

**Planning Committee 16 August 2016  
Report of the Chief Planning and Development Officer**



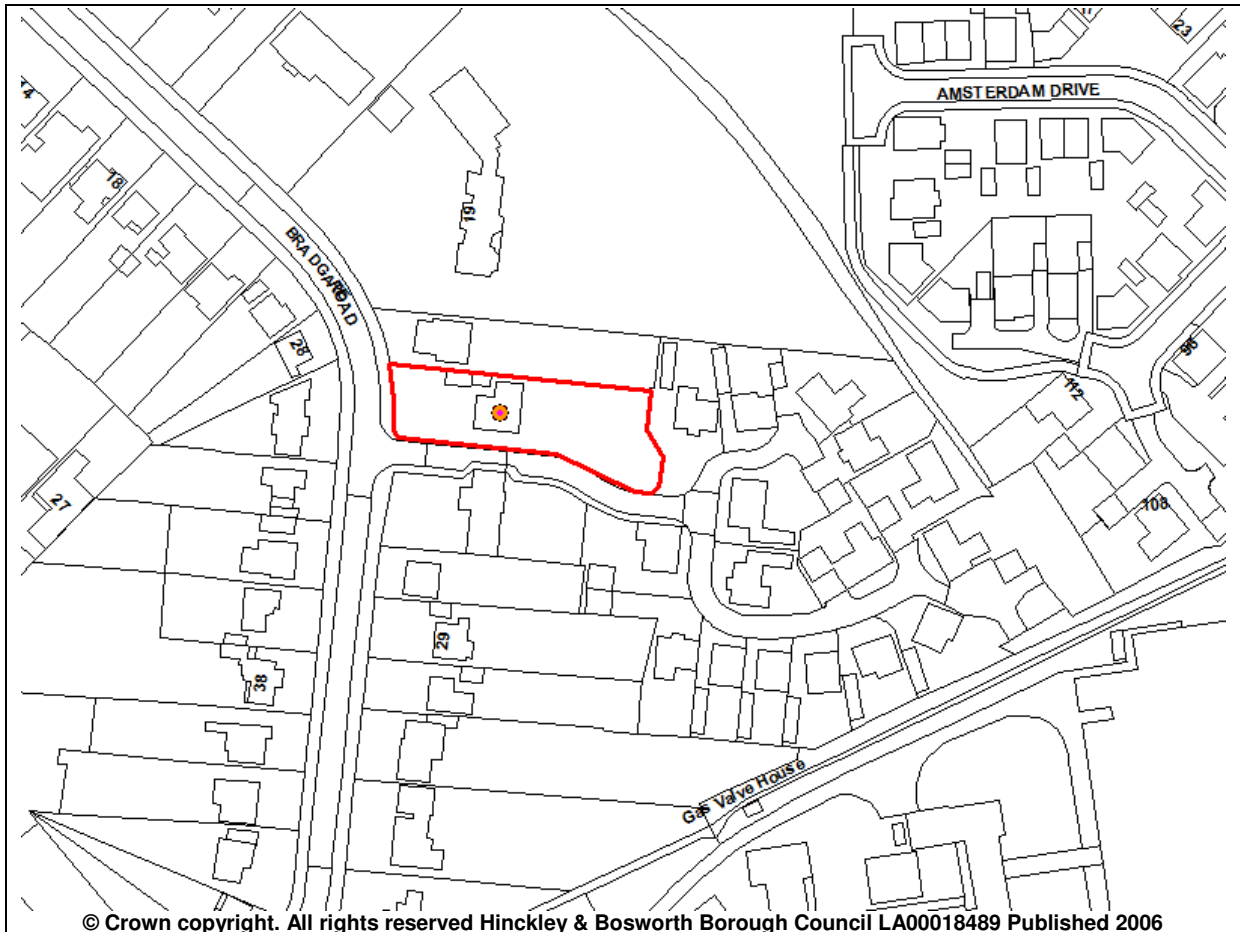
Hinckley & Bosworth  
Borough Council

*A Borough to be proud of*

**Planning Ref:** 16/00566/FUL  
**Applicant:** Mr T Taylor  
**Ward:** Hinckley DeMontfort

**Site:** 23 Bradgate Road Hinckley

**Proposal:** Erection of one dwelling



**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 full planning permission for the erection of a detached 2½ storey five bedroom house with integral garage and associated access on land to the rear of 23 Bradgate Road, Hinckley. The proposed house would face onto Bradgate Gardens, a privately maintained road from which access to the site would be gained from Bradgate Road.

2.2. The application seeks to renew a previous planning permission for the same scheme that was approved in 2010. The approval was renewed in 2013. The planning permission recently lapsed on 6 June 2016.

2.3. A Design and Access Statement and a copy of the completed Deed of Grant of the applicant's right of access over part of Bradgate Gardens from Bradgate Road to the application site have been submitted to support the application.

### **3. Description of the Site and Surrounding Area**

3.1. The application site measures approximately 346 square metres and currently forms part of the enclosed private rear garden of 23 Bradgate Road, Hinckley. It is predominantly laid to grass with shrub and tree planting to the perimeter and is enclosed to Bradgate Gardens by 1.8 metre high close boarded timber fencing.

3.2. Bradgate Road is characterised by large detached, individually designed and traditionally styled dwellings set in generous plots. Bradgate Gardens has a higher density and is characterised by a mix of 2 storey and 2½ storey detached houses of individual designs.

