

**Planning Committee 19 October 2021  
Report of the Planning Manager**

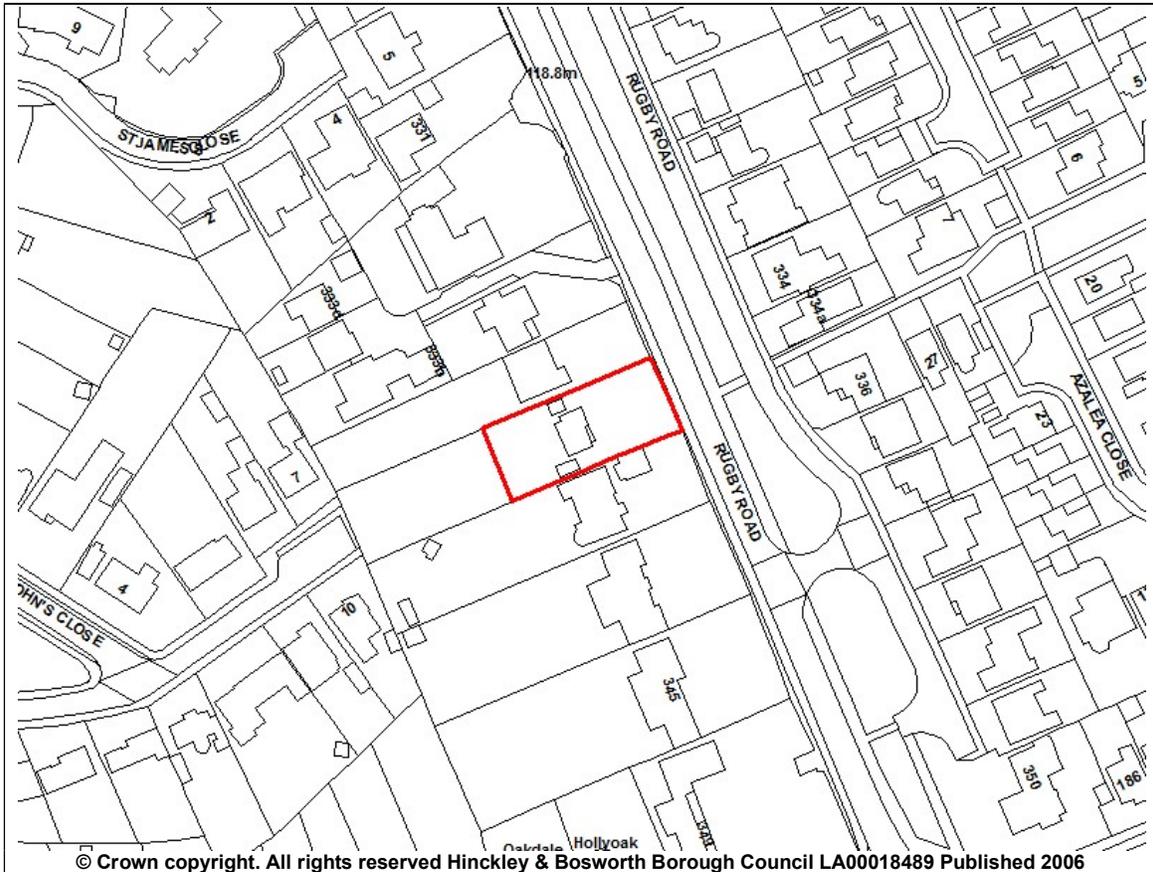
**Planning Ref: 21/00632/CONDIT  
Applicant: Ricky Child  
Ward: Burbage Sketchley & Stretton**



**Hinckley & Bosworth  
Borough Council**

**Site: 339 Rugby Road Burbage Leicestershire**

**Proposal: Variation of condition 2 (plans) attached to planning permission  
19/00413/FUL**



- 1) This application was taken to the previous Planning Committee on the 21<sup>st</sup> September 2021. The previous report and accompanying late items are attached to this report as Appendix A and B.
- 2) At the committee the item was deferred for a site visit to assess the alterations to the roof.
- 3) Since the previous planning committee a further objection letter has been received making the following points:
  - a) Increased mass and scale of the building
  - b) The total glazed area has increased at the rear allowing for longer and lingering sight lines into neighbours properties
  - c) The rear kitchen pod roof could be used as a balcony severely impacting on privacy

