
9. FULL APPLICATION – CHANGE OF USE FROM A2 TO A3: FROM BANK TO RESTURANT AT BANK HOUSE, MAIN ROAD, HATHERSAGE. (NP/DDD/1016/1081 423019 / 381537 P2054 & P6715 SPW 03/11/2016)

APPLICANT: MR SAM BELL

This application was deferred at March's Planning committee for further discussion with the applicant to address concerns over potential disturbance, bin storage, parking, noise and odour issues.

The outcome of the discussion has been that amended plans have been received showing the location of the kitchen extractor relocated so that it would now be routed internally up to the main roof level to an external flue. The noise and environmental management plan has been revised accordingly.

The applicant has also reassessed the areas shown for bin storage and maintains that the area shown within the walled yard is sufficient for their needs. Their submitted operating procedure OP06 has been expanded to specify the precise type of bins to be used and the constraints and control on their use.

In relation to parking the applicant has modified their operating procedure OP5 to clarify customer, employee and delivery parking control including providing as much information as possible to encourage customers to use public transport.

Site and Surroundings

Bank House is a prominent building situated on the north side of the main road within the centre of Hathersage village and within the designated Conservation Area. The building until recently housed the Nat West Bank but is now vacant. It is a three storey building built from natural gritstone under a slate roof and being a former bank was built in a formal architectural style reflecting its former use. The building forms a key focal point in the streetscene mainly as a result of its scale and positioning immediately at the back of the footway but also helped by the presence of a small triangular off-street parking area immediately to the west of the building which allows uninterrupted views of the building all the way down main street to the west. Although the main building is three storeys on the north side, the building is part two storeys under a flat parapet roof alongside which, at ground level, is a small open yard enclosed behind a tall boundary wall.

To the north of Bank House across a very narrow street is a terrace of 3 listed buildings, 1-3 Bank Cottages which face Bank House. These are also three storeys, but much lower in overall height than Bank House. Building to building these are approximately 6m apart and therefore there is a close relationship here between the windows of Bank house and the terrace.

There are dwellings across from Bank House on the opposite (south) side of the Main Road at a distance of approximately 15m.

Proposal

The change of use of the building from a bank to a restaurant. Externally there is only one change which is that the proposed kitchen extract/flue as submitted would have terminated on the flat roofed section on the north side of the building. Amended plans have repositioned the flue to that it is routed internally within the building up to roof level at which point there is an external flue.

Plans show the ground floor of the building would include informal dining and bar/lounge area, the first floor would house formal dining and the kitchens with the second floor having a function

room, administration office and managers accommodation. The number of table covers proposed is approximately 50 including informal tables. The proposed opening hours of the restaurant are 10:00 – 23:00 daily.

The submitted plans show 3 signs which do not form part of the proposal as signs are covered by the advertisement regulations. These would therefore need to form part of a separate application for advertisement consent and a footnote to this effect is suggested in the event this application is approved. The signs are not shown on the amended plans.

RECOMMENDATION:

