

Reference: 15/00172/FUL

Applicant: Bloor Homes Ltd

Location: Land To The West Of 1 Summers Close Kirkby Mallory

Proposal: Erection a dwelling with associated parking, landscaping and infrastructure

RECOMMENDATION:- Grant subject to conditions.

Introduction:-

This application is to be considered at Planning Committee in accordance with the Scheme of Delegation, as it has received five or more objections and the recommendation is contrary to the nature of the objections received.

Application Proposal

This is a full application for the erection of a two storey four bedroomed dwelling and a double garage to the land west of 1 Summers Close.

The proposed dwelling would have a projecting gable to the front elevation (facing Summers Close) with an inset doorway. The dwelling would be of dual frontage design addressing Main Street with a projecting chimney breast, a bay window and brick detailing to windows. The proposal would measure 8.9 metres in height to the ridge and have a footprint of 10.9 metres x 9.8 metres.

The detached double garage would be of brick and tile construction having a pitched roof, with a ridge height of 4.3 metres and a footprint of 6.2 metres x 6.5 metres. This would be situated within the south western corner of the site and accessed off Summers Close.

The proposed boundary treatment to Summers Close (eastern boundary of the site) and to the southern boundary of the site would be a 1.8 metre high brick wall with piers and blue engineering bricks to detail. To the west elevation a 1.8 metre high close boarded fence is proposed.

The proposed access point is from Summers Close, to the rear of the site.

Application Site

The site comprises a plot of land to the north of dwellings on Summers Close. The site has boundaries with both Main Street and Summers Close. The site is bound by residential properties to the north, east and south and a large open space to the west. The site is currently overgrown, and is enclosed by a dwarf wall facing Main Street and wooden post and rail fencing. The site and the open space is separated by a hedgerow.

There is a varied mix of designs and types of properties within the area. Summers Close, is characterised by large semi-detached dwellings, with some variations in design including projecting gables, bay windows and chimneys and Main Street, has a strong mix of design, scale and appearance of dwellings.

Relevant Planning History:-

Application ref (90/00561/4) for residential development comprising 13 dwellings, conversion of barn to one dwelling and the extension to cricket field was granted permission subject to a Section 106 agreement which agreed that the application site and the land to the south would be transferred as open space to the Parish Council. This application was not implemented and subsequently lapsed. Following this a further permission was granted (94/00693/FUL) for the erection of 18 detached houses. This application was not subject to a S106 agreement requiring the current application site to be handed over as public open space. This permission was implemented and is now know as Summers Close. Accordingly the application site and the parcel of land to its south have remained undeveloped.

