



**Rutland County Council**

Catmose,  
Oakham,  
Rutland  
LE15 6HP

Application:	2023/0146/RG3	ITEM 3	
Proposal:	Regulation 3 application for variation of condition No. 3 (permission expiry) on Planning Permission ref: 2020/1459/RG3 to allow permanent use of the No. 1 court area of Oakham Castle as a cafe. 2020/1459/RG3 - Regulation 3 application for change of use of the Court number 1 room, kitchen (total 55 square meters) and courtyard outdoors space (40 square meters) at Oakham Castle for a cafe.		
Address:	Oakham Castle, Castle Lane, Oakham		
Applicant	Rutland County Council	Parish	Oakham
Agent:	N/A	Ward	Oakham North East
Reason for presenting to Committee:	RCC Application (Regulation 3)		
Date of Committee:	18 <sup>th</sup> July 2023		
Determination Date:	11 <sup>th</sup> April 2023		
Agreed Extension of Time Date:	21 <sup>st</sup> July 2023		

## EXECUTIVE SUMMARY

The proposal is to allow the permanent use of Court Room Number One within Oakham Castle as a café, following a temporary permission granted in 2021.

The use has been reviewed in line with the requirements of the previous application's conditions, and that review concludes that the café use has provided benefits to the operation of the castle, as well as encouraging more visitors to the site and encouraging longer stays by those visitors whilst at the castle. It further concludes that the use has not had a detrimental effect on the educational offer that the castle provides to members of the public, although it has resulted in amendments to the way that offer is provided.

## RECOMMENDATION

**APPROVAL**, subject to the re-imposition of conditions 5 and 6 from planning permission 2020/1459/RG3 renumbered as conditions 1 and 2 as follows:

- The use shall not take place other than between the hours of:
  - 09:00 - 16:30 Tuesdays - Saturdays
  - Summer holidays between 26th July and 1st September - 09:00 - 17:30 Tuesdays - Sundays

REASON: In the interests of surrounding amenity.

- No means of external artificial light shall be installed or operated for the cafe at any time.

REASON: In the interests of the setting of the grade I Listed building and its grounds.

## **Site & Surroundings**

1. The site is Oakham Castle, located adjacent to the town centre, within the conservation area. The Hall itself is a Grade 1 Listed Building. Additionally, the Castle grounds are a Scheduled Ancient Monument. The site is accessed off the Market Place, between the Old Post Office Building and Café Nero.
2. To the rear of the main hall of the Castle is 'Court number 1 Room' which is used for meetings, exhibitions, functions in association with the hall as well as an educational space for visitors/school groups etc... Beyond this is a kitchen area, and rear access to the Castle grounds.

## **Proposal**

3. The proposal follows a previous temporary planning permission granted for the change of use of Court Room 1 to the rear of the main hall of the castle and is to allow the permanent use of that room as a café.

## **Relevant Planning History**

4. The main application relevant to the consideration of the current proposal is 2020/1459/RG3, which granted temporary planning permission for the use of Court Room Number One, the kitchen to its rear and a portion of the outdoor courtyard as a café.

## **Planning Guidance and Policy**

### **National Planning Policy Framework (NPPF)**

Chapter 6 - Building a strong, competitive economy

Chapter 7 - Ensuring the vitality of town centres

Chapter 8 - Promoting healthy and safe communities

Chapter 9 - Promoting sustainable transport

Chapter 15 - Conserving and enhancing the natural environment

Chapter 16 - Conserving and enhancing the historic environment

### **Core Strategy DPD**

CS01 - Sustainable Development Principles

CS02 - The Spatial Strategy

CS04 - The Location of Development

CS07 - Delivering Socially Inclusive Communities

CS13 - Employment & Economic Development

CS15 - Tourism

CS17 - Town Centres & Retailing

CS21 - The Natural Environment

CS22 - The Historic and Cultural Environment

### **Site Allocations and Policies DPD**

SP15 - Design and Amenity

SP17 - Outdoor Lighting

SP19 - Biodiversity and Geodiversity Conservation  
SP20 - The Historic Environment Neighbourhood Plan

### **Neighbourhood Plan**

Policy 4: Town Centre and Visitor Economy

Policy 5: Employment and Business Development

Policy 6: Historic Heritage and Character

### **Officer Evaluation**

#### **Principle of the application**

5. The proposal is for the removal of the time limit condition from the previous approval for use of this part of the building as a café following a review of the business and its success as part of the provision for visitors to the castle.
6. The application process is different to that of a normal planning application, with section 73 (2) of the Town and Country Planning Act 1990 stating that for such applications *“the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted”*. The effect of an application of this nature (should it be permitted) is to create a separate standalone planning permission that operates on the site, with its own set of conditions that differ from those attached to the original permission.
7. The principle of the use has already been established under planning permission 2020/1459/RG3 and the current application is therefore purely to consider the matter of the conditions imposed upon that permission, specifically the time limited condition and the reason given for that condition, which reads as *“To enable a review of the impact of the change of use upon the educational offer of the castle to be undertaken and properly assessed.”* The local planning authority is able to review the other conditions attached to the permission however the applicant has not sought amendment to them, and the Local Planning Authority would need sound planning reasons to consider amendment to those conditions or the imposition of new conditions. Nonetheless, it is good practice to review all the conditions imposed on the original permission as part of any S73 application and to remove any conditions that no longer serve a practical purpose.