That the application be APPROVED subject to the following conditions

- 1. Standard time limit for commencement**
- 2. Development in complete accordance with the submitted plans BH4 and the amended plan BH3A, and specifications.**
- 3 The premises shall be used as a restaurant (use class A3) and for no other purposes.**
- 4. The bins shall be stored only within the walled yard area shown on the approved plans 'BH4'.**
- 5. Prior to commencing any development whatsoever the final detailed specification and design for the kitchen extraction and filtration system (to prevent noise and odour nuisance) shall be submitted to the Authority for approval in writing. This shall achieve a target level of no more than 33dbLAeq 1m from the façade of the nearest dwellings (1-3 Bank Cottages). The specification shall be agreed prior to the system being commissioned and the ventilation system shall not be installed other than in complete accordance with the agreed details and shall then be permanently so maintained throughout the lifetime of the development to prevent noise and odour nuisance.**
- 6. Prior to commencing the use hereby permitted the recommendations in the Noise impact assessment '12093.01.V1' shall be carried out to the premises and permanently so maintained. If at any time during the lifetime of the development the premises are intended to be used for 'Higher Sound levels' as defined in submitted assessment, then the 'Higher Sound Levels' recommendations shall be fully implemented prior to any such an event and shall thereafter be permanently so maintained. Any alterations to the external appearance of the property required shall be submitted for approval in writing by the Authority prior to any works being carried out.**
- 7. Throughout the lifetime of the development, the use hereby permitted shall be operated in complete accordance with the submitted Noise, Odour and Environmental Management Plan 'BHEvPlan I Issue No. 02-15-03-2017'. Prior to incorporating any changes as a result of the planned reviews to the Noise, Odour and Environmental Management Plan these shall first be submitted for approval in writing by the Authority and thereafter carried out in complete accordance with the agreed details.**
- 8. The opening hours shall be restricted to 10:00 – 23:00.**

9. **There shall be no live music on the premises unless a noise management plan is submitted and approved.**
10. **Deliveries and collections shall be limited to between 8:30 and 17:30 on Monday to Friday only, 8:30 to 13.00 Saturdays. There shall be no deliveries or collections on public holidays or Sundays.**
11. **The manager's accommodation shall be ancillary to and remain within the same planning unit as the Restaurant hereby approved.**
12. **At the time of installation the flue hereby approved shall be painted a matt dark grey colour and shall be permanently so maintained.**

Footnote: Planning permission does not grant consent for any signage which would need to be subject to a separate application for advertisement consent.

Key Issues

- Is the principle of loss of the financial and professional use (A2) acceptable and within the terms of Core Strategy Policy HC4?
- Is the proposed use for a restaurant acceptable and within the terms of CS HC4, HC5 and LPP LS1?
- Is the impact of the proposed use acceptable on its setting – with particular reference to the amenity of adjacent residents?
- Will the proposal conserve the character and appearance of the Conservation Area or affect its significance?

History

1990 – NP/WED/1289/702 Change of use of flat to office – Granted and implemented.

2011 – NP/DDD/0611/0521 Permission granted for the change of use and conversion of the 1st and 2nd floors to 2no residential units. This included a condition that -There shall be no external storage of materials or equipment, including refuse sacks, waste bins, wheelie bins or similar within the application site, including the car park or on the adjacent footways at any time. The only exception to this shall be for waste materials to be put outside awaiting collection on the designated day for the municipal waste collection service.

2016 – Enquiry 27281 Pre-application advice was offered explaining that CS HC4 and HC5 are permissive of the principle of change of use from Bank to Restaurant, subject to justifying letting the existing community use go and considering other community uses and no adverse impact on its surrounding. Officers also explained that the kitchen flue would need to be sited discreetly and not harm the amenity of neighbouring properties.

Consultations

Highway Authority – No objections.

District Council Planning – No response to date.

District Council Environmental Health – 20.12.2016 Initial concerns in relation to noise and potential odour from the change of use. Therefore recommend a noise impact assessment be

undertaken with regard to the activities planned and corresponding mitigation and also details of any kitchen extraction system with reference to noise and odour and how these will be mitigated.

21.02.2017 In receipt of the noise and odour management plan. Satisfied with the contents and recommend the following:

- That a condition be applied to agree the final specification (for odour and noise) for the ventilation system once designed and that the target noise level of 33dBLAeq be applied 1m from the façade of the nearest dwelling. The specification should be agreed before commissioning.
- That a condition requiring the noise consultant's recommendations be implemented where required and if the function room is to be used or any other part of the building for live music the LPA is consulted and any further noise control measures agreed.
- The hours of 10:00-23:00 be restricted by condition.
- If the Noise, Odour and Environmental Management Plan is altered the LPA is consulted.