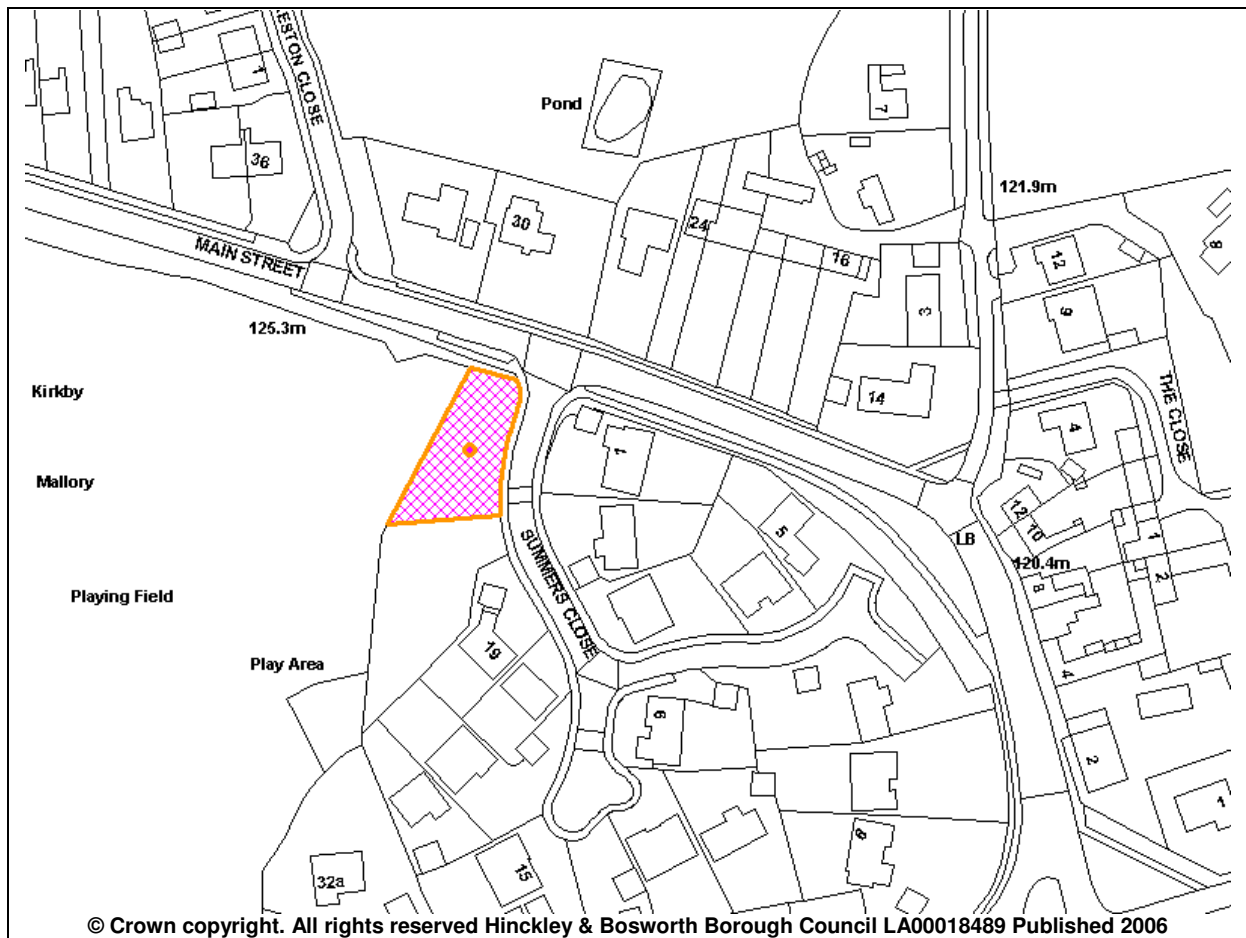
Since the approval of Summers Close, two applications for the site and the area to the south have been submitted. One of these was withdrawn (97/00079/FUL) and the other was dismissed at appeal (02/00376/FUL). This appeal was dismissed on two grounds the first being the unacceptable erosion of the Area of Special Character in relation to the deficiency of informal open space and the impact this would have on the character of the area and the second related to the impact of the proposed development upon residential amenity.

Following the dismissed appeal planning permission for one dwelling on the land to the south was approved (03/01286/FUL).

The relevant application references are:-

Applications which include the application site

02/00376/FUL	Erection of two detached houses and garages	Appeal Dismissed	24.06.03
97/00079/FUL	Erection of two detached dwellings and garages	Withdrawn	
94/00693/FUL	Erection of 18 detached houses	Permitted	14.12.94
90/00561/4	Residential development comprising 13 dwellings conversion of barn to one dwelling and extension to cricket field -	Outline permitted	21.10.91



Consultations:-

No objections have been received from:-

- Environmental Health (Drainage)
- Street Scene Services (Waste)
- Leicestershire County Council (Highways)

No objection subject to conditions has been received from Environmental Health (Pollution)

Peckleton Parish Council have objected to the application on the following grounds:-

- a) the land was previously identified as public open space
- b) the application is contrary to Core Strategy Policy 19
- c) the site is outside the defined settlement boundary for Kirkby Mallory in the Site Allocations and Development Management Policies DPD.

A site notice has been displayed and neighbours notified. Representations have been received from four separate addresses raising the following concerns:-

- a) site was identified as land to be transferred to the Parish Council for open space in a 1991 Section 106 agreement
- b) permission was dismissed at appeal and nothing has changed
- c) land is designated as open space/land of special character under BE19 in the Local Plan
- d) currently tended and enjoyed by villagers as an amenity of an established residential area

- e) does not compliment neighbouring properties in its design, plot size, layout and proximity to the footway
- f) 'cramming' in development
- g) detrimental impact upon open appearance and character of the village and entrance to the close
- h) loss of on road parking
- i) overlooking to front garden
- j) unsustainable and will create more pressures to village facilities and further cars
- k) recent survey concluded residents of Kirby Mallory do not want any further housing
- l) give consideration to construction traffic
- m) development may lead to on street parking
- n) will remove access from close to recreational ground.

