

**Planning Committee 31 July 2018
Report of the Interim Head of Planning**

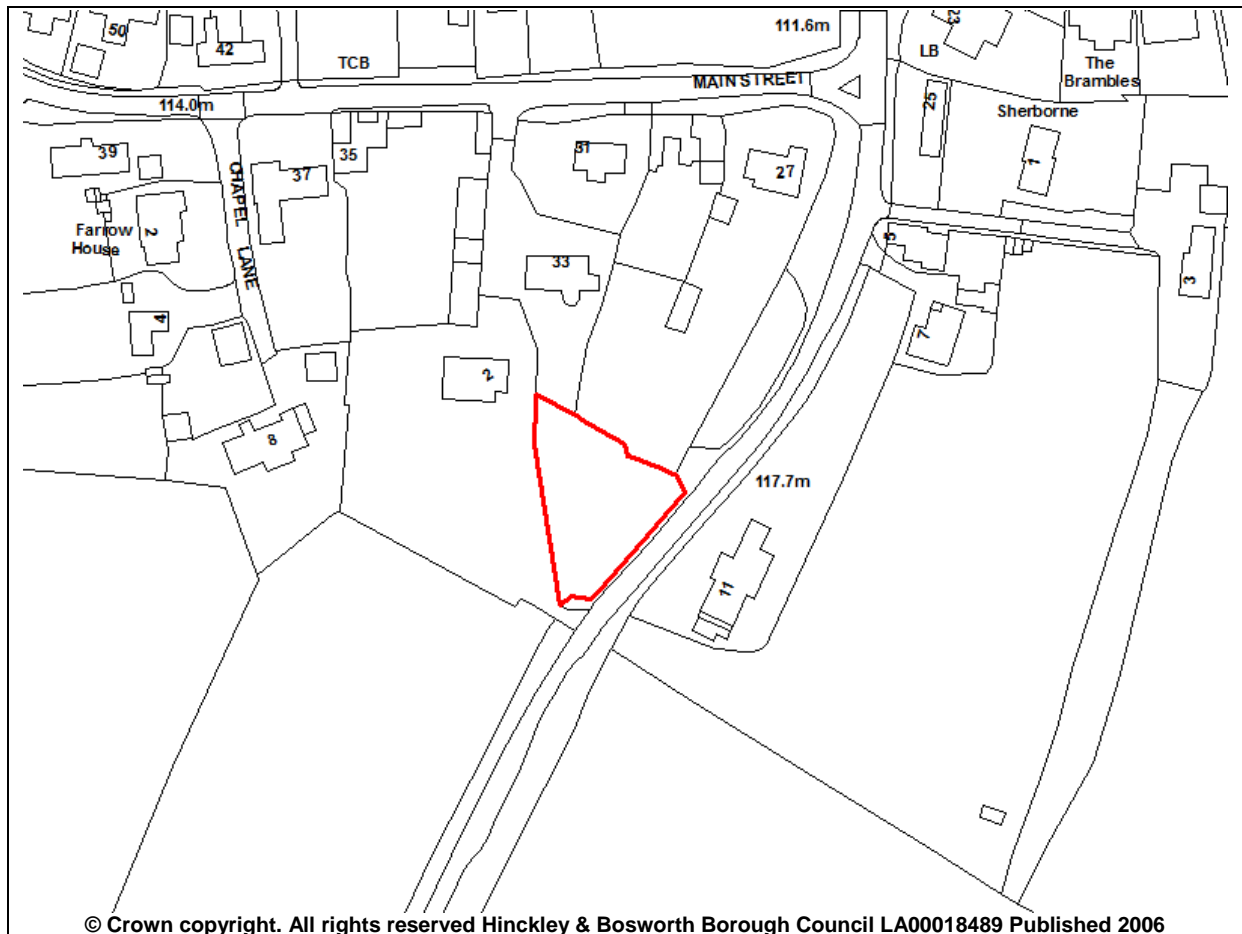


Hinckley & Bosworth
Borough Council

Planning Ref: 18/00468/OUT
Applicant: The Malcolm Pickering Will Trust
Ward: Twycross Sheepy & Witherley

