

Planning Committee 28 May 2019
Report of the Interim Head of Planning

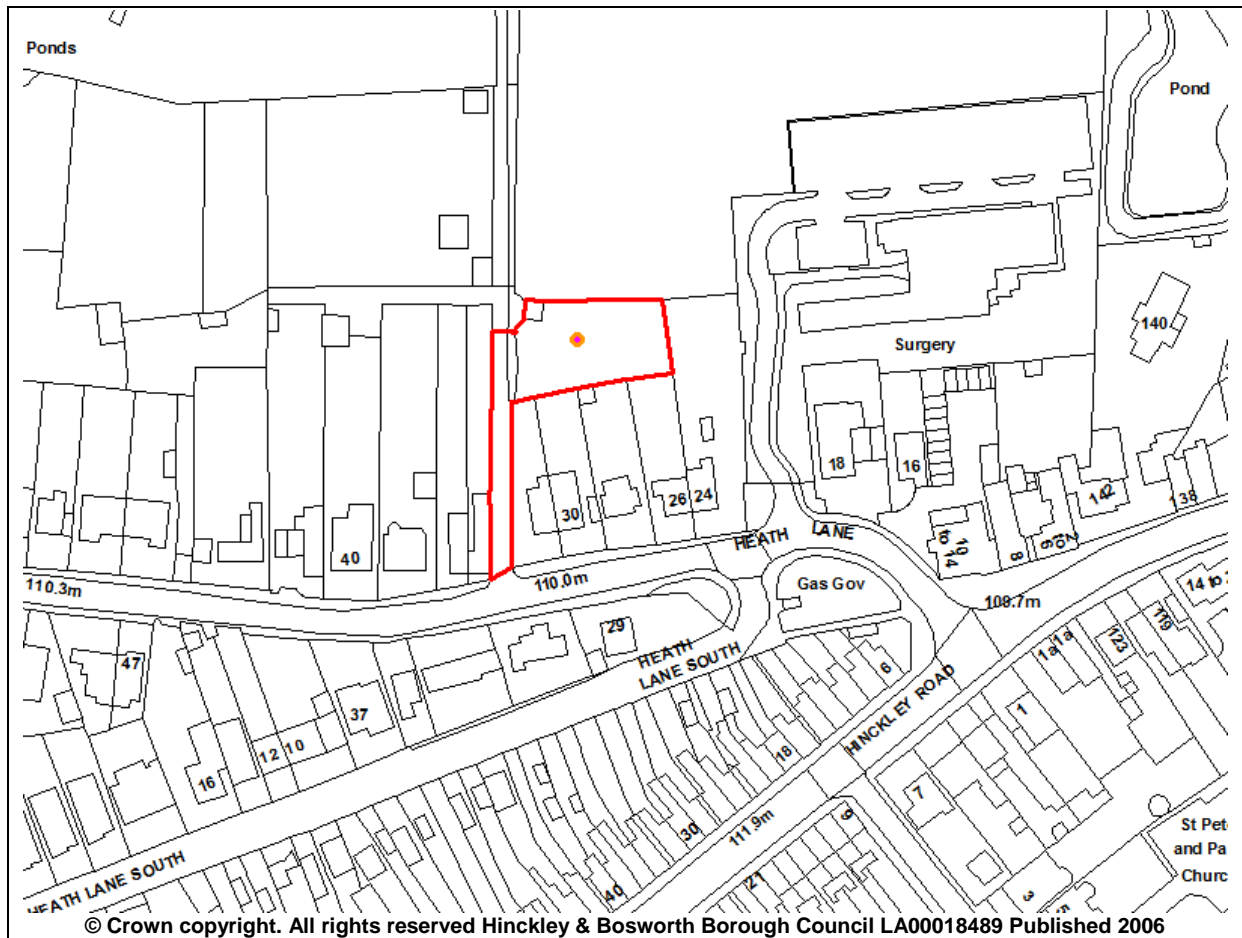
Planning Ref: 19/00094/OUT
Applicant: Mr Colin Burton
Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Land To The Rear Of 32 Heath Lane Earl Shilton

Proposal: Demolition of existing garage and the erection of one dwelling, with associated parking and amenity space (Outline - access and layout)



1. Recommendations

1.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report.