Policy:-

National Policy Guidance

The National Planning Policy Framework (NPPF) 2012
 The National Planning Practice Guidance (NPPG) 2014
 Community Infrastructure Levy (CIL) Regulations 2010

Hinckley & Bosworth Core Strategy 2009

Policy 13: Rural Hamlets
 Policy 19: Green Space and Play Provision
 Policy 24: Sustainable Design and Technology

Hinckley & Bosworth Local Plan 2001

Policy RES5: Residential Proposals on Unallocated Sites
 Policy BE1: Design and Siting of Development
 Policy BE19: Open Spaces and Areas of Special Character within Settlements
 Policy T5: Highway Design and Vehicle Parking Standards
 Policy IMP1: Contributions towards the Provisions of Infrastructure and Facilities
 Policy REC3: New Residential Development Outdoor Play Space for Children
 Policy NE2: Pollution

Supplementary Planning Guidance/Documents

New Residential Development SPG (2001)
 Site Allocations and Development Management Policies DPD (Submission Document - December 2014)

Appraisal:-

The main considerations in the determination of this application are:-

- Principle of Development
- Impact on the Character of the Area
- Relationship with Neighbouring Properties
- Impact upon the highway
- Developer Contributions
- Other Issues

Principle of Development

Paragraph 11 - 13 of the National Planning Policy Framework (NPPF) states that the development plan is the starting point for decision taking and that it is a material consideration in determining applications. The development plan in this instance consists of the Core Strategy (2009) and the saved policies of the Local Plan (2001).

Paragraph 14 of the National Planning Policy Framework (NPPF) sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved.

Core Strategy

Policy 13 of the Core Strategy (2009) identifies Kirkby Mallory as a rural hamlet, which has limited facilities and generally relies on Key Rural Centres or surrounding urban areas. The policy restricts development to infill housing, local choice scheme and conversion of agricultural buildings to employment uses within settlement boundaries. In this case, the site would be well related to the village and on the edge of an existing residential estate, it is therefore considered that the proposal comprises infill development and would therefore be in accordance with policy 13 of the Core Strategy (2011).

Local Plan

The site is identified as being located within the settlement boundary of Kirby Mallory in the Hinckley & Bosworth Local Plan (2001); however the site is not allocated for residential development and thus Policy RES5, residential development on unallocated sites would apply. This policy seeks to direct development to the most sustainable locations. As this site is within the settlement boundary of Kirkby Mallory, the development would be in accordance with Policy RES5.

Additionally this site forms part of a wider designation identified in the Local Plan (2001) as an open space and an area of special character, under policy BE19.

Emerging Site Allocations and Development Management Policies Development Plan Document (DPD)

Within the emerging Site Allocations & Policies DPD the site is designated as open space together with the wider open space to the west, under policy DM8 - Safeguarding Open Space, Sport and Recreational Facilities. Policy DM8 of this document states that planning permission will not be granted for proposals resulting in the loss of land or buildings in recreational or sporting use and areas of open space, except when it is demonstrated that there is a surplus of recreational land, facilities or open space of the same typology exceeding the needs of the local community.

As this document is at an advanced stage and has been submitted for examination, it comprises a material consideration and carries some weight in regards to the determination of this application.

The designation of open space, sports and recreation facilities is based upon the evidence based document Open Space, Sport & Recreational Facilities - PPG17 Study (July 2011) . This study classifies open space into eight categories:-

- a) Formal Parks and Gardens
- b) Natural and Semi Natural
- c) Amenity Green Space

- d) Provision for Children
- e) Provision for Young People
- f) Outdoor sports
- g) Allotments
- h) Cemeteries and Churchyards

Section 13 of the PPG17 Study identifies that the quantity of amenity green space in the ward of Peckleton, which includes Kirkby Mallory, is above the recommended national standards.

Historically the application site has been linked with the open space to the west, in regards to its designation; however the site has not historically and does not currently relate well to the open space to the west. The site is unmaintained and does not comprise a usable recreational space. This position is evidenced by the historic aerial photography and the sites planning application history.

It is considered that the site is classed as amenity greenspace, as it does not fit any other identified criteria within the PPG17 study. Accordingly, whilst this open space provided by the application site would be lost through this development, given the existing surplus of open space within the settlement, the resultant harm is considered minimal and would be outweighed by other benefits of the scheme.

Based on the above the scheme is considered to comprise a sustainable form of development, in accordance with the NPPF, and would contribute towards the borough's housing shortfall and five year housing land supply.

The development is therefore considered acceptable in principle and would be in accordance with policy 13 of the Core Strategy (2009) and Policy RES5 of the adopted Hinckley and Bosworth Local Plan.