Parish Council – Strongly objects; their full response can be seen on the website. In summary the objections are raised on the following grounds:

- Highways issues and car parking - There is not adequate off street parking space available, nearby on road parking is limited to 40mins between 8am to 6pm. The larger 150 space pay and display carpark is 150m away and accessed via a narrow unlit footpath. No provision mentioned for parking for delivery vehicles. A permanent right of way providing access to the rear of Bankhouse and access to Bank Cottages and Besom Lane properties is via the narrow 'lane' to the east of the building. Both of these need to remain clear for emergency vehicle access.
- Noise and disturbance resulting from use - The proposal is to open from 10:00 to 23:00. The Grade 2 listed Bank Cottages are only 6.5 metres from the building, with the proposed extractor fan sited opposite the bedroom windows. Collection of trade waste, emptying of rubbish as the staff members clean up will generate noise. Customers leaving the premises late at night will create a disturbance in the area. The daytime opening hours will have an impact on all the other businesses in the area.
- Odours - Cooking smells via the extractor are opposite bedroom windows. The siting of waste bins appears to be intended to be within the 6.5 metre cobbled area, potentially emitting smells within a very confined space.
- Impact on listed buildings and Conservation Area - Bank House is within the village conservation area, behind it are 3 Grade 2 listed cottages set within a cobbled area. As they are listed buildings, the residents of the cottages cannot fit double glazing or alter the cottages in any way to mitigate the effects of noise, smells or lights emanating from a restaurant so close to them. Access for trade waste disposal is potentially over the cobbled area, likely to cause harm to the cobbles. It is an historical site of a brass button making factory. It is visited regularly by school parties and tourists. It is also used as a location for wedding photos. Additional trade waste bins, traffic, cooking smells, external lighting and signage will all have an impact on the ambience of the area.
- Disabled persons access to the building - The application proposes disabled access through a side door on the eastern side. This opens onto the narrow right of way with vehicle access, and does not allow the provision of disabled parking.
- Risk of flooding - Dale Brook (which flooded School Lane and Hathersage Hall on 21st November 2016) runs directly under the building. This causes some concern regarding the disposal of trade effluence.
- Effect on the village - The Parish Council are keen to see the building being used and not left to stand empty for a long period, but do not feel that this proposal meets the needs of the village. More diversity of businesses is needed. Within 50 yards of the building there is a café open during the day and summer evenings; 2 Indian restaurants both open evenings for takeaways and dining in: within easy walking distance are 3 further cafes, 2 day time only, one of which is within the outdoor clothing shop & providing its own car

park), 1 day time with bistro evenings and The George Hotel offering fine dining with its own large car park. Bank House is in the centre of the Conservation Area, surrounded by Grade 2 listed buildings. The application does not acknowledge the significance of this.

Representations

23 representations have been received. 14 object to the proposal and 9 support it.

Objections are raised on the following grounds:

- 6 parking spaces is not enough parking spaces for the staff and customers the restaurant can hold.
- The proposal will raise parking issues.
- There is no vehicular access to the bin store which is proposed to the rear.
- Access is required at all times to the properties behind for residents and emergency vehicles.
- Concern about noise from customers walking to the premises and ambient music for private functions.
- Concern about noise from the extractor fan and from the kitchens and bin store.
- Smells from the bins will attract vermin.
- Proposal will impact on the amenity of nearby neighbours, particularly in the summer months.
- As the properties behind are grade 2 listed they may not be able to install double glazing to mitigate the impact of noise and odours.
- Overlooking of nearby residential properties. Not previously a problem with the bank as it was open 9-5. The property would overlook the Livingroom and bedroom windows of 6 Ibbstones farm cottage,(these are on the opposite side of the Main Road).
- Impact of lighting on nearby properties.
- No need for further restaurant business in the area.
- A restaurant of this size is completely inappropriate for the village.
- Serious and detrimental effect on the quality of life of the occupiers of dwelling close by.
- Kitchen smells will be overpowering on nearby residents.
- There will be a substantial increase in noise levels from customers, the kitchens and it is highly likely that in the summer the external doors would be left open. The rear doors are very close to the cottages behind and noise from this will affect residents.
- The internal bin store area is too small and if large trade bins were located in the cobbled area this would have a serious and detrimental affect on the cottages behind. With odour and vermin implications.
- Detailed plans need to be submitted to show where the bin storage will be as the storage shown appears to be inadequate.
- Secure cycle parking should be considered.
- The appearance of the parking area at present is unsightly and there is opportunity to upgrade it by improving materials.
- Proposed extractor only a few meters away from the windows of occupant's bedroom and sitting room on the first and second floors. The noise would make it much less pleasant to use these rooms. Smells would also make it unpleasant to open windows to these rooms.
- Initial statements about background noise levels are inaccurate.
- At present after approximately 7.30pm the area is complexly silent the noise would completely change the silence and tranquillity of the area.
- Bins would also be noisy.
- Access – Large vehicles bringing in goods in bottles, barrels and food supplies all have to go in at the small door on the north side of the building. Refuse waste, food fats, bottles and barrels have to go out of the same small back door.
- Potential for blockages on Bessom lane and the property behind the post office.