2. Planning Application Description

- 2.1.** The proposal relates to a detached dwelling submitted in outline format with access and layout to be considered as part of the application. All other matters are reserved for later consideration. A block plan has been submitted showing the layout of the dwelling with parking and attached double garage. The block plan also indicates that the proposal would have four bedrooms with a front and rear garden.
- 2.2.** The access to the site would be via an existing private track off Heath Lane. A garage building on the site would be removed.

- 2.3. A Design and Access Statement has been submitted with the application.

3. Description of the Site and Surrounding Area

- 3.1. The application site lies to the north of a line of residential properties along Heath Lane. Comprising a flat grassed area, there is an outbuilding located directly along the existing access drive. The site is accessed via a track from the public highway of Heath Lane. This single lane track is an unclassified road without footways or street lighting.
- 3.2. The character of Heath Lane comprises ribbon development with frontages of housing facing onto the street. The dwellings to Heath Lane comprise a mix of detached and semi-detached two-storey dwellings, with a range of designs and finishes. The surrounding countryside to the north of the site has planning permission for a major residential and commercial scheme at Westfield Farm and construction work is currently underway on the construction of the residential properties. This redevelopment scheme has altered the character of this part of Heath Lane to an urban area. However, the land to the north west of the application site remains of an open character with extensive allotment land which is in use.

4. Relevant Planning History

No relevant history

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. Six letters of objection from five separate addresses have been submitted raising the following issues:

- 1) There are already extensive roadworks on Heath Lane
- 2) Why do we need another house when hundreds are being built to the rear of the site?
- 3) Another house on Heath Lane would cause further disruption and an increase in traffic where school children walk
- 4) An appeal has been dismissed for 3 houses behind 52 Heath Lane as being out of character and backland development
- 5) The tin shed on the site is not used as a garage
- 6) The land is outside of the settlement boundary
- 7) Visibility along the private track is poor
- 8) The house would overlook private gardens and surrounding properties
- 9) The access track is used by other properties to access their rear gardens
- 10) If the gates are locked which access the allotments then vehicles will queue along the track
- 11) The house would block the countryside views
- 12) The allotment owners have paid to maintain the access track and not the owner of no. 32
- 13) There could be an accident along the track as a direct result of the increase in traffic for this house as a lot of people walk to the allotments

- 5.2. One letter of comment has been received raising the following issues:

- 1) The garage and rear garden has not been used for parking for the past 25 years
- 2) The increase in traffic using this private track will cause noise and disturbance to no. 34 which lies next to the track
- 3) The lane is well used by allotment holders but only during the day. This proposal would use the access at night
- 4) How will the services be installed for this house? There are already issues with sewerage

- 5) How would emergency services access the site?
- 6) No. 32 is over 100 years old and the construction traffic will vibrate this property and cause noise disturbance
- 7) There may be newts and protected species on the site

6. Consultation

- 6.1. No objections have been received, some subject to conditions from:
Environmental Services (Pollution)
Leicestershire County Council Highway Authority subject to a condition
Environmental Services (Drainage)
- 6.2. No comments have been received from:
Earl Shilton Town Council

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 2: Development in Earl Shilton
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. Earl Shilton and Barwell Area Action Plan (AAP)
- 7.4. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2019)
 - 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

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) identifies that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states that the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision making. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009), the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016) and the Earl Shilton and Barwell Area Action Plan (AAP). The

spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.

- 8.4. Due to the change in the housing figures required for the borough paragraph 11 of the NPPF is triggered. Currently the Council's supply of deliverable housing land is less than 5 years. This is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.5. Whilst the majority of the access drive is located within the settlement boundary for Earl Shilton, the remainder of the site is situated outside of the defined settlement boundary which forms the southern boundary of the site. Policy DM4 of the SADMP is therefore applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation.
- and:
- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development;
- 8.6. The site does not fall under any of the categories identified in Policy DM4 as sustainable development. The purpose of Policy DM4 is to protect the open character and landscape character of the countryside. As such, the principle of residential development is not accepted in this location and would represent a form of unsustainable development.
- 8.7. Paragraph 78 of the Framework advises that housing in rural areas should be located where it would enhance or maintain the vitality of rural communities. The application site is located immediately adjacent to the settlement of Earl Shilton. Planning approval has been granted for a major residential and commercial development immediately to the north of the site. Being well connected to facilities and services, located within a recognisable community and being partly located within the settlement boundary for Earl Shilton, it is considered that the proposal would not conflict with paragraph 78 of the Framework although there is some conflict with Policy DM4 of the SADMP.