Impact on the Character of the Area

Policy BE1 (criterion a) of the adopted Local Plan 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 with the intention of preventing development that is out of keeping with the character of the surrounding area. The Council's adopted Supplementary Planning Guidance on New Residential Development aims to ensure that new development has regard to the character of the area and is well integrated into its surroundings. Additionally policy BE19 seeks to protect open areas of land or visual breaks between buildings identified as making a contribution to the special character of a settlement.

Whilst the site is undeveloped it is unmaintained and appears as surplus land from a previous development. The site does not relate well to the open space to the west and as such is not considered to provide an important break between buildings or contribute to the special character of the village of Kirkby Mallory. The development of a single dwelling on the site would enhance the character of the area and would complete the Summers Close development.

The character of the built environment along Main Street differs significantly from plot to plot in regards to design, scale and materials. There is variation between the design of dwellings on Summers Close; however all are detached two storey dwellings with garages. Design features differ slightly, however the majority of dwellings include projecting gables, chimneys, bay windows and window detailing.

The proposal would be dual fronted. The principle (east) elevation to Summers Close would have a projecting asymmetric gable with an inset door way and the elevation facing Main Street (north elevation) would include an external chimney breast with a bay window and window detailing. It is considered that the design of the scheme is acceptable and does not detract from the existing character of the surrounding area.

The proposed garage is positioned to the southern area of the site and is set back from the highway. It would be of pitched roofed design with two garage door openings. By virtue of its set back position, it would not appear as a dominant feature within the street scene, and would not be detrimental to the character of the area.

Details of the boundary treatment have been submitted with this application. The details propose a 1.8 metre high wooden fence along the western boundary, which runs adjacent to the open space. To the southern elevation a 1.8 metre brick wall is proposed, which would form the boundary to the residential properties on Summers Close. No boundary treatment is proposed to the northern boundary (with Main Street), and as such an open aspect will be retained to the sites frontage. These proposed boundary treatments are considered acceptable and in keeping with the character of the area.

Notwithstanding the above, a 1.8 metre brick wall is proposed along the eastern boundary of the site, facing Summers Close. This would be an uncharacteristic boundary treatment for the area and would result in a fortress type feel. The boundary treatments along Summers Close are varied, the majority being hedgerow. This said, there are a number of examples of dwarf brick walls with wooden fencing above. Whilst the proposed brick wall would be set back from the footway by 3 metres, it would enclose the plot and result in a harsh, blank frontage to the highway. It is therefore considered that the boundary treatment proposed for the eastern boundary would be detrimental to the character of the area. It is therefore recommended that a condition requesting further details of boundary treatment along the eastern elevation be submitted for approval.

For the reasons above, it is considered that subject to the inclusion of a condition to secure boundary treatment to the eastern elevation, the development would not adversely affect the character of the area and would be in accordance with policy BE1 (criterion a) of the Hinckley & Bosworth Local Plan (2001).

Relationship with Neighbouring Properties

Policy BE1 (criterion (i)) of the adopted Local Plan and SPG require that new residential development does not adversely affect the amenities or privacy of the occupiers of neighbouring properties. The nearest neighbouring properties are 1 Summers Close to the east of the site, the approved scheme for a dwelling to the south of the site and to the north, 30 Main Street .

The dwelling would be located within the northern section of the site, to maximise the separation distances between the proposal and the proposed dwelling to the south. As such it is not considered that there would be any arising issues in terms of overlooking or privacy between these dwellings.

The eastern elevation of the proposed dwelling would face 1 Summers Close. The separation distance between the two would be over 20 metres. Although this distance would be slightly less than that recommended within the SPG, given that the internal access road would separate the dwellings, this relationship is considered acceptable. The proposal would not overlook any private amenity space and the front garden is open to the street. It is therefore considered that this proposal would not cause a detrimental impact to the residential amenity of 1 Summers Close.

30 Main Street is situated to the north of Main Street and is substantially set back from the street scene. It is therefore considered that this proposal would not have an adverse impact on the residential amenity of this dwelling.

Based on the above, it is therefore considered that the proposal would not have a detrimental impact upon neighbouring amenity and would therefore be in accordance with Policy BE1 (criterion i) of the Hinckley & Bosworth Local Plan (2001).

Highway Safety

Criterion (g) of Policy BE1 seeks to ensure that there is adequate highway visibility for road users and adequate provision of parking and manoeuvring facilities. Policy T5 applies highway design and vehicle parking standards.

The proposed access would be from Summers Close. As a result of the set back nature of adjacent boundary treatments and dwellings, the access is considered to have adequate visibility in both directions.