- d) Overbearing impact from the rear gables
  - e) The application should have been submitted as a new full application not a non-material amendment
- 4) With regards to the last point made in the objection letter the proposal hasn't been submitted as a non material amendment. Whilst a new application could have been submitted for the changes proposed a variation of condition application (section 73) is an appropriate type of application to submit for the proposed changes. This type of application does allow for amendments for additional conditions to be imposed if it is deemed to be necessary.
- 5) The recommendation hasn't changed since the previous committee.

## APPENDIX A

Planning Committee 21 September 2021  
Report of the Planning Manager

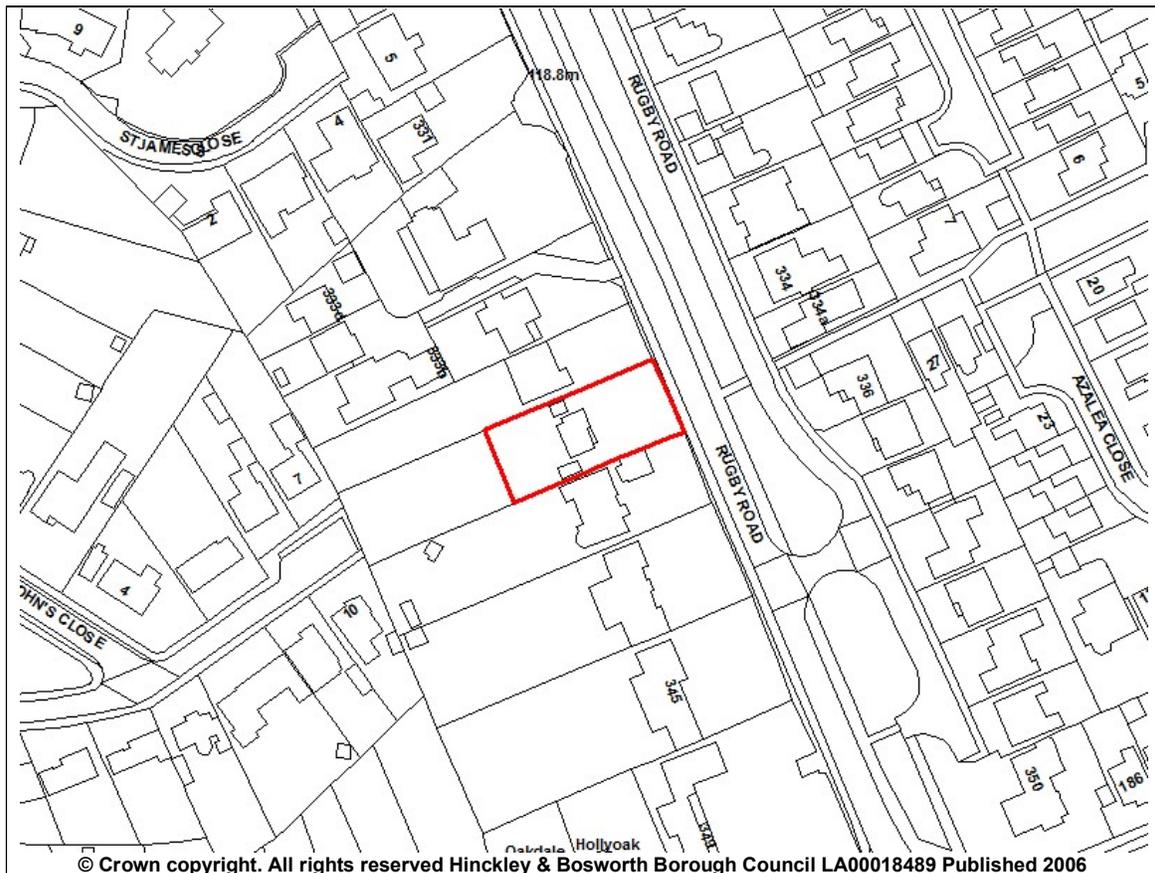
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### 1. Recommendations