- Watercourse runs directly under the building, concern about disposal of trade effluence.

Support is raised on the following grounds:

- A new restaurant in Hathersage can only benefit the local economy.
- There is a large public carpark nearby which is often under occupied.
- As one of the two most prominent building in Hatherasage to be underutilised this could avoid it becoming derelict.
- Positive for locals and visitors.
- It will create jobs.
- A welcome alternative restaurant, and more refined place to enjoy a drink.
- Don't consider the traffic/parking situation will change drastically.
- Reuse of vacant commercial premises

Main Policies

Relevant Core Strategy policies: DS1, GSP1, GSP2, GSP3, GSP4, L1, L3, HC4, HC5.

Relevant Local Plan policies: LC3, LC4, LC5, LC6, LS1, LT10.

Assessment

Principle of releasing the existing community facility of a bank for the proposed use as a restaurant.

Core Strategy Policy HC4 sets out the criteria for considering the change of use of a community facility stating that proposals to change the use of buildings or sites which provide community services and facilities including shops and financial and professional services to non-community uses must demonstrate that the service or facility is:

1. No longer needed; or
2. Available elsewhere in the settlement; or
3. Can no longer be viable.

It goes on to say that *'Wherever possible the new use must either meet another community need or offer alternative community benefit such as social housing. Evidence of reasonable attempts to secure such a use must be provided before any other use is permitted.'*

In this particular case the existing bank has already ceased trading from the premises and stands vacant and is a prominent building in the Conservation Area. There is another bank and automated telling machine elsewhere within the village centre so the community facility is available elsewhere in the settlement. As this is a village centre location officers consider it is important that the site is in an active use which contributes to the vitality and viability of the village centre.

A new restaurant as proposed is considered to offer another use of community benefit so is considered to be compliant with policy HC4. This is because the restaurant will offer another active facility to the village centre contributing positively to its vitality and viability and offer some employment. Furthermore it is not considered that it would erode its primary retail function as there is no loss of a retail unit.

The principle of the proposed use is also in accordance with CS Policy HC5 C which is permissive of premises for the sale and consumption of food and drink in villages provided there is no harm to living conditions or to the role or character of the area, including its vitality and viability. This report will consider impact on living conditions in another section (Impact of the proposed use on its setting). The principle of the proposed use is also in accordance with Local Plan policy LS1 which is permissive of development to provide for the sale and consumption of

food and drink in settlements provided it does not erode the primary retail role of the area or harm its character, viability and vitality.

Considering the above, the proposal is considered to be in accordance with the policies of the development plan insofar as they seek to retain existing community uses, set criteria for letting existing community uses change and steer a change of use to other uses of community benefit. The proposal is also in accordance with the policies of the Development Plan that deal with the principle of change of use to a restaurant.