Site: 33 Main Street Norton Juxta Twycross

Proposal: Erection of one dwelling (Outline - access only)



1. Recommendations

1.1. Grant outline planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning Application Description

- 2.1. This application seeks outline planning permission with all matters reserved except for access for the erection of one new dwelling. The proposal seeks the subdivision of the existing rear garden serving no. 33 Main Street, Norton Juxta Twycross with the creation of an access to serve the new dwelling proposed to the south east of the site off Nob Hill.
- 2.2. An indicative layout plan has been provided along with the application to demonstrate how a dwelling could be provided within the site whilst also ensuring the retention and protection of the important trees across the site.

3. Description of the Site and Surrounding Area

- 3.1. The application site currently comprises the far end of the rear garden serving no. 33 Main Street, Norton Juxta Twycross. The existing property is a one and half storey property that benefits from a long garden which is narrow at first and then projects significantly out in width.
- 3.2. The site is bounded by a number of small, ornamental fruit trees on the south west and north east boundaries. An existing gate provides access to the rear of the site from Nob Hill, however this access is relatively overgrown and appears unused. A large number of trees and hedgerows bound the south east of the site on this boundary with Nob Hill.
- 3.3. The site is located within the settlement boundary of Norton Juxta Twycross and surrounded by a mix of built development, comprising of two storey and single storey properties.

4. Relevant Planning History

None

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. 16 letters of objections were received from 14 separate addresses raising the following concerns:-
 - 1) Impact upon highway safety and lack of off street parking
 - 2) Access to be proposed at a narrow width of Nob Hill
 - 3) Nob Hill used by all vehicles, including HGVs
 - 4) Poor visibility from the proposed access point with no street lighting
 - 5) Scale of dwelling higher than that of surrounding properties
 - 6) Existing access point onto Nob Hill never been used
 - 7) 30mph speed limit on Nob Hill constantly exceeded
 - 8) Disruption and impact during construction

6. Consultation

- 6.1. Twycross Parish Council object to the application on highway impact grounds, stating that the road is not sufficiently wide enough for two vehicles to pass and appropriate visibility splays from the proposed access cannot be achieved.
- 6.2. Objections received from Councillor Ould, County Councillor for the Market Bosworth Division who raises the following concerns:-
 - 1) Impact upon highway safety
 - 2) Similar application in Twycross Parish has been withdrawn
 - 3) Inadequate width of the highway with no footpath
 - 4) The road is used by farm traffic and HGVs with no room to pass
 - 5) Inadequate visibility splays from the proposed access point
 - 6) Further objections received raising the accuracy of the LCC Highways Consultation Response and the lack of a site visit
- 6.3. No objections subject to conditions received from the following:-
 - HBBC Arboricultural Officer
 - HBBC Waste
 - HBBC Environmental Health
 - LCC Highways

6.4. No objections received from the following:-

HBBC Drainage
LCC Ecology

7. Policy

7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets
- Policy 19: Green Space and Play Provision

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Infrastructure contributions
- Other issues

Assessment against strategic planning policies

8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraphs 12 and 13 of the NPPF state that the development plan is the starting point for decision making and that the NPPF is a material consideration in determining applications.

8.3. The development plan in this instance consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).

8.4. Policy DM1 of the adopted SADMP and paragraph 14 of the NPPF provide a presumption in favour of sustainable development and confirm that planning applications that accord with the policies in the Local Plan should be approved unless material considerations indicate otherwise.

8.5. The proposal is located within the settlement boundary of Norton Juxta Twycross, which is identified as a Rural Hamlet. Policy 13 of the Core Strategy states that in rural hamlets, the council will support housing development within the settlement boundaries. The proposal would therefore be acceptable in terms of general

strategic planning principles subject to all other planning matters being satisfactorily addressed.