#### **Review of the time limit condition**

8. As per the reason given for the imposition of this condition set out above, the intention of granting a time-limited planning permission for the use was to allow the impact of the use to be reviewed in relation to the educational offer provided by the castle to the public.
9. The application is accompanied by a review of this offer undertaken by Head of Culture and Registration at RCC. The review notes that the introduction of an on-site catering facility has had a number of beneficial effects to the facility and the community offer that it provides. These include:
  - Increased length of stay by visitors
  - Improved offer for on-site events through provision of in-house catering

- Ability for visitors to learn about the history of the site in a relaxed environment whilst enjoying refreshments
10. Feedback from visitors obtained following the commencement of the use is that the site is now more welcoming, vibrant and attractive as a tourist destination.
  11. With regard specifically to the educational offer, the report notes that at the time of its submission, educational sessions at the castle have continued albeit in a modified format, with over 500 pupils from 23 schools and children's groups having attended sessions, with over 700 anticipated by the end of March 2023.
  12. The report concludes that the service is satisfied that the implementation of the café at the Castle has not had a detrimental impact on the cultural offer at the site.
  13. On that basis, Officers are satisfied that the condition specifying the temporary use of the site is no longer necessary, and that the S73 application can be recommended for approval.

### **Review of other conditions**

14. Start Date. This condition imposed a time limit to the implementation of the previous permission. Implementation has taken place and therefore there is no requirement to reproduce this condition should the current application be permitted.
15. Compliance with plans. Again, as the implementation of the project has taken place, there is no requirement to require this condition to be reproduced. Further development at the site would be subject to the normal regulatory processes imposed on businesses with regard to planning permission and listed building consent.
16. Bin storage details. This condition also related to works required to be in place prior to implementation of the permission and therefore is not required to be re-imposed should the current application be permitted.
17. Hours of operation. No change is sought to the hours of operation previously imposed on the business, and therefore it is reasonable to re-impose this condition to ensure that the use continues in accordance with those details unless formal variation is subsequently sought from the Local Planning Authority, at which point the implications of such a variation would be considered.
18. Artificial Lighting. Similarly to the hours of operation, no change or removal of this restriction is sought as part of the application and therefore it would be appropriate to impose this condition should planning permission be granted to ensure that any such changes in the future are controlled through the submission of a formal planning application.

## **Crime and Disorder**

19. It is considered that the proposal would not result in any significant crime and disorder implications.

## **Human Rights Implications**

20. Articles 6 (Rights to fair decision making) and Article 8 (Right to private family life and home) of the Human Rights Act have been taken into account in making this recommendation.
21. It is considered that no relevant Article of that act will be breached.

## **Consultations**

### **22. Public Protection**

No objections

### **23. Oakham Town Council**

No objection

### **24. LCC Ecology**

The works do not impact on ecological matters. A note regarding works to the roof void or access to it should be attached to any permission granted.

### **25. Historic England**

The Local Planning Authority should ensure that it has sufficient information to be satisfied about the future implications these proposals could have on the scheduled monument and listed building.

### **26. RCC Conservation Officer**

The café appears to have proved a viable interest for the site in the last couple of years and assists in visitors staying at the site for a longer duration, thus there is a considerable public benefit. To remove the café would potentially compromise the footfall to the site, namely the tourist element. Turning to the educational aspirations at the site, then the retention of the café would not be considered to harm the long-term aspirations at the site, in terms of how the site continues to perform an educational role, because the education offer remains in place, indeed the education side of the operation is of higher focus than the café. The 'experience' of the site is gained from the exterior, an appreciation of the Castle and its grounds and the interior of the building, the café is entirely subsidiary to this 'experience' and the educational element remains the main focal point.

It is inevitable that where historic sites offer a tourism and educational facility then there will be the functional and ancillary services to manage, in this case – the bin storage. It has the potential to detract from the high significance of the site by way of visual harm, though if managed discreetly would not necessarily compromise the significance of the setting of Oakham Castle,

beyond how any other site of National interest is managed when considering the ancillary services that must be dealt with.

**Policy:**

The Local Planning Authority is statutorily required by the Planning (Listed Buildings and Conservation Areas) Act, 1990, to have special regard to the desirability of preserving a listed building or its setting sections 16(2) and Paragraph 199 of the NPPF states that “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)”. Paragraph 200 states that “any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification”. Paragraph 202 states that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal”.

**Harm and Balancing the public benefit:**

There is no physical harm that has occurred to the building by the introduction of the well-established café. The concerns raised by Historic England’s response are focused on visual harm and setting considerations, given that the application does not provide a setting assessment, then their response remains one of concern. The onus falls on the Local Planning Authority to ensure they are satisfied with the proposal.

Since the use is already operational then ample time has been permitted to assess the potential for harm. The visual harm by ancillary items is considered to equate to ‘less than substantial harm’. It is considered that the success of the site which has proved viable, thus far, overall, the ancillary matters has not materially harmed the ‘setting’ of the site and the public benefit remains high, thus in this case outweighing the ‘less than substantial harm’ by way of the visual impact of ancillary items. Furthermore, the space within the building provides the accommodation for the education experience required for the long-term. The site therefore has the long-term capacity to continue to provide the educational and visitor experience which can be successfully accommodated within the space available.

The site would not be considered to operate in a way that any new harm on the significance of the scheduled monument and listed building would occur, beyond how the site presently operates and has been managed thus far. The application is therefore supported on this basis particularly when balancing the public benefit and thus accords with section 16 of the NPPF.

In making your decision, please be reminded that the Local Authority must have special regard to the desirability of the site for the public interest and thus continue to preserve its setting, as required by section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

## **Neighbour Representations**

27. None received

## **Conclusion**

28. In conclusion Officers consider that the introduction of the café use to the Castle has been a success, broadening the appeal of the site and having a positive impact on both the visitor and educational offers of the premises whilst also generating additional revenue.
29. It is therefore considered that there is no justification for withholding the grant of planning permission sought under the terms of this application.