Impact of the proposed use on its setting.

Core Strategy Policy GSP3 and HC5, and Local Plan Policy LC4 protect amenity and the living conditions of neighbouring properties.

As submitted officers were initially concerned that the location of the kitchen extract is on a flat roof to the rear of the building and although higher than the neighbouring dwellings windows it has a close relationship with these dwellings. Because of this close relationship and a concern from officers that the noise and odour issues from the kitchen extract may not be resolvable Officers asked the applicant to consider routing kitchen extract through the existing chimneys in the building but the applicants had already explored this option and found that the diameter of the chimney is not wide enough to line it with the necessary flue.

A comprehensive environmental noise and odour statement has been submitted as supporting information following concerns from the district council Environmental Health Officer. This has been scrutinised by the Environmental Health Officer and it has been accepted that details of the kitchen extraction unit can be reserved for approval as the potential adverse impacts from noise or odour are capable of being dealt with through the design of the unit.

The application was considered at the Planning Committee meeting in March where it was deferred for amongst other things further discussion in relation to disturbance and noise and odour issues. Following discussions with officers the routing of the extract system has been redesigned so that instead of terminating on the flat roof, it now remains internal all the way up to the main pitched roof level as shown on the amended plans. Officers consider that this location is much preferable to the submitted scheme as the height at which it terminates is now much higher than the nearby odour and noise sensitive cottages. Being internally routed the revised scheme should reduce the amount of mitigation required in the detailed design of the system to adequately ensure that there are no noise or odour issues generated by the flue. Essentially the additional height should allow the odours to more easily dissipate, so less mitigation equipment should be required. In respect of noise from the extract motor, the detailed design of the revised extract system is likely to require less mitigation to achieve acceptable standards.

The noise and odour control section of the Noise and Environmental Management Plan has been updated accordingly with the amended siting of the flue. It recommends that the system should be designed to achieve the same noise levels at neighbouring properties.

Planning conditions will still be required to secure the detailed design of the unit. Officers consider that if a planning condition is used to secure these details then it would need to be a true pre condition that does not allow any development until these details are agreed. This is because there remains concern from officers that a restaurant without a kitchen extraction unit is not capable of functioning and therefore the entire acceptability of the scheme relies on the detailed design of the kitchen extraction unit being designed, submitted and approved.

The noise and odour impact assessment considers all potential noise and odour impacts from the proposed use and provides a Noise, Odour and Environmental Management Plan which is

accepted by the Environmental Health Officer and can be required to be implemented and adhered to throughout the lifetime of the development by planning conditions. The Environmental Health Officer has also recommended that the proposed opening hours are restricted by planning conditions.

The noise and odour impact assessment also proposes a number of measures to limit noise from the property and a way to review any issues arising for example if neighbours complained and to update the noise and odour impact assessment and mitigate further if necessary, a planning condition can secure these measures.

The assessment explains that although a function room is shown it is not intended to be for live music. The Environmental Health Officer has recommended that if live music is wanted in the function room or any other part of the building the LPA would need to be consulted and further noise control measures agreed. To achieve this planning condition can be used which states that there shall be no live music at the premises, unless a noise management plan is agreed.

Officers have also considered the impact of the proposed use on the amenity of this terrace of dwellings (Bank Cottages) by way of overlooking, particularly because of the close relationship between the openings in the rear of Bank House in relation to the windows in the terrace of dwellings. The windows in this rear elevation remain the same as existing. On the ground floor the window is to a store. On the first floor the window is to the kitchen, the staff stairs/fire escape and food preparation area and on the second floor the windows are to the manager's bathroom and manager's kitchen/living room. The impact of the existing use in comparison to the proposed use in terms of overlooking is considered to be similar and does not represent an increased impact by way of overlooking.

Some objectors have also raised concerns about overlooking. With regard to the property over Main Road, as these properties are on the other side of the A. road, officers do not consider that the amenity of these properties would be affected significantly enough to warrant refusing the application. In this respect it should also be noted that previously planning permission has been granted for the use of the first and second floor as dwellings.

