

**REPORT TO THE PLANNING REGULATORY BOARD TO BE HELD ON THE
24 February 2022**

The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

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REPORT TO THE PLANNING BOARD
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The following applications are submitted for your consideration. It is recommended that decisions under the Town and Country Planning Act 1990 be recorded as indicated.

Application Number	RB2021/1330 https://rotherham.planportal.co.uk/?id=RB2021/1330
Proposal and Location	Erection of flue on rear roofslope at 22-24 Laughton Road, Dinnington
Recommendation	Grant Conditionally

This application is being presented to Planning Board due to the number of objections received.



Site Description & Location

The application site consists of the former HSBC bank on Laughton Road, Dinnington. The premises are located within Dinnington Conservation Area and Dinnington Town Centre. The building is an attractive half timbered building constructed in the early 20th Century. The surrounding area is commercial in nature with residential properties further to the south.

Background

The planning history of the site relates to its former use as a bank and is not relevant to this application.

The premises were a former bank which up until 1 September 2020 would have been classed as a professional and financial services use class A2, restaurants fell within use

class A3 within The Town and Country Planning Use Classes Order. Therefore, planning permission would have been required to change the use of the premises from a bank to a restaurant. However, the Order was amended and updated on 1 September 2020 and now financial and professional services (including banks) and restaurants fall within the same use class E. Therefore, there is no material change of use of a former bank premises to a restaurant and planning permission is not required for the restaurant.

Proposal

The application seeks full planning permission for the installation of a flue pipe which forms part of an internal extraction system for cooking at the premises.

The applicant has stated that the premises will be converted into a restaurant and the extraction system is required for this. As noted above, the conversion of the bank to the restaurant does not require planning permission in itself and the application is purely for the extract system.

The application as originally submitted was for an external canopy extraction system. However, further to negotiations with the applicant this has been amended to locate the extraction system within the building with only the flue pipe external to the building, projecting through the rear roof slope to approximately the same height as the roof ridge.

Development Plan Allocation and Policy

The Core Strategy was adopted by the Council on the 10th September 2014 and forms part of Rotherham's Local Plan together with the Sites and Policies Document which was adopted by the Council on the 27th June 2018.

The application site is within an area identified for Retail Use in the Local Plan. The site also falls within Dinnington Conservation Area. For the purposes of determining this application the following policies are considered to be of relevance:

CS23 'Valuing the Historic Environment'

SP41 'Conservation Areas'

SP55 'Design Principles'

Other Material Considerations

National Planning Practice Guidance (NPPG).

National Planning Policy Framework: The NPPF (as revised) sets out the Government's planning policies for England and how these should be applied. It sits within the plan-led system, stating at paragraph 2 that: "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise" and that it is "a material consideration in planning decisions".

Dinnington St John's Neighbourhood Plan Adopted May 2021

The Local Plan Policies referred to above are consistent with the NPPF and have been given due weight in the determination of this application.

Publicity

The application as originally submitted has been advertised by way of press notice, site notice and individual letters to neighbouring properties. The Council has received five representations from local residents and neighbours, and from Dinnington Parish Council where five individual Parish Councillors raise objections to the proposal.

The comments largely revolve around the use of the premises as a restaurant and takeaway and that it does not conform with the recently adopted Dinnington Neighbourhood Plan. However, these comments are not relevant to this application as it is purely for the proposed extraction flue only as planning permission is not required to convert the former bank into a restaurant. Any take-away element would be ancillary to the use of the premises as a restaurant and would not require planning permission. As such, the merits or otherwise of the use of the premises are not able to be considered as part of this application.

The comments raised from neighbouring residents are summarised below:-

- Concerns about the design of the proposed flue.
- Concerns about cooking smells.

Further publicity has more recently taken place relating to the amended plans for the extraction flue, no further comments have been received.

Consultations

RMBC - Transportation Infrastructure Service: No objections.

RMBC- Environmental Health: Raise no objections subject to conditions relating to the extraction and filtration system being adequately maintained throughout the lifetime of the development. The Environmental Health Officer also requested details of what additional odour mitigation is proposed at the site.