Design and impact upon the character of the area

- 8.6. Policy DM10 of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.7. This is an outline planning application seeking the approval of access only at this stage. Matters of layout, scale, design, appearance and landscaping are reserved for subsequent separate approval. Notwithstanding the above, an indicative layout plan including parking and indicative floor plans and elevations have been submitted with the application.
- 8.8. The application site currently comprises the rear garden serving no. 33 Main Street, a one and a half storey property. There is a mix of built form in the surrounding area with a two storey property located to the west and a single storey property located opposite the proposed access point on Nob Hill.
- 8.9. The proposed subdivision would provide satisfactory space for a new dwelling of appropriate size to complement neighbouring properties. The indicative layout plans shows that a new dwelling would ensure that adequate amenity areas for both the existing and proposed dwelling could be achieved and the size of the site would be considered suitable to respect the existing pattern of development in the surrounding area.
- 8.10. The site is relatively flat but sits higher than Nob Hill located to the south east. The proposal would involve the loss of a number of trees within the site, however these trees are small, ornamental/fruit trees and as such are considered acceptable to be removed. The proposed access point and associated visibility splays would result in the loss of the existing hedgerow garden boundary with Nob Hill. The loss of the hedgerow is not considered to have a significant impact on the rural character of the area and replacement planting would be provided to the front of the site and the existing and important trees on this boundary with Nob Hill are to be retained.
- 8.11. As such, it is considered that the development of a new dwelling would not significantly alter the existing character of the site. An illustrative tree protection plan has been submitted with the application, however as the layout is a matter reserved for separate approval, a subsequent tree protection plan should be submitted along with any reserved matters application.
- 8.12. Subject to satisfactory layout, scale, design and appearance which would be assessed at the reserved matters stage, the development of the site for one new dwelling would complement the character of the surrounding area and the proposal would therefore be in accordance with Policy DM10 of the SADMP

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 of the SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings and that the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.14. The proposed subdivision of the existing garden would retain adequate private amenity space to serve the occupiers of the existing dwelling and the future occupiers of proposed dwelling.

- 8.15. By virtue of the size of the plot and its relationship to neighbouring dwellings, subject to the consideration of additional details at the reserved matters stage (including the scale and layout of the dwelling and the position of any windows), the erection of one new dwelling would be able to achieve satisfactory separation distances to neighbouring properties to avoid any significant adverse overbearing impacts and together with satisfactory boundary treatments would be able to protect the privacy and amenity of neighbouring properties and future occupiers of the site from any significant loss of privacy from overlooking. The proposal would therefore be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.16. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision. Paragraph 32 of the NPPF states that a safe and suitable access to sites should be achieved and that development should only be refused on transport grounds where the residual cumulative impacts of development are severe.
- 8.17. A Planning Statement and Highways Report have been submitted to support the application. These suggest that the proposed new access would have adequate width and visibility at its junction with Nob Hill to serve the proposed development for one new dwelling, along with adequate off street parking and turning area.
- 8.18. Nob Hill is an unclassified road subject to a 30 mph speed limit. The proposed access point would have a width of approximately 3.2 metres and the removal of the existing hedgerow would facilitate the provision of a visibility splay of approximately 52 metres to the north east and approximately 120 metres to the south west. There are no pedestrian footways on the north west side of Nob Hill in the vicinity of the site, or on the east side opposite the proposed access. The existing gate access is to be permanently blocked up.
- 8.19. The submitted details indicate that the access point and associated visibility splays would be in accordance with the Leicestershire Highways Design Guidance.
- 8.20. The Highway Authority, after reviewing the submitted information, considers that the proposed new access is sufficient to serve the development. The residual cumulative impacts of development can therefore be mitigated and are not 'severe' in accordance with paragraph 32 of the NPPF (2012), subject to the imposition of conditions to secure the implementation of the new access as submitted and that any access gates would be set back a minimum of 5 metres behind the highway boundary.
- 8.21. Although layout is a matter reserved for separate approval, it is indicated that appropriate off-street parking spaces and turning areas could be provided within the site to serve the dwelling and also to allow vehicles to manoeuvre and leave the site in a forward gear.
- 8.22. Subject to the imposition of conditions, which would be reasonable and necessary to ensure safe access, the proposed scheme would not result in any significant adverse impacts on highway or pedestrian safety and would therefore be in accordance with Policies DM17 and DM18 of the SADMP.