Noise from bin storage has been raised as an issue in the representations. The Noise and Odour and Environmental Management plan deals with this issue limiting the times that refuse can be brought from the interior into the bin store from 09:30 to 21:30. Odour from the bins has also been raised by objectors, however officers consider that the location of the bins in a walled yard area should ensure that odour issues do arise.

Considering the above, the amenity and living conditions of nearby residents should not be adversely affected by the proposal. The proposal is therefore considered to be in accordance with the policies of the development plan insofar as they protect residential amenity and living conditions.

Impact on Heritage Assets.

CS Policy L3 and LPP LC5 would not permit development that failed to conserve or enhance the valued characteristics of the Conservation Area or which harmed the significance of a heritage asset. Local Plan Policy Would not permit development that harmed the setting of a Listed Building.

The building is not listed but is considered to be a heritage asset within the designed Conservation Area. The proposal itself has only very limited impact on the external appearance of the building. There will be some replacement signage (not part of this application) there is a flue/kitchen vent proposed, as submitted this was to the flat roof of the rear of the building, in the amended plans it is now internal upto the main roof height The location for flue is considered to

be discreet in terms of its visual impact on the building and its Conservation Area setting, and it will not harm the setting of the nearby listed buildings. A planning condition requiring it to be finished a dark colour will be necessary in the interests of the character and appearance of the Conservation Area.

A number of the representations that have been received express concern about the potential of bins to affect the character and appearance and visual amenity of the area. This is understandable. As the bin storage would be where shown on the plans/ in an external walled off courtyard, it is reasonable to overcome these concerns with the use of a planning condition that requires the bin storage to be limited to this area.

Some concerns have been expressed about the potential harm to the cobbles from delivery vehicles. The Highway Authority has not objected to the scheme so there are no grounds to suggest that the street cannot take the comings and goings from delivery vehicles.

The proposal is therefore considered to be in accordance with the policies of the Development Plan insofar as they relate to heritage assets and their settings.

Highways and Parking

Parking and highways issues have been raised by the Parish Council as well as in the representations. However as the lead consultee on these matters the Highway Authority (Derbyshire County Council) has raised no objections, the proposal is considered to be acceptable in highways terms. It should be noted that the Authority's LPP LT10 requires that parking be of a very limited nature for private non-residential parking and CS T7 restricts non-residential parking in order to discourage car use. The proposal is considered to be in accordance with the policies of the development plan insofar as they relate to parking provision.

Since the application was deferred at March's Planning Committee the restaurants operating procedures have been updated in the Noise, Odour and Environmental Management Plan and include clarifying customer, employee and delivery parking control including providing as much information as possible to encourage customers to use public transport. It also details an incentive scheme to encourage use of specific car parks and also public transport.

Manager accommodation

The manager's accommodation is on the top floor and very closely related to the proposed restaurant. A planning condition will be required to ensure that this is ancillary to and remains within the same planning unit as the restaurant.

Flood Risk

The Parish Council has raised the issue of an existing water course already being culverted under the premises. The proposal does not propose anything that would physically affect this. As the site is not within a flood zone there is not considered to be any risk of the property flooding.

Bins and Waste

One of the reasons the application was deferred from March Planning Committee was related to bins and waste. This was also raised in the representations. The applicant has reviewed the requirements of the site and explained that the bin storage shown, which is within a walled off yard area, is adequate. They have also given an example of the type of standard commercial waste bin that will be used, and that it will fit through the access door. With the aforementioned condition requiring that bin storage would be limited to where it is shown on the plans, bins would also be covered. Officers are satisfied that there should not be any further concerns in relation to

bin storage for amenity or character and appearance of the area reasons.

Conclusion

Subject to conditions the proposed use is acceptable and considered to be in accordance with the policies of the development plan and will contribute positively to the vitality of the village centre.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil