

**Committee Report 25 April 2023
Report of the Head of Planning (Development Management)**

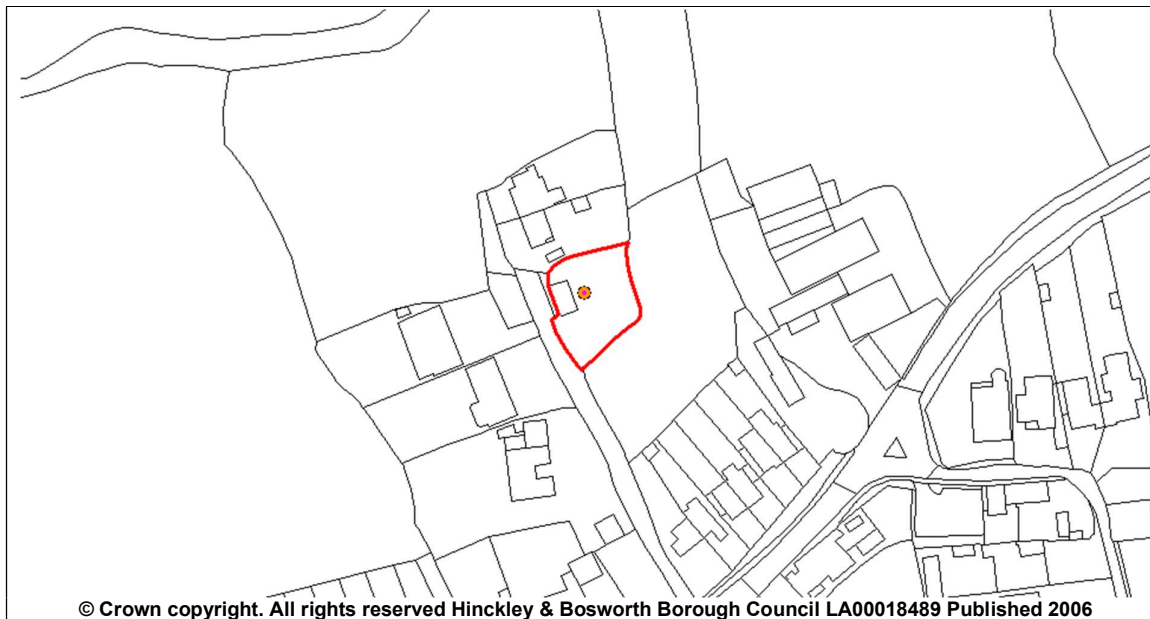
**Planning Ref: 23/00150/CONDIT
Applicant: BLAKE AND CLARK LTD
Ward: Twycross, Sheepy and Witherley**



Hinckley & Bosworth
Borough Council

Site: 12 Sketchley Lane, Ratcliffe Culey, Atherstone, Leicestershire

**Proposal: Variation of conditions 2 and 7 of planning permission 22/00639/FUL.
Amendment to erect a single storey rear extension to plots 1 and 2, remove and
replace detached garage for plot 1 with hardstanding.**



1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

2.1. This application seeks to vary Conditions 2 and 7 of extant planning permission 22/00639/FUL. The changes include an amendment to the design of the two, detached properties to include the addition of a single storey rear extension and to remove the detached garage for Plot 1 and replace with hardstanding.

2.2. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission. Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

2.3. A decision notice describing the new permission should clearly express that it is made under Section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.

2.4. Condition 2 states:

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

I. Site Location Plan - Drg No. 220/PL01 Rev A (Received 29/06/2022)

II. Site Plan and Block Plan (Received 08/07/2022)

III. Floor Plans and Elevations (Received 08/07/2022)

IV. Bat Report (Received 29/06/2022)

V. 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).'

Condition 7 states:

'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).'

2.5. The application as submitted includes the following plans/drawings which illustrate the proposed changes and would if approved replace the relevant plans as set out within the existing conditions above:

- Site Location Plan and Proposed Site Plan Drg No: 220/PL02 Rev: C
- Proposed Floor Plans and Elevations Drg No: 220/PL02 Rev: B

3. Description of the site and surrounding area

3.1. The application site is located within Ratcliffe Culey, at the end of a short lane that serves a few other residential properties. The plot previously accommodated a two-storey property, 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

21/10202/PREHMO

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

22/00639/FUL

- Erection of 2no. dwellings with associated parking, landscaping and amenity space
- Planning Permission
- 03.10.2022

22/01088/DISCON

- Application to discharge Condition 4 (CEMP) attached to planning permission 22/00639/FUL
- Discharged
- 13.12.2022