#### 1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

#### 1.2. That the Planning Manager be given powers to determine the final detail of planning conditions.

### 2. Planning application description

#### 2.1. The application seeks to vary the plans condition (condition 2) attached to planning permission 19/00413/FUL, which was an application for a replacement dwelling of which construction work is ongoing. The main changes from the original application are:

- Removal of front porch
- Addition of roof light to side elevation and to front elevation
- Increased length of first floor rear facing windows to full length
- Addition of timber cladding to rear elevation
- Addition of side facing utility door
- Increased width of a first floor rear facing window
- Reduction in width of dwelling from 16.5 metres to 16.4 metres
- Increase in length of dwelling along southern elevation from 10 metres to 10.080 metres

2.2. Details of levels have now been provided with the application. The proposal has been amended by reducing the single storey rear extension back to 1.65 metres in depth, the same as application 19/00413/FUL.

### **3. Description of the site and surrounding area**

3.1. The application site is located on the western side of Rugby Road, surrounded by residential properties within the settlement boundary for Burbage. This side of Rugby Road is characterised by individually designed dwellings of varying but predominantly two storey scale set within large plots and set back from the road.

### **4. Relevant planning history**

#### **14/01160/OUT**

- Demolition of Existing Dwelling and Erection of two new dwellings (outline - access only)  
Outline permission  
16.01.2015

#### **17/00648/CONDIT**

- Variation of condition 2 of planning permission 15/01212/FUL to allow the development to be implemented in accordance with amended plans for amendments to fenestration and internal layout  
Permitted  
23.08.2017

#### **18/00122/FUL**

- Demolition of existing dwelling and the erection of a detached two storey dwelling and a detached double garage (re-submission).  
Permitted  
04.07.2018

#### **19/00413/FUL**

- Demolition of existing dwelling and the erection of a replacement detached dwelling and detached double garage (revised scheme)  
Permitted  
26.06.2019

#### **19/00882/DISCON**

- Application to discharge conditions 3 and 5 attached to planning permission 19/00413/FUL  
Discharged  
18.09.2019

### **19/01079/CONDIT**

- Removal of condition 9 (removal of permitted development rights) of planning permission 19/00413/FUL  
Refused (Allowed on appeal)  
18.11.2019

### **21/00230/DISCON**

- Application to re-discharge conditions 3 (materials) attached to planning permission 19/00413/FUL  
Discharged  
09.03.2021

## **5. Publicity**

5.1. The application has been publicised by sending out letters to local residents. There have been 5 objection letters from 3 separate addresses received as a result of the publicity making the following points:

- 1) There are more changes to the property being carried out than what is being applied for
- 2) The rear kitchen extension will reduce the open space to the rear of the property to the detriment of the neighbourhood
- 3) The rear window designs diminish privacy to neighbouring properties
- 4) The flat roof kitchen extension gives rise to the possibility of a balcony above it
- 5) The front roof light is out of keeping with the area
- 6) The property could be being built higher than shown on the plans
- 7) The separation of the house to the boundaries is now shorter
- 8) The house fails to respect the existing building lines
- 9) Overpowering nature of the design
- 10) Not being built in accordance with the plans. The build is showing a second floor being built up vertically from the house

## **6. Consultation**

6.1. Burbage Parish Council objects to the application on the following grounds:

- 1) Contravenes planning policy DM10
- 2) Increased mass and extended footprint would make it overbearing on the street scene and neighbouring properties
- 3) Adverse impact on neighbouring properties due to reduced side access
- 4) Concerns over the buildings height which was raised in the original application

6.2. Councillor Walker objects to the application on the following grounds:

- 1) Overdevelopment of the plot
- 2) Incongruous in the street scene

## **7. Policy**

7.1. Burbage Parish Neighbourhood Plan (BPNP) (2021)

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout

7.2. Core Strategy (2009)

- Policy 4: Development in Burbage

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

## 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 and parking

Assessment against strategic planning policies

8.2 The principle of the development has been established through the granting of planning permission 19/00413/FUL. The proposal is therefore acceptable subject to the assessment of other material considerations discussed below.

