

Planning Committee 27 September 2022
Report of the Planning Manager (Development Management)



Hinckley & Bosworth
Borough Council

Planning Ref: 21/01514/FUL
Applicant: Mr Rogers
Ward: Twycross Sheepy & Witherley

Site: Land At Rear Of 7 Hunt Lane Witherley

Proposal: Single storey detached dwelling



1. Recommendations

1.1. **Approve planning permission** subject to the conditions at the end of this report

2. Planning application description

2.1. The proposal seeks to erect a new single storey dwelling on land to the rear of No. 7 Hunt Lane. The new property would, however, be accessed via St Peters Avenue.

3. Description of the site and surrounding area

3.1. The application site is part of the rear garden of No. 7 Hunt Lane. There are various garden structures within it, and it is surrounded on three sides by 1.8m close boarded fencing.

3.2. The surrounding area is residential in character, though there is a large degree of variance in the type and style of properties on show.

4. Relevant planning history

4.1 The application site has no relevant planning history

5. Publicity

5.1. The application has been publicised by sending out letters to local residents and posting a site notice.

5.2. 4 objections were received from members of the public raising the following concerns:

- 1) Covenants restricting use of land for anything other than gardens
- 2) Density of development
- 3) Parking
- 4) Outline plan shows boundary in the wrong place
- 5) Incorrectly labelled properties on Site Plan
- 6) Proximity of side wall to edge of property
- 7) Increased traffic

5.3. Though of importance in terms of the applicant's ability to deliver the development proposed, the fact that a covenant exists on land does not constitute a material planning consideration, and so has not formed part of the recommendation contained within this report. Members of the committee are advised that the matter will need to be dealt with via legal routes, rather than through planning control.

6. Consultation

6.1. No objection has been received from:

- LCC Highways
- HBBC Drainage

6.2. Witherley Parish Council has objected to the scheme for the following reasons:

- 1) "The end of St Peter's Avenue (which is a cul de sac) is used by many vehicles as a turn-around point (as the road is narrow with cars parked on the road as well as drives) this will cause many issues for road users.
- 2) The stated parking provision (although neat on the plan) would appear to be insufficient for two vehicles to park and safely access the drive.
- 3) Adjacent to the drive access is a gated access to properties 3 & 4 Riverside which will restrict this proposed access.
- 4) The building lines are very close to adjacent neighbour's properties and could be viewed as overcrowding.
- 5) The Council has had brought to its attention a covenant which restricts development of the site for building or other purpose but for garden use only. The owner of the covenant has advised the Council they will not allow the development.
- 6) WPC has advised the owner to contact HBBC Planning Dept."

7. Policy

7.1. Core Strategy (2009)

- Policy 12: Rural Villages
- Policy 16: Housing Density, Mix and Design

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

- Policy DM1: Presumption in Favour of Sustainable Development
- 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) (2021)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)

- 7.4. Other relevant guidance
- Good Design Guide (2020)

8. Appraisal

8.1. Key Issues

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Flood risk and drainage
- Contamination
- Planning balance

Principle of development

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms 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.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. The Emerging Local Plan for 2020-39 has been out for consultation at Regulation 19 draft stage (February to March 2022). The LDS anticipates that the Plan will be submitted in spring/summer 2022, and an estimated date for examination of late summer/autumn 2022. This will increase the weight to be afforded to the new Local Plan. The LDS will be updated following the Full Council meeting decision on 6th September.
- 8.5. Policy 12 of the Core Strategy sets out how development is expected to come forward in rural villages such as Witherley. It suggests that the council will support housing and development within settlement boundaries that provides a mix of housing types.
- 8.6. The proposal seeks permission for a new dwelling within the settlement boundary and so in principle is considered to accord with the Development Plan.

Design and impact upon the character of the area

- 8.7. Policy DM10(c), (d) and (e) 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 the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.

- 8.8. The Good Design Guide SPD provides guidance on existing residential development in particular extensions and conversions.
- 8.9. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.10. The proposed site plan, elevations and floor plans, illustrate that the scheme seeks to subdivide the plot, and erect a new dwelling in the rear garden with access from St Peters Avenue.
- 8.11. The new property would be single storey in nature, benefit from two off road parking spaces, and a relatively small garden area in the southeast corner. It would be a form of development wholly suitable for older occupants – with enough outside space to enable it to be enjoyed, but without creating a maintenance issue going forward. The design and layout is illustrative of many similar properties in the surrounding area and across the Borough more generally, and it would not look out of place within the street scene.
- 8.12. Overall the scheme is considered to be acceptable and in accordance with Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF with respect to design and character considerations.