Design and impact upon the character of the area

- 8.8. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived

separation and open character between settlements and does not create or exacerbate ribbon development.

- 8.9. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. It should be noted that as the development is not considered to be sustainable development in the countryside in accordance with the first part of Policy DM4, any harm to the intrinsic value, beauty, open character and landscape character of the countryside would therefore be unjustified.
- 8.10. The application site is located to the rear of the existing residential properties along Heath Lane. The land immediately surrounding the site comprises land with permission for commercial and residential. It is considered that this planning permission has altered the existing pattern and grain of development in the area and so this part of Heath Lane no longer has a semi-rural character.
- 8.11. The existing residential properties along Heath Lane are consistent in character, in that they comprise of long, linear, narrow plots with the dwelling houses front facing onto the highway. The gardens serving these dwellings are long and narrow. The proposed dwelling, however, would face onto the private access road and would be the only property along this road. However, this property would also be interpreted against the layout of the proposed commercial development to the north of the site, the medical centre to the east of the site as well as the housing to the south and so would not appear as an incongruous addition in the area.
- 8.12. The site layout can easily accommodate a detached property in a generous plot and the scheme is not considered to constitute overdevelopment. The proposal does not have a significant adverse affect on the character of the countryside. Therefore, it is considered that the proposal would be in line with the emerging character of the area and would not represent overdevelopment of the site. Despite some conflict with Policy DM4, the proposal responds to the emerging character of the surrounding locality and is therefore in accordance with Policy DM10.

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties.
- 8.14. In the instance of this application being approved, final details of the proposed design, and landscaping would need to demonstrate that the impacts of the proposal would not have an adverse impact on neighbouring residential amenity. These would be secured at the reserved matters stage.
- 8.15. The neighbouring properties adjoining the site are No's 26, 28, 30 and 34 Heath Lane, sited to the south of the application site. The proposed layout demonstrates that, subject to design and appropriate positioning of windows (which would be assessed at reserved matters stage), the proposed siting of one dwelling on the plot would be some 26 metres from the nearest property. A planning condition can be imposed to ensure that no part of the dwelling hereby approved shall exceed 8.0 metres in height to its ridge above the existing ground level to protect the outlook of these adjoining residential properties.
- 8.16. An attached garage is shown to be located near to the boundary with these neighbouring properties and so within 20 metres of the nearest dwelling. However, this would be a garage which would be single storey and so would appear slightly above the existing boundary fencing. As a result of the proposed siting of the property there would be no significant overbearing impacts, overshadowing or loss of privacy from overlooking to these neighbouring properties.

- 8.17. Although the garage on the application site may not have been used for a considerable time, the lawful use of the land remains as a garden associated with no. 32 and could be used at any time for parking using the adjacent access track. A new garage could also be constructed under permitted development subject to conditions. It is not considered that one additional dwelling would generate a significant amount of traffic above the lawful use of the site. The access road is already used by users of the allotment gardens and by residents to access their rear gardens. It is not considered that the noise and disturbance from traffic associated with one additional dwelling would cause a significant overbearing impact on the residents at no. 34. Any traffic generated from the construction of the property would be short-term in view of the nature of the proposal being for one dwelling only.
- 8.18. Therefore, subject to design, scale and landscaping being considered with the subsequent reserved matters application, the proposal is in accordance with Policy DM10 of the SADMP in respect of impact on residential amenity.