Appraisal

Where an application is made to a local planning authority for planning permission.....In dealing with such an application the authority shall have regard to -

- (a) the provisions of the development plan, so far as material to the application,
- (b) any local finance considerations, so far as material to the application, and
- (c) any other material considerations. - S. 70 (2) TCPA '90.

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise - S.38 (6) PCPA 2004.

The main considerations in the determination of the application are:

- Principle of development

- Design and impact on Conservation Area
- General amenity issues
- Other issues raised by objectors

Principle of development

It is noted that this application has received a number of objections to the proposed use of the premises as a restaurant or takeaway. The applicant has confirmed that the premises will be used as a restaurant and not as a hot food takeaway. As noted above, this application is for the insertion of an extraction flue only and the use of the former bank as a restaurant cannot be considered as part of this application, as such a change of use does not require planning permission.

As such, the installation of a flue on a restaurant is acceptable in principle and the application has to be determined on the basis of the appearance of the flue and any noise/odour impact it generates, and those alone. It cannot consider the merits or otherwise of the use of the premises as a restaurant, or related issues such as those raised by local residents and Dinnington Town Council including impacts of the use on Dinnington Town Centre, highways, litter and general noise and disturbance.

Design, scale and appearance including impact on Dinnington Conservation Area

With regards to the setting of the Dinnington Conservation Area, Section 69 of the 1990 Planning (Listed Buildings and Conservation Areas) Act, notes that a conservation area is an area of special architectural or historic interest, the character or appearance of which it is desirable to preserve or enhance. Local Plan Policy CS23 'Valuing the Historic Environment' states that: "Rotherham's historic environment will be conserved, enhanced and managed, in accordance with the principles set out below (which includes amongst other things that): d. Proposals will be supported which protect the heritage significance and setting of locally identified heritage assets such as buildings of local architectural or historic interest, locally important archaeological sites and parks and gardens of local interest."

Policy SP41 'Conservation Areas' states that: "Development proposals within or likely to affect the setting of a Conservation Area will be considered against the following principles (amongst others) developments are required to ensure the preservation or enhancement of the special character or appearance of Rotherham's Conservation Areas and their settings."

The National Planning Policy Framework (NPPF) states at paragraph 189 that: "In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

The National Planning Policy Framework (NPPF) states at paragraph 190 that: “Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset’s conservation and any aspect of the proposal.”

The National Planning Policy Framework (NPPF) further states at paragraph 193: “When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.”

The National Planning Policy Framework (NPPF) further states at paragraph 195 that: “Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.”

In general design terms Local Plan Policy SP55 ‘Design Principles’ states: “All forms of development are required to be of high quality, incorporate inclusive design principles, create decent living and working environments, and positively contribute to the local character and distinctiveness of an area and the way it functions. This policy applies to all development proposals including alterations and extensions to existing buildings”.

Policy CS28 ‘Sustainable Design’ indicates that proposals for development should respect and enhance the distinctive features of Rotherham. They should develop a strong sense of place with a high quality of public realm and well-designed buildings within a clear framework of routes and spaces. Development proposals should be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping. Moreover it states design should take all opportunities to improve the character and quality of an area and the way it functions.

With regards to design it is noted that the proposals have been considerably amended to locate the majority of the extraction equipment within the building. Only an external flue pipe would be visible projecting out of the rear roof slope of the building.

As such, the visual impact of the flue has been significantly improved and it is considered greatly reduces its visual impact.

The flue pipe would be largely concealed from public views by the row of existing shops and it would not be visible within the streetscene of Laughton Road. Though the flue pipe

would be visible from the rear, this forms part of the private rear yard area of the premises.

From greater distance views from the rear, the flue pipe would be largely obscured by the presence of the Aldi supermarket and would not be easily visible from views into the Conservation Area from Middlefield Road.

As such, it is considered that the visual impact of the flue pipe would be minimal and therefore that the development largely preserves the character and appearance of the Dinnington Conservation Area from all key views of the building.