Impact upon neighbouring residential amenity

- 8.13. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.14. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.15. The proposed dwelling would be single storey in nature and positioned such that it would not create unacceptable impacts on adjoining properties with respect to overlooking, loss of sunlight or overbearing impact.
- 8.16. The closest property to it would be No. 37 St Peters Avenue (not No. 39 as indicated on the Site Plan), but the relationship would be suitable. The other adjoining properties would be situated some distance from the new dwelling and could not be said to be negatively impacted upon by it.
- 8.17. As such this application is considered to be acceptable in amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF with respect to residential amenity.

Impact upon highway safety

- 8.18. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the

most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).

- 8.19. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.20. The Highways Authority have no objection to the scheme, following amendments made to the site plan to take into account initial commentary from the highways team. The proposals will provide two off road parking spaces, with suitable visibility splays, hard standing materials and dimensions.
- 8.21. The proposal will have a negligible impact on the highway network and the new property will have sufficient car parking areas on site. The proposal is therefore considered to be acceptable in highway terms and accords with Policies DM17 and DM18 of the SADMP

Flood Risk and Drainage

- 8.22. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.23. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.24. HBBC Drainage have no objection to the scheme, and have not requested any further detail via condition. They have notified the applicant of what will be required at Building Control stage.
- 8.25. As such it is considered that the proposals meet the requirements of Policy DM7 of the SADMP with respect to their potential impact on flooding.

Ecology and biodiversity

- 8.26. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including long term future management. Paragraph 174 of the NPPF states that development proposals should contribute to and enhance the natural environment by minimising impacts on and providing net gains for biodiversity.
- 8.27. The application includes no reference to the need to make a net positive impact on biodiversity. However, given the scale of the proposed development, this is a matter that can be effectively dealt with via condition. Subject to the condition requirements this application is considered be acceptable with respect to ecology and biodiversity matters and complies with Policy DM6 of the SADMP.

Planning Balance

- 8.28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.29. The proposal would deliver a new dwelling into Witherley – this minor benefit weighs in support of the scheme.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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.

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. Recommendation

10.1 **Approve planning permission subject to the following conditions:**

10.2 **Conditions**

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

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be in accordance with the following approved details:
 - Drawing No. 1272_01 Rev B – Proposed Floor Plan, Elevations, Block Plan and Site Plans (Received 03/08/2022)
 - Design and Access Statement (Received 24/12/2021)

Reason: To ensure a suitable form of development comes forward in accordance with Policy DM3 of the Site Allocations and Development Management Policies DPD 2016.

3. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Drawing Number 1272_01 Rev B (Proposed Floor Plan, Elevations, Block Plan and Site Plans) have been delivered in full. The details therein shall thereafter be retained.

Reason: To ensure a safe and suitable access for the development in accordance with Policy DM17 of the Site Allocations and Development Management Policies DPD and the requirements of the NPPF.

4. No development shall commence above foundation level until a scheme for the installation of an electric vehicle charging point shall be submitted to and approved in writing by the local planning authority. The scheme shall identify

the number of units to benefit from electric charging points, together with full details of the location fitting and timetable for installation of the units.

Reason: To ensure that the proposals meet the requirements of Policy DM10 (g) of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 112 (e) of the National Planning Policy Framework.

5. No development shall commence on site until a biodiversity improvement plan has been submitted in writing to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details.

Reason: In the interests of promoting a net gain in biodiversity on the site and in accordance with Policy DM6 of the SADMP and the National Planning Policy Framework (2021).

6. No development shall commence on site until a scheme that makes provision for waste and recycling storage and collection across the site has been submitted in writing to and approved in writing by the Local Planning Authority. The details should address accessibility to storage facilities and adequate collection point space at the adopted highway boundary. The approved scheme shall be implemented in accordance with the agreed details.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Prior to the commencement of development above DPC level, a scheme that makes provision for secure cycle storage has been submitted in writing to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the agreed details and retained thereafter.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10.3 Notes to applicant

1. 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.
2. 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).