

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



Hinckley & Bosworth
Borough Council

Planning Ref: 22/00639/FUL
Applicant: Blake and Clark Ltd
Ward: Twycross Sheepy and Witherly

Site: 12 Sketchley Lane Ratcliffe Culey Atherstone Leicestershire CV9 3NZ

Proposal: Erection of 2no. dwellings with associated parking, landscaping and amenity space



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 approval for the erection of 2 dwellings with associated parking, landscaping and amenity space following the demolition of the existing dwelling.

3. Description of the site and surrounding area

3.1. The site is located within Ratcliffe Culey, at the end of a short lane that serves a few other residential properties.

3.2. The existing property is two-storey in nature, set within a large plot, and in a state of some disrepair. The character of the area is residential and rural in character, typical of this part of the District.

4. Relevant planning history

3.3. The application site has the following relevant planning history:

21/10202/PREHMO

- Demolition of existing dwelling and erection of up to 4 dwellings – Advice given
- Closed
- 05.04.2022

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and posting a site notice.
- 5.2. 14 objections were received from the public, detailing the following material matters:
- 1) Design/Character
 - 2) Highways Impact and previous refusal on highways grounds
 - 3) No footpath provision
 - 4) Parking
 - 5) Amenity
 - 6) Overdevelopment
 - 7) Flood Risk
 - 8) Previous 2001 application on adjacent site refused and dismissed on appeal
 - 9) Unsustainable development for a hamlet
 - 10) Loss of heritage asset
 - 11) Impact on foraging bats

6. Consultation

- 6.1. No objection has been received from:
- LCC Highways (Conditions relating to access width and parking facilities)
 - HBBC Drainage
 - LCC Ecology
 - HBBC ES Pollution
- 6.2. The Parish Council has objected to the proposals for the following reasons:
- “There were a lot of hedges and fruit trees which have been destroyed already to enable the development - change of use has already begun.
Site is vacant (error on application form), new there will be an additional access, A loss of character of the village.
Foul sewerage should go to the correct sewer - states unknown.
This removal of one of only 13 old properties in the village would not be desired as there are already 40 newer built properties which dominate the village scene.
Additional access will cause major issues on this narrow lane.”*

7. Policy

- 7.1. Core Strategy (2009)
- Policy 13 – Rural Hamlets
 - Policy 14 – Rural Areas: Transport
 - Policy 15 – Affordable Housing
 - Policy 16 – Housing Density, Mix and Design
 - Policy 17 – Rural Needs
 - Policy 24 – Sustainable Design and Technology
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - DM2 – Delivering Renewable Energy and Low Carbon Development
 - DM4 – Safeguarding the Countryside and Settlement Separation

- DM6 – Enhancement of Biodiversity and Geological Interest
- DM7 – Preventing Pollution and Flooding
- DM8 – Safeguarding Open Space, Sport and Recreational Facilities
- DM10 – Development and Design
- DM17 – Highways and Transport
- DM18 – Vehicle Parking Standards
- DM25 – Community Facilities

- 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 decision taken at Full Council on 6th September.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough. Policy 13 sets out what will be appropriate within the defined 'Rural Hamlets' (Ratcliffe Culey

being one). It supports the provision of housing development within settlement boundaries, provided that it is of an appropriate type, mix, design and scale.

- 8.6. As such it is considered to be suitable for the site and its location and would contribute towards the aims set out within the Core Strategy in terms of the provision of housing to meet the objectively assessed housing need – particularly as it is delivered on previously developed land within a defined settlement. As such, the proposals are considered to be acceptable in principle, subject to the detailed matters below.

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 dwellings would each be two-storey detached, four-bedroom properties, with detached single garages and space for three off-road parking spaces. Each property would benefit from outside patio areas and then lawned gardens.
- 8.11. The proposed dwellings are traditional in their design, and would replace a somewhat derelict-looking existing property.
- 8.12. The proportions, design, positioning and overall impact of the dwellings would have a minor positive impact on the site and immediate surroundings.
- 8.13. 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
- 8.14. 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.
- 8.15. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. This proposal is for a residential annexe associated with the main dwelling on site 73 Newbold Road. Initially, some concerns were raised by the case officer that the proposed annexe was considered to be a separate dwelling as opposed to an annexe by virtue of the fact that the plans as submitted had all the essential living facilities to function independently i.e. 2 bedrooms, kitchen, living, bathroom areas.

