West Leicestershire Local Plan

On 15 September 2015 the District Council's Full Council considered a draft Local Plan and resolved to approve the draft Local Plan for consultation. The draft policies listed below are considered relevant to this application. However, as the proposed publication version of the Local Plan is to be considered by Council on 28th June with a view to its submission for examination in September, more weight can now be attributed to its policies at this stage.

Policy S1 - Presumption in Favour of Sustainable Development;

Policy S5 - Design of New Development;

Policy Ec6 - East Midlands Airport: Safeguarding;

Policy He1 - Conservation and Enhancement of North West Leicestershire's Historic Environment;

Policy Cc2 - Sustainable Design and Construction;

Other Policies

National Planning Practice Guidance

In March 2014 the Government published National Planning Practice Guidance (NPPG) to supplement the NPPF. The Guidance does not change national policy but offers practical guidance as to how such policy is to be applied;

Castle Donington Conservation Area Character Appraisal and Management Plan - March 2001

This document highlights that the village centre displays a variety of architectural styles ranging from late medieval timber framed cottages, through good quality Georgian and Regency town houses to later Victorian shops and houses. The streetscape typically comprises a mixture of two and three storey buildings, the commercial premises having a street-facing shop fronts, service areas to the rear, and domestic or storage accommodation above. Many properties within the village centre are set up to the back edge of the footway, particularly along Borough Street and Clapgun Street.

Planning (Listed Buildings and Conservation Areas) Act 1990

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses;

Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires that special regard shall be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

6. Assessment

The main issues for consideration in the determination of this application relate to the impacts of the development on the historic environment and residential amenities.

Residential Amenity

The building is adjoined by other commercial properties at ground floor and does not extend higher than the previous shop front. As such it does not adversely impact on the amenities of occupiers of nearby residential properties.

Due to the changes in land levels the air conditioning unit is close to the flats located at first and second floor at no. 44 Borough Street. As part of the consideration of the application the Council's Environmental Protection team have been consulted and have raised no objections. Therefore it is considered that a reason for refusal on the basis of an impact on residential amenities from noise and disturbance could not be justified in this case particularly as any noise complaint raised could be addressed under Environmental Health Legislation.

On this basis the proposal would accord with Paragraph 123 of the NPPF and Policy E3 of the adopted Local Plan.

Impact on the Streetscape and Historic Environment

The need for good design in new development is outlined not only in adopted Local Plan Policy E4 but also Paragraphs 57, 60 and 61 of the NPPF with Paragraph 61 outlining that *"although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment."*

The heritage statement submitted in support of the application highlights that the shop front installed has been designed to improve disabled access into the premises and that it is contained within a modern single storey flat roof extension which projects forward of the principal elevation of the building. The Castle Donington Conservation Area Appraisal also identifies that the building is not an 'unlisted building of particular architectural or historic interest.'

In raising objection to the application Castle Donington Parish Council has stated that the proposed shop front does not conform to shop front/conservation area guidelines or match with other shops and suggest the applicants liaise with the Council's Conservation officer.

In light of the objection from the Parish Council, the Council's "Shopfront Guidance - advice on traditional shop fronts and signage" has been taken into account, even though the Rose of Bengal does not have a traditional shop front.

In reviewing the application the Council's Conservation Officer has stated the following: -

"The previous shop front was made of stained timber on a red brick stall riser. There was a central entrance door set in a slight recess. To either side of the entrance door, there was a single shop window with glazing bars. The glazing bars reflected the character of the upper floor windows, but the use of glazing bars in that manner is not a characteristic of shop fronts on Borough Street.

The replacement shop front is made of uPVC with a dark brown finish, set on a painted brick stall riser. There is no entrance recess. The entrance door is set to the extreme left of the shop front. The shop window is divided into four parts by mullions; there are no glazing bars.

I would not object to the replacement of the shop front. I remember that PPG15 (1994) advised that "factory-made standard windows of all kinds, whether in timber or plastic, [are] almost always damaging to the character and appearance of historic buildings". PPG15 also advised against the use of "stained or varnished softwood." In this context I consider that a factory-made uPVC shop front is generally no more harmful than a factory-made timber shop front. The

retention of glazing bars would have better reflected the character of the upper floor windows, but the incorporation of mullions better reflects the character of shop fronts on Borough Street including the listed shop front at 41 Borough Street."

For the avoidance of doubt, the shop front which has been replaced was not the 'traditional' shop front for the premises given that it was constructed on a modern extension and had design detailing which was not particularly consistent with shop fronts in the immediate area.

The shop front as installed does not strictly accord with, the Council's "Shopfront Guidance - advice on traditional shop fronts and signage". However, in the context that any new shop installed would be in a modern front extension, a more modern shop front at the Rose of Bengal would be considered to be acceptable in principle.

It is noted that the new shop front was installed without planning permission and that the applicant did not seek any pre-application advice on the shop front detail before it was installed. While it is accepted that the Council's Conservation officer has raised no objections to the proposal, it is considered that the detailed design of the shop front could have been improved if pre-application advice had been sought. Potential improvements could have been achieved by the introduction of smaller glazing panels and a structural transom and by incorporating a recessed door opening.

While the new modern shop front at the Rose of Bengal better reflects the character of some shop fronts on Borough Street including the listed shop front at 41 Borough Street, on balance, it is considered that the design of the shop front as installed results in harm to character and appearance of the Castle Donington Conservation Area and consequently to the significance of heritage assets. This harm is not outweighed by the benefits of the proposal, including that the applicant designed the shop front to improve disabled access into the premises.

It is considered that the retention of the air conditioning unit would not result in harm to the significance of the heritage asset given its location on the side of the building and lack of visibility from the public domain. This position would also ensure that the air conditioning unit would not impact adversely on the appearance of the streetscape.

Overall, by virtue of the design of the proposed shop front, the development would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Other Matters

East Midlands Airport Safeguarding have raised no objections to the application and as such the development would accord with Policy T20 of the adopted Local Plan.

Conclusion

In the opinion of the Local Planning Authority, because of the inappropriate design of the shop front as installed, the proposed development would have an adverse impact on the character and appearance of the Castle Donington Conservation Area. Therefore, the proposal would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

RECOMMENDATION - REFUSE, for the following reason;

- 1 In the opinion of the Local Planning Authority, because of the inappropriate design of the shop front as installed, the proposed development would have an adverse impact on the character and appearance of the Castle Donington Conservation Area. Therefore, the proposal would not accord with Paragraphs 57, 60, 61, 131, 132, 134 and 137 of the NPPF, Policy E4 of the adopted Local Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Notes to applicant

- 1 Retrospective planning permission has been refused for this proposal for the clear reasons set out in this decision notice. It is considered that the development is not acceptable in principle and therefore the Local Authority has not entered into dialogue to seek any amendments. The Local Planning Authority has therefore complied 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 2015.