Impact upon highway safety

- 8.19. Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.20. Heath Lane is an unclassified 30mph road with many direct residential frontages; the majority of which benefit from private driveways. In these situations it is expected that traffic using the route is likely to anticipate vehicles entering and exiting the carriageway and this will form part of the normal traffic situation, in that users will be aware of this and prepared to react to slow moving / manoeuvring traffic.
- 8.21. The Highway Authority has stated that in their view the residual cumulative impacts of the development can be mitigated and are not considered severe in accordance with the Framework. They acknowledge that the existing access onto Heath Lane does not meet the required standards for visibility to the west and does not meet the required width for two cars to pass. However, given that the site has the benefit of vehicular access and parking to an existing garage, then they were satisfied that one new dwelling would not cause any increase in traffic and that the intensification of use compared to the existing arrangement would be minimal.
- 8.22. The Highway Authority recommends that a planning condition is imposed on any consent granted to ensure that sufficient parking of at least 3 spaces is provided. Alternative parking is already being provided for no.32 alongside this property to address the displacement of parking from the redevelopment of the garage to the rear.
- 8.23. It is considered that the residual cumulative impacts of the development can be mitigated and would not be considered severe in accordance with Paragraph 109 of the NPPF and the proposal is in accordance with Policies DM17 and DM18 of the SADMP.

Other Matters

- 8.24. The ownership and maintenance responsibilities for the adjoining access track have been raised by residents and users of the allotment gardens. It is understood that the ownership of this access track is not registered with the Land Registry Department. For the purposes of determining this planning application, the applicant has included the access for vehicular traffic over this access track within the application site. However, ownership and right of way disputes are civil matters.

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.

9.4. The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The proposal seeks for the residential development of a detached property. The site is currently a grassed area used for domestic purposes, with the access road being situated within the defined settlement boundary of Earl Shilton.

10.2. Although part of the application site is located outside of the settlement boundary, given the surrounding development, the application site is not interpreted as open countryside, nor is it an area of physical and perceived separation. Therefore, having regard to the Framework and the presumption in favour of sustainable development, in this instance, the provision of a property on this site would not have a significant and demonstrable adverse impact when assessed against the policies in the Framework taken as a whole.

10.3. In addition, the proposal would not have any significant adverse impacts upon residential amenity, or on vehicular or pedestrian safety. It is considered that the proposed development would be in accordance with Policies DM10, DM17 and DM18 of the SADMP and paragraph 11 of the NPPF. Therefore, the proposal is recommended for approval subject to conditions.

11. Recommendation

11.1. **Grant planning permission** subject to

- Planning conditions outlined at the end of this report.

11.2. **Conditions and Reasons**

1. 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 scale of the dwelling proposed in relation to its surroundings;
- b) The appearance of the dwelling including the aspects of the building that determine the visual impression it makes;
- c) 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.

The development shall be implemented in accordance with 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 (2016).

- 2. Application for the approval of reserved matters shall be made to the local planning authority 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 meet the requirements of Section 92 of the Town and Country Planning Act 1990.

- 3. The development hereby permitted shall not be carried out otherwise than in accordance with the submitted application details as follows: Drws No: 7793-P-01; 7793-A-01 and 7793P-02 received by the local planning authority on 24 January 2019.

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 (2016).

- 4. No part of the dwelling hereby approved shall exceed 8.0 metres in height to its ridge above the existing ground level.

Reason: In the interests of protecting the outlook of adjoining residential properties in accordance with Policy DM10 of the SADMP (2016).

- 5. No part of the development hereby permitted shall be occupied until such time as the access arrangements, car parking and turning area shown on approved Drw No: 7793P-02 received by the local planning authority on 24 January 2019 have been implemented in full. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: In the interests of general highway safety and in accordance with Policy DM17 of the SADMP and paragraph 109 of the NPPF.

- 6. No development above foundation level of the dwelling hereby approved shall take place until samples of the materials to be used in the construction of the external facing materials have been submitted to and approved by the local planning authority in writing. Development shall be carried out in accordance with the approved sample details.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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 site drainage scheme shall be constructed so that no surface water drains onto the public highway. 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.
3. Where soakaway drainage is initially proposed, the suitability of the ground strata for infiltration should be ascertained by means of the test described in BRE Digest 365, and the results submitted to the LPA and approved by the Building Control Surveyor before development is commenced. If the ground strata prove unsuitable for infiltration, alternative SuDS proposals will require the further approval of the LPA before this condition can be discharged.
4. The collection point for domestic recycling, garden waste and refuse will be from the adopted highway boundary and so provision needs to be made on site for the storage of containers.