However, a condition is recommended that the flue pipe should be painted black to minimise visual impact.

In conclusion, it is considered that the proposal is acceptable in design and conservation terms, subject to the recommended conditions and fully accords with the aforementioned policies and guidance in relation to design and impact on the Dinnington Conservation Area.

General amenity issues

With regards to amenity it is noted that the main issues would be the noise and odours from the extract system. At this stage, the full details of what odour mitigation measures will be used are not known and a condition is recommended that requires such details to be submitted to and approved by the Local Planning Authority before any development commences, to ensure that a suitable system is subsequently installed. It is noted that there are residential properties to the south of the site on Medlock Court. However, it is considered that provided that the odour mitigation equipment is suitable it would not lead to harm to the amenity of these neighbouring residents. Furthermore, the submitted information has addressed concerns that the Environmental Health Officer had in terms of noise. As such, it is considered that the proposed system is acceptable in terms of noise and odour impact for local residents.

Other issues raised by objectors

As noted above, many of the issues raised by the objectors, such as the use of the premises as a restaurant or take-away and the impact on the Dinnington Town Centre or the associated impacts from any associated traffic movements, litter and general noise and amenity issues, other than those generated by the proposed flue itself which are discussed above.

Conclusion

In conclusion it is considered that the proposed flue is of an acceptable design and appearance and would have very little impact on the Dinnington Conservation Area or on residential amenity, subject to the recommended conditions.

Conditions

The Development Management Procedure Order 2015 requires that planning authorities provide written reasons in the decision notice for imposing planning conditions that require particular matters to be approved before development can start.

Condition number 4 of this permission requires matters to be approved before development works begin; however, in this instance the condition is justified because:

- i. In the interests of the expedient determination of the application it was considered to be appropriate to reserve certain matters of detail for approval by planning condition rather than unnecessarily extending the application determination process to allow these matters of detail to be addressed pre-determination.
- ii. The details required under condition number 4 are fundamental to the acceptability of the development and the nature of the further information required to satisfy this condition is such that it would be inappropriate to allow the development to proceed until the necessary approvals have been secured.

01

The development hereby permitted shall be commenced before the expiration of three years from the date of this permission.

Reason

In order to comply with the requirements of the Town and Country Planning Act 1990.

02

The permission hereby granted shall relate to the area shown outlined in red on the approved site plan and the development shall only take place in accordance with the submitted details and specifications as shown on the approved plans (as set out below)

Drawing Number (Location Plan/Site Layout Plan/Site Plan)(Received 08/09/2021)
Drawing Number, Ground Floor Plan/Dolphin/SB/004/RevA)(Received 17/09/2021)

Reason

To define the permission and for the avoidance of doubt.

03

The flue pipe hereby approved shall be painted black unless otherwise agreed in writing with the Local Planning Authority.

Reason

In the interest of visual amenity in accordance with SP41 'Conservation Areas.'

04

Before the development is brought into use, the extraction system as specified in the Aval Odour assessment dated January 2022 shall be installed and operational. The kitchen extract system shall thereafter be retained, operated at all times during the preparation and cooking of food and maintained, all in accordance with the manufacturer's instructions and as detailed in the Dolphin Fabrications cleaning schedule provided by the applicant on the 1st February 2022.

Reason

In the interests of the amenity of nearby occupiers.

05

Before the development is brought into use, the Noise Mitigation Scheme detailed in section 4.1 of the Aval acoustic assessment dated January 2022 shall be installed and

fully operational. The kitchen extraction system including the noise mitigation system shall thereafter be retained, operated at all times during the preparation and cooking of food, and maintained, all in accordance with the manufacturer's instructions and cleaned as detailed in the Dolphin Fabrications cleaning schedule provided by the applicant on the 1st February 2022.

Reason

In the interests of the amenity of nearby occupiers.

POSITIVE AND PROACTIVE STATEMENT

During the determination of the application, the Local Planning Authority worked with the applicant to consider what amendments were necessary to make the scheme acceptable. The applicant agreed to amend the scheme so that it was in accordance with the principles of the National Planning Policy Framework.