Infrastructure contributions

- 8.23. Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.24. However, following amendments to national planning guidance, tariff style planning obligations should not be sought for developments of 10 units or less and which have a maximum combined gross floor space of no more than 1000 square metres. Therefore notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

Other issues

- 8.25. Due to the proximity of the site to a former landfill site, HBBC Environmental Health (Pollution) have recommended conditions for a scheme of investigation to be carried out on site prior to the commencement of development, in accordance with Policy DM7 of the SADMP.
- 8.26. HBBC Street Scene Services (Waste) has recommended a condition for the provision of a scheme for waste and recycling. This condition is not considered necessary, as bins could be provided at the adopted highway with Nob Hill.
- 8.27. LCC (Ecology) has no objection to the proposal and as such the proposal would comply with Policy DM6 of the SADMP.
- 8.28. Concerns have been raised regarding impact during construction; however any impacts would be limited and short term in nature only.

9. Equality Implications

- 9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-
- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.2. Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application.
- 9.3. There are no known equality implications arising directly from this development.

10. Conclusion

- 10.1. The application site is within the settlement boundary of Norton Juxta Twycross where residential development is generally acceptable in principle. By virtue of the size of the plot, its relationship to neighbouring properties and subject to satisfactory layout, scale, appearance and landscaping (which would be assessed at the reserved matters stage), the erection of one new dwelling would complement the pattern, character and appearance of the surrounding area and would not give rise to any significant adverse impacts on the privacy or amenities of the occupiers of any neighbouring properties or any significant adverse impacts on highway safety.

10.2. The proposed scheme would be in accordance with Policy 13 of the adopted Core Strategy and Policies DM1, DM6, DM7, DM10, DM17 and DM18 of the adopted SADMP and the overarching principles of the NPPF (2012) and is therefore recommended for outline approval for access only, subject to conditions.

11. Recommendation

11.1. **Grant outline planning permission** subject to:

- Planning conditions outlined at the end of this report.

11.2. Conditions and Reasons

1. Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

2. Approval of the following details (hereinafter called "reserved matters") shall be obtained from the Local Planning Authority in writing before any development is commenced:

- a) The layout of the site including the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development;
- b) The scale of each building proposed in relation to its surroundings.
- c) The appearance of the development including the aspects of a building or place that determine the visual impression it makes.
- d) The landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard and soft measures. This shall include a full tree protection plan, an arboricultural report and survey which includes a programme of works and details the type and location of protection fencing.

The development shall be implemented in accordance with the approved details. There shall be no amendments or variations to the approved details.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document.

3. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted access details, as follows:- Site Location Plan Drawing No. AT/PE655.8 Sheet 1 of 1 (scale 1:1250) and Proposed Access Layout Drawing No. AT/PE655.5 (scale 1:200) received by the Local Planning Authority on 14 May 2018.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document.

4. No development shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the proposed dwelling shall be deposited with and approved in writing by the Local

Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

5. No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the Local Planning Authority. The proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document.

6. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the site first being occupied.

Reason: In accordance with Policy DM7 of the Site Allocations and Development Management Policies Development Plan Document.

7. Before first occupation of the development hereby permitted, the access drive and parking spaces shall be surfaced with a tarmacadam or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, once provided, shall be permanently so maintained at all times thereafter.

Reason: To reduce the possibility of deleterious material (loose stones etc) being deposited in the highway in the interests of highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document.

8. No part of the development hereby permitted shall be occupied until such time as the access arrangements and visibility splays shown on the approved Proposed Access Layout Drawing No. AT/PE655.5 (scale 1:200) received by the Local Planning Authority on 14 May 2018 have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may stand clear of the highway and appropriate visibility splays can be achieved, in the interests of general highway safety and in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document and paragraph 32 of the National Planning Policy Framework (2012).

9. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a

distance of 10 metres of the highway boundary, nor shall any be erected within a distance of 10 metres of the highway boundary unless hung to open away from the highway.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic in the public highway in accordance with Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document and paragraph 32 of the National Planning Policy Framework (2012).

11.3. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
3. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
4. Planning permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Design Guide.