An amended plan was submitted to reduce the size of the proposed annexe by removing a bedroom and retaining some of the floor area of the existing building for storage purposes. The amended plan also illustrates less provision of independent living facilities to ensure that the annexe as proposed has an element of reliance on the main property to which it would be associated.

- 8.16. 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.
- 8.17. The two dwellings would have suitable areas of amenity space and would have a reasonable relationship with each other and surrounding existing properties. There would be no overlooking, no loss of sunlight and no overbearing impact.
- 8.18. As such this application is considered to be unacceptable in amenity terms and not 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

- 8.19. 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)).
- 8.20. 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.
- 8.21. The Highways Authority have no objection to the scheme but have sought conditions in relation to the access widths and the provision of car parking spaces.
- 8.22. The proposal will have a negligible impact on the highway network and the new properties 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

- 8.23. 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.
- 8.24. 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.

- 8.25. A condition requiring surface water drainage details will enable the application to meet the demands of the Development Plan with respect to drainage and flood risk.

Ecology

- 8.26. Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation and ecological value. The application includes a Bat Report which indicates no signs of bat activity in the existing property. The county Ecologist has no objection to the scheme.

- 8.27. In order to ensure that the application is in accordance with Policy DM6 of the SADMP a condition will be attached requiring details of the measures to be undertaken on site to achieve the net positive impact required.

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. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. Therefore the Council does not have a 5 year housing land supply.

- 8.30. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:

“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

- 8.31. Footnote 8 in the NPPF states that the application of this approach *“includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”*.

- 8.32. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 8.33. The proposal is considered to be acceptable when taking into account all of the material considerations set out above. There are no adverse impacts associated with this development that would outweigh the benefits identified. Therefore this application is recommended for approval subject to the signing of Section 106 legal agreement and conditions set out below.

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:**

11. Conditions and Reasons

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 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
Site Location Plan - Drg No. 220/PL01 Rev A (Received 29/06/2022)
Site Plan and Block Plan (Received 08/07/2022)
Floor Plans and Elevations (Received 08/07/2022)
Bat Report (Received 29/06/2022)
Planning Statement (Received 29/06/2022)

Where the above plans/reports include mitigation measures, these will be delivered in accordance with the approved details.

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).

3. 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).

4. No development shall commence on site until a scheme for surface water drainage, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details prior to the first occupation of any dwellings hereby approved, and retained thereafter.

Details submitted shall include, but not be limited to, test pit/borehole locations and groundwater level information in order to demonstrate that infiltration drainage is feasible for this site. Soakaways should be designed in accordance with CIRIA publication 'The SuDS Manual' (C753).

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

5. Prior to commencement of development a Construction Environmental Management Plan shall be submitted to and agreed in writing by the LPA. The plan shall detail how, during the site preparation and construction phase of the development, the impact on existing and proposed residential premises and the environment shall be prevented or mitigated from dust, odour, noise, smoke, light and land contamination.

The plan shall detail how such controls will be monitored. The plan will provide a procedure for the investigation of complaints. The agreed details shall be implemented throughout the course of the development. Site preparation and construction shall be limited to the following hours; Monday - Friday 07:30 - 18:00, Saturday 08:00 - 13:00 and no working on Sundays and Bank Holidays.

Reason: To help prevent and mitigate noise, odour and pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

6. Details of any external lighting of the site shall be submitted to, and approved in writing by, the Local Planning Authority prior to the commencement of the development. This information shall include a layout plan with beam orientation and a schedule of equipment proposed in the design (luminaire type, mounting height, aiming angles and luminaire profiles). The lighting shall be installed, maintained and operated in accordance with the approved details.

Reason: To help prevent and control light pollution in accordance with Policy DM7 of the Site Allocations and Development Management Policies DPD (2016) and the NPPF.

7. Prior to the commencement of development a scheme for the installation of electric vehicle charging points will 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 detail of the location and fitting 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

8. No development shall commence on site until a scheme that makes provision for the secure storage of cycles for each dwelling 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 modal shift in transport movements and in accordance with the National Planning Policy Framework (2021).

9. 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).

10. 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 gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

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 the National Planning Policy Framework (2021).

11. The proposed access shall have a width of a minimum of 2.75 metres, a gradient of no more than 1:12 and shall be surfaced in a bound material for a distance of at least 5 metres behind the highway boundary. The access once provided shall be so maintained at all times.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (2021).

12. The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with Curry Design

Studio Ltd drawing number: 220/PL01 Revision A. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally and in the interests of highway safety and in accordance with the National Planning Policy Framework (2021).