Design and impact upon the character of the area

8.3 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.

8.4 Policy 2 of the BPNP supports residential proposals that respects its surroundings and follows the existing pattern of development.

8.5 The Good Design Guide outlines that building plots should be a similar size to the wider context and the layout should not adversely impact upon the prevailing grain of development. Built development should also be of similar scale, mass and roof form to the wider context, allowing it to sit comfortably within the streetscene.

8.6 This side of Rugby Road is characterised as mainly larger dwellings, set back from the road with varying designs. The overall mass, scaling and design of the dwelling was largely established within the original application.

8.7 The change to the design of the dwellings shows a roof light, three windows wide to the front elevation. Whilst it would be visible from the road the property is set well back. This would be a minor alteration to the dwelling that would not have a significant visual impact on the character and appearance of the dwelling. As permitted development rights are now allowed on the replacement property this alteration could be carried out as permitted development. The porch to the front has been removed from the previous approved scheme. A roof light in the side elevation is also proposed however this is a minor addition that would be well screened from the street scene by the existing building and the neighbouring property. Timber cladding is proposed to the rear elevation above the first floor windows. This element would not be viewed from the main street scene and would only cover part of the rear elevation. It would not significantly impact upon the appearance of the dwelling. The increased glazing to the rear windows and the side utility door are considered to be minor changes to the dwelling.

8.8 Overall the proposed changes would not have a significant visual impact on the character and appearance of the dwelling and the wider street scene in compliance with policy DM10 of the SADMP, policy 2 of the BPNP and the Good Design Guide SPD.

Impact upon neighbouring residential amenity

8.9 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.

8.10 The Good Design Guide SPD outlines that development may be acceptable unless there is a detrimental impact on the adjacent properties as assessed by the 45 degree rule. The Good Design Guide SPD recommends a minimum garden length of 7 metres.

8.11 The proposed side facing roof light is a high level roof light serving the en suite and is to be obscure glazed so its impact upon privacy would be minimal. The front facing roof light is set away from any neighbouring residential properties.

8.12 The flat roof kitchen pod has been amended to the same depth as the original application (1.7 metres). Concern has been raised that as this is flat roof it could be used as a balcony for the room above it. Given the small depth of the rear extension and that it contains a roof light the area around it is highly unlikely to be used for walking or sitting on. In any case now this has been amended it is the same design as the original application where no condition preventing this area from being used as a balcony was attached.

8.13 Concern has been raised over privacy due to the increased length of the first floor rear facing windows. The increased length of the windows is lower down at floor level therefore there will be no greater level of overlooking from the proposed windows at eye level. There would be a slightly increased view from the neighbouring property at the rear on Johns Close into the proposed windows however this would be minor given the separation distance to the rear boundary is approximately 14 metres, approximately 29 metres to the rear windows to the neighbour and the view would be at foot level.

8.14 Concern has been raised regarding over development of the site. However now the flat roof rear extension is remaining in its original depth the overall size and scale of the property is staying the same as the original application and no loss of amenity space is occurring as a result of the changes.

8.15 Work is currently ongoing for the replacement dwelling. Concerns have been raised that the building is being built higher than shown on the approved plans and that at the rear it is being built up vertically at roof level to provide a second floor. As work is ongoing there is no evidence that it is being built separate from the submitted plans as the areas in question are not yet finished. If it was found to be the case that the works are different to what is being proposed it would be a matter for the planning enforcement team.

8.16 Overall the proposed changes would have a minimal impact on residential amenity in compliance with policy DM10 of the SADMP and the Good Design Guide SPD.