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and displaying a site notice.
- 5.2. Five letters of objection have been received which raise the following concerns:
- Loss of Hedgerow and impact on wildlife
 - Impact upon neighbouring amenity by way of loss of outlook and issues of an overbearing nature
 - The houses are too large for the plot. Overdevelopment of the site.
 - Not in keeping with its surroundings and inappropriately sized when compared to neighbouring sites
 - The houses do not have large enough rear gardens

6. Consultation

- 6.1. No objection has been received from the following consultees:
- HBBC Environmental Health
 - HBBC Drainage
 - HBBC Waste
 - Local Highway Authority
 - LCC Ecology
- 6.2. Witherley Parish Council – Objection. This application is complete overdevelopment of the plot and not in keeping with the rural country lane in a bucolic rural location. The Council has been advised the occupants of the adjacent property, 14 Sketchley Lane, are not in favour of the extension, and in particular have raised with the planning dept. the boundary hedge between themselves and the new properties. The parish council would strongly support retention of the established boundary hedge both for ecological reasons (habitat for diverse wildlife) and the enjoyment of a pleasant outlook for the residents of No 14. As they comment, many of the existing hedges around the plots have already been grubbed up and will take years to regrow, even if replanted.

- 6.3. Cllr Morrell - I supported the previous application which went to committee and was passed. However I made it clear that I would not tolerate any further extension to the development which clearly this application is. I believe we are now over massing the site which is not in keeping with the other properties on this side of the lane. Therefore I am objecting to this application and calling it in for a Committee determination.

7. Policy

7.1. Core Strategy (2009)

- Policy 13 – Rural Hamlets
- Policy 14 – Rural Areas: Transport
- Policy 16 – Housing Density, Mix and Design
- Policy 24 – Sustainable Design and Technology

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

- Policy DM1: Presumption in Favour of Sustainable Development
- 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. Witherley Neighbourhood Plan

- Policy H3: Housing Mix

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

- Leicestershire Highway Design Guide (2020)
- Good Design Guide

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
- Drainage
- Ecology
- Other matters
- 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 replacement Local Plan for Hinckley and Bosworth has been delayed to 2024 and a further Regulation 19 stage is to be carried out. Therefore this document carries little weight at this time.
- 8.5. Since the grant of the original permission 22/00639/FUL the Witherley Neighbourhood Plan (WNP) has been progressed. The plan is proceeding to referendum (subject to modification) and is scheduled for 4 May 2023. Therefore the Neighbourhood Plan can now be afforded significant weight at this stage. Policy H3 of the WNP states that:

'New housing development proposals should provide a mixture of housing types specifically to meet identified local needs in the Plan area as evidenced in the Parish Housing Needs Report (2018); HBBC Housing Needs Study (2019); Midlands Rural Housing Report (2016) and the 2017 HEDNA or more recent documents updating these reports. Dwellings of 3 bedrooms or fewer and single storey accommodation suitable for older people will be supported where in accordance with other policies. Affordable housing is required on development proposals of more than 10 dwellings or more than 0.5ha in size and should be designed and delivered to be indistinguishable from market housing and should be distributed and integrated evenly through the development as a whole. Provision of affordable housing for people with a local connection to the Parish is supported'.

- 8.6. It is noted however, that the application for 2x 4 bedrooled dwellings was approved by Members of the Planning Committee in 2022. Whilst this proposal seeks to extend the footprint of the dwellings at ground floor level they are to remain as 4 bedrooled properties.
- 8.7. The principle of development has therefore been established through the grant of permission 22/00639/OUT. The material considerations for this application are set out below.

Design and Impact upon the Character of the Area

- 8.8. 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.
- 8.9. 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. This application includes floorplans and elevations to show the design and scale of the proposed single storey extension to each detached property. The extensions are to be sited to the rear of the properties and therefore would not be prevalent within the street scene. The proposed additions have a monopitch roof and extend across the width of the rear elevation of each property. Each extension includes 4 rooflights, a set of bi-fold doors and a window which faces onto the rear garden.
- 8.11. The materials and design of the proposals complement the existing design of the properties. With respect to design considerations therefore, the scheme is considered to be acceptable and would not impact upon the character of the immediate area. The proposal is therefore considered to be in compliance with Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF.