The proposal provides parking for up to four vehicles, including a double garage. This is considered in accordance with the parking standards outlined in appendix D of the Local Plan (2001).

It is therefore considered that this proposal would not detrimentally impact highway safety and is therefore in accordance with policies BE1 (criterion g) and T5 of the adopted Hinckley and Bosworth Local Plan.

Developer Contributions

Policies IMP1 and REC3 of the adopted Local Plan and the Play and Open Space SPD require new residential development to contribute towards the provision and maintenance of public play and open space facilities for children. The requirement for any developer must be considered alongside the guidance contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary, directly related and fairly and reasonably related in scale and kind to the development proposed. However, on 28th November 2014 the Secretary of State announced revisions to s.106 and CIL contributions and the NPPG. Following the announcement of the Secretary of State, the Council's ability to request affordable housing and other tariff style s.106 contributions on smaller sites (which would include play and open space contributions) has been removed. Such contributions can not now be sought on developments less than 10 dwellings and therefore no contribution has been pursued in this case.

Other Matters

Noise Pollution

Policy NE2 (criterion b) of the Local Plan seeks to protect development from material harm from existing or potential sources of air pollution. Existing residents of Kirkby Mallory have raised noise issues relating to the operation of Mallory Park racing circuit which lies approximately 285 metres to the west. Environmental Health (Pollution) has therefore recommended that noise mitigation measures are incorporated into the design and construction of the dwelling. It Therefore a condition which requests the submission of a Noise Mitigation Scheme is recommended and it is considered that this is reasonable and that necessary to protect the amenity of the future occupiers of the dwelling.

RECOMMENDATION:- Grant subject to conditions.

Summary of Reasons for Recommendation and Relevant Development Plan Policies :

Having regard to the pattern of existing development in the area, representations received and relevant provisions of the development plan, as summarised below according to their degree of consistency with the National Planning Policy Framework, it is considered that subject to compliance with the conditions attached to this permission, the proposed development would be in accordance with the development plan as it would be sustainable development and would not result in any adverse impacts in terms of residential amenity or highway safety and by virtue of its design and siting would be in keeping with the character of the area.

Hinckley & Bosworth Core Strategy 2009:- Policies 13, 19 and 24.

Hinckley & Bosworth Local Plan 2001:- Policies RES5, BE1, BE19, IMP1, REC3 and T5.

In dealing with the application, the local planning authority have worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with the planning application.

Conditions:-

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, Dwg nos MI33-SL-001 - Proposals; MI33-SL-LOC-01 - Location Plan and GL2.P[SG]01 Rev C - Single Paired Garage all submitted 25 February 2015.
- 3 No development shall commence until details of the external facing and roofing materials have been submitted to and agreed in writing by the local planning authority. The development shall then be carried out in accordance with those approved details.
- 4 Details of the proposed ground levels of the site, and proposed finished floor levels shall be submitted to and approved in writing by the Local Planning Authority. The approved proposed ground levels and finished floor levels shall then be implemented in accordance with the approved details.
- 5 Notwithstanding the submitted plans no development shall commence until full details of the boundary treatments for the development are submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.
- 6 No development shall commence until a Noise Mitigation Scheme is submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved scheme.

Reasons:-

- 1 To comply with the requirements of Section 92 of the Town & Country Planning Act 1990 (as amended).

- 2 For the avoidance of doubt and in the interests of proper planning.
- 3 To ensure that the development has a satisfactory external appearance to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 4 In the interests of visual amenity, to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 5 To ensure the development is in keeping with the character of the area, to accord with Policy BE1 (criterion a) of the adopted Hinckley and Bosworth Local Plan 2001.
- 6 To ensure the amenity of the future occupiers of the dwelling is protected to accord with Policy BE1 (criterion i) and NE2 (criterion b) of the adopted Hinckley and Bosworth Local Plan (2001).

Notes to Applicant:-

- 1 Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
- 2 This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
- 3 As from 6 April 2008 this Authority are charging for the discharge of conditions in accordance with revised fee regulations which came into force on that date. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
- 4 All works within the limits of the Highway with regard to the access shall be carried out to the satisfaction of the Southern Area Manager (0116 3052202).
- 5 Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e soakaways, pervious paving, filter drains, swales, etc and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid the necessity of discharging some surface water off-site, flow attenuation methods should be employed, either alone of, if practical in combination with infiltration systems and/or rainwater harvesting systems.
- 6 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 discarding to an approved outlet (see Environment Agency guidance on the permeable surfacing of front gardens).

Contact Officer:- Helen Wilson Ext 5691