Impact upon highway safety and parking

8.17 Policy DM17 of the SADMP supports development proposals where they demonstrate that there would be no adverse impacts on highway safety and that development is located where the use of sustainable transport modes can be maximised. Policy DM18 of the SADMP seeks an appropriate level of parking provision within sites to serve the development.

8.18 No changes are proposed to the access or parking arrangements. The property has a large front drive that can accommodate the required three off street parking spaces. It is not expected that the changes proposed would result in a significantly increased demand for parking on the site.

8.19 The proposal would result in a minimal impact on parking and highway safety in compliance with policies DM17 and DM18 of the SADMP.

## **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 principle of the development has already been established through the previously approved and extant planning permission (19/00413/FUL).

10.2. The proposed changes would not result in a significant visual impact on the character and appearance of the existing house and the main street scene. The proposal will result in a minimal impact on residential amenity and parking/highway safety. The proposal is therefore in compliance with policies DM10, DM17 and DM18 of the SADMP, policy 2 of the Burbage Parish Neighbourhood Plan and the Good Design Guide SPD.

## **11. Recommendation**

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 That the Planning Manager be given powers to determine the final detail of planning conditions.

### **11.3 Conditions and Reasons**

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site location plan received 30th April 2019  
Block plan received 30th April 2019  
Site Plan/Landscaping Drawing No. 13/01/19 Rev A received 30th April 2019  
Garage Elevations and Floor Plan Drawing No. 15/08/18 Rev A received 30th April 2019  
Block plan received 24th June 2021  
Second floor plan received 27th July 2021  
Amended floor plans received 12th August 2021  
Amended elevations received 12th August 2021

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The materials to be used on the external elevations of the proposed dwelling shall accord with the details submitted under application 21/00230/DISCON.

**Reason:** To ensure that the development has a satisfactory external appearance in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development shall accord with the submitted finished floor levels submitted with the approved plans.

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

4. Measures to protect the trees on site and adjacent to boundaries from damage shall accord with the details submitted under application 19/00882/DISCON.

**Reason:** To ensure that the development has a satisfactory external appearance and protects existing trees to be retained on site in the interests of visual amenity to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD (2016).

5. The development hereby permitted shall not be occupied until such time as the existing gates to the vehicular access have been permanently removed. 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 5 metres of the highway boundary, and any gates or barriers shall be 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 including pedestrians in the public highway in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2021).

6. The development hereby permitted shall not be occupied until such time as the access drive (and any turning space) has been surfaced with 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 so maintained in perpetuity.

**Reason:** To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in

accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2021).

7. The approved hard and soft landscaping scheme shall be carried out in accordance with the details submitted on Landscaping Plan Drawing No. 13/01/19 Rev A received by the local planning authority on 30 April 2019 in the first planting season following the first occupation of the dwelling hereby permitted. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted.

**Reason:** To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

#### 11.4 **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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.

## APPENDIX B

ITEM 11

21/00632/CONDIT

Ricky Child

**Site:- 339 Rugby Road, Burbage**

**Proposal:- Variation of condition 2 (plans) attached to planning permission 19/00413/FUL**

### **Introduction:-**

Since the publication of the main report amended plans have been received removing the roof lights to the front and side elevations and the timber cladding from the rear elevation. The changes from the previous approval are now:

- Removal of front porch
- Increased length of first floor rear facing windows to full length
- Addition of ground floor side facing utility door
- Increased width of a first floor rear facing window
- Reduction in width of dwelling from 16.5 metres to 16.4 metres
- Increase in length of dwelling along southern elevation from 10 metres to 10.080 metres

### **Recommendation:-**

The amended plans do not change the recommendation from the report, subject to the below amended condition.

Amend condition 1 to read as follows:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

Site location plan received 30th April 2019

Block plan received 30th April 2019

Site Plan/Landscaping Drawing No. 13/01/19 Rev A received 30th April 2019

Garage Elevations and Floor Plan Drawing No. 15/08/18 Rev A received 30th April 2019

Block plan received 24th June 2021

Second floor plan received 27th July 2021

Amended floor plans received 12th August 2021

Amended elevations received 17th September 2021

**Reason:** To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).