Impact upon Neighbouring Residential Amenity

- 8.12. 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 with in the vicinity of the site.
- 8.13. Paragraph 130 of the revised 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.
- 8.14. Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.15. Objections have been received from neighbouring properties about the impact the proposal would have on their amenity. The proposed extensions are single storey in height and the depth from the original rear elevation is 2.2m approximately. The footprint of each extension is 21 square metres approximately. This is a small addition and not considered to adversely impact on the existing amenity of neighbouring residential occupiers when compared to the amenity relationship considered as part of the original permission 22/00639/FUL. There are no new policy/guidance considerations since the grant of the original permission which would alter the assessment of the proposal with respect to residential amenity.
- 8.16. Therefore, this application is considered to be acceptable in residential amenity terms and in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the revised NPPF (2021).

Impact upon Highway Safety

- 8.17. 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 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)).

- 8.18. Paragraph 111 of the NPPF (2021) 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.
- 8.19. Paragraph 112 of the NPPF states that development should be designed to enable charging of plug in and other ultra low emission vehicles in safe, accessible and convenient locations. A suitably worded condition shall be added to this permission to allow for this provision within the development.
- 8.20. The scheme previously approved under 22/00639/FUL provided 3 off street car parking spaces for both plots 1 and 2 along with a garage for each plot. This is the maximum amount of spaces required as per paragraph 3.151 of Part 3 of the Leicestershire Highway Design Guide (LHDG).
- 8.21. The local highway authority have raised no objections to the removal of a garage and replacement with hardstanding and are satisfied with the information provided with respect to highway matters.
- 8.22. It is considered therefore that the proposal will satisfy policy DM17 and DM10 (g) and the revised NPPF 2021 with respect to highway considerations.

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. The HBBC Drainage Team were consulted on the application and have raised no objections to the proposed details. The application is therefore considered to be acceptable and in accordance with development plan policy with respect to flooding and drainage considerations.

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 previous application included a Bat Report which indicated no signs of bat activity within the existing property.
- 8.27. Neighbour objections have been received in respect of the loss of hedgerow and impact on wildlife.
- 8.28. The County Ecologist has been consulted on this application. Previously they had no objection to the original scheme and have no comments or issues in respect of this

variation of condition application. A bat box condition is recommended as a condition as per the previous permission.

- 8.29. Therefore the proposal is considered to accord with Policy DM6 of the SADMP and requirements of the NPPF with respect to ecological considerations.

Other Matters

- 8.30. It is noted that since the grant of planning permission 22/00639/FUL condition details have been submitted to and agreed by the local planning authority in relation to the Construction and Traffic Management Plan. As such Condition 4 of the original permission has been formally discharged under reference 22/01088/DISCON. These are approved details and therefore set out within the conditions below for clarity and ease of reference.

- 8.31. A Section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission.

Planning Balance

- 8.32. The principle of development of 2x 4 bedroomed detached properties has been established through the grant of the previous permission 22/00636/FUL. This application raises no new material considerations when compared to the extant permission. Whilst the Witherley Neighbourhood Plan (WNP) can be given significant weight this Section 73 application does not alter the provision of 2 4x bedroomed dwellings, it merely seeks to increase the ground floor footprint of the approved dwellings by 21 square metres and replace a garage with hardstanding.

- 8.33. As such, subject to the conditions set out below this application is recommended to Members for approval.

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.
- 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**

Grant planning permission subject to:

- Planning Conditions

11.1 **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of 22/00639/FUL (Three years from the granting of original planning 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. The development hereby approved relates to the following details:

2. The development hereby permitted shall be carried out in accordance with the following details:

- Site Location Plan and Proposed Site Plan Drg No: 220/PL02 Rev: C received 17 February 2023
- Proposed Floor Plans and Elevations Drg No: 220/PL02 Rev: B received 17 February 2023
- Bat Report (Received 29/06/2022)

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

3. No development shall be occupied 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 and been implemented in full. 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. The development hereby permitted shall be only be carried out in accordance with the approved Construction and Environmental Management Plan document ref C4 CEMP 12 Sketchley Lane (20221207) received 7 December 2022.

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.

5. 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).

6. 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).

7. The development hereby permitted shall not be occupied until such time as the parking facilities have been implemented in accordance with the Proposed Site Plan Drg No: 220/PL02 Rev: C received 17 February 2023. Thereafter the on-site 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).

8. No development shall be occupied until a scheme that makes provision for bat boxes on site 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 that the scheme makes an appropriate contribution towards a net gain in biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwellings hereby permitted have been deposited with the local planning authority and approved by the Planning Manager and in consultation with the Ward Councillor. The scheme shall only be implemented in accordance with those approved materials.

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

10. Prior to development above slab level 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.

INFORMATIVES

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted proactively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).