### **4. Relevant Planning History**

06/00631/OUT	Demolition of existing dwelling and erection of two dwellings with parking and access	Permitted	19.07.2006
08/00408/FUL	Demolition of existing dwelling and erection of three detached dwellings	Permitted	03.07.2008
10/00059/FUL	Erection of one dwelling	Permitted	13.04.2010
13/00226/EXT	Extension of time for planning permission 10/00059/FUL for the erection of one dwelling	Permitted	06.06.2013

### **5. Publicity**

5.1. The application has been publicised by sending out letters to local residents.

5.2. Responses have been received from eight separate addresses, objections have been made to the application on the following grounds:-

- 1) Proposed access is via a private road over which the applicant's have no right of way/easement
- 2) Access would be off the narrowest part of the road with poor visibility and would be detrimental to highway and pedestrian safety
- 3) Lack of parking within Bradgate Gardens and loss of existing overflow parking along the access road
- 4) Adverse overbearing/overshadowing impacts due to higher ground level of site and three storey scale of dwelling
- 5) Loss of privacy from overlooking
- 6) Existing sewerage system is over capacity and relies on an inadequate pumping station which cannot cope with foul drainage from existing houses
- 7) Damage to private road during construction phase
- 8) Loss of property value.

5.3 The property management company responsible for the maintenance of the private road (known as RMG) have confirmed that they are now aware of the legal right of access to the site granted to the applicant's, obtained from the original developer of Bradgate Gardens (Bovis Homes).

## 6. Consultation

6.1. No objections, some subject to standing advice, have been received from:-

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

6.2. No response has been received at the time of writing this report from:-

Severn Trent Water Limited  
Arboricultural Officer

## 7. Policy

7.1. Local Plan 2006 – 2026: Core Strategy (2009)

- Policy 1: Development in Hinckley

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

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

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2012)
- Planning Practice Guidance (PPG)

## 8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Other matters

### Assessment against strategic planning policies

8.2. Paragraph 11 of the National Planning Policy Framework (NPPF) states that planning law (Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990) requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraphs 12 and 13 of the NPPF state that the development plan is the starting point for decision making and that the NPPF is a material consideration in determining applications.

- 8.3. The development plan in this instance consists of the adopted Core Strategy (2009), and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. Policy 1 of the adopted Core Strategy supports the allocation of land for the development of a minimum of 1120 dwellings in Hinckley.
- 8.5. Policy DM1 of the adopted SADMP and paragraph 14 of the NPPF provide a presumption in favour of sustainable development. Paragraph 7 of the NPPF states that sustainable development has three interacting dimensions:- the social, economic and environmental roles.
- 8.6. The site is located within a highly sustainable location within a reasonable distance of the full range of services and facilities within Hinckley. The proposal would contribute in a small way to the social role by providing additional housing, to the economic role through its construction and future ongoing occupation, and the environmental role through the provision of a high quality dwelling that would preserve the built environment.
- 8.7. The proposal would therefore result in a sustainable development and the principle of development for the erection of a new dwelling on the site has already been established by the grant of previous planning permissions.

#### Design and Impact upon the Character of the Area

- 8.8. Policy DM10 of the adopted 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 that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally. The NPPF in paragraph 17 seeks to secure high quality of design and paragraph 56 states that good design is a key aspect of sustainable development. Paragraph 58 seeks to ensure that development responds to local character and reflects the identity of local surroundings.
- 8.9. The layout proposes a dwelling that would front onto Bradgate Gardens, would be 2½ storey in scale and of high quality design with architectural detailing that respects neighbouring dwellings. Subject to the use of appropriate external materials that could be controlled by a condition, the proposed scheme would complement the density, character and appearance of the surrounding area. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

#### Impact upon Neighbouring Residential Amenity

- 8.10. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings. The NPPF in paragraph 17 seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.11. Objections have been received on the grounds that the proposal would adversely affect neighbouring residents from overbearing/overshadowing impacts and loss of privacy from overlooking.

- 8.12. At its closest point, the proposed dwelling would be located approximately 6 metres from the south west front corner of 2 Bradgate Gardens (Lovesby Lodge which lies to the east of the site) and would be angled away from the side elevation of that dwelling. The submitted street scene/levels plan indicates that the eaves level of the 1½ storey part of the proposed dwelling closest to No. 2 would be the same as the eaves level of No.2 and that the ridge level would be only approximately 0.86 metres higher than the ridge level of No. 2. Whilst the main ridge would be higher still, this would be much further away from the boundary. Therefore, by virtue of the separation distance and the relative orientation of the dwellings, notwithstanding the lower ground level of No.2, the proposal would not result in any significant adverse overbearing or overshadowing impacts on No. 2. In addition, there would be no side elevation windows facing towards No. 2 that would result in any loss of privacy from overlooking. A 1.8 metre high close boarded fence is to be retained to protect privacy and amenity of the respective gardens.
- 8.13. At its closest points, the proposed dwelling would be approximately 5.3 metres (single storey), 6.5 metres (1½ storey) and 10 metres (2½ storey) from the bottom of the rear garden of 21 Bradgate Road (which lies to the north of the site) and approximately 28 metres from the dwelling which lies to the North West). By virtue of the separation distances and scale the proposed dwelling would not result in any significant adverse overbearing or overshadowing impacts on No. 21. In addition, the three proposed first floor windows in the north elevation facing No. 21's garden would serve a bathroom or en-suite facilities and can therefore be conditioned (as previously) to be obscurely glazed to mitigate any potential loss of privacy from overlooking. A 1.8 metre high close boarded fence is proposed to protect privacy and amenity of the respective gardens.
- 8.14. At its closest point the proposed dwelling would be between approximately 7 - 10 metres from the boundary with the rear gardens of 25 Bradgate Road and 1 Bradgate Gardens (The Manor) which both lie to the south of the private access road. By virtue of the separation distances, with the access road between, and the nearest bedroom window facing towards the bottom/rear boundary of both neighbouring gardens the proposal would not result in any significant adverse overbearing or overshadowing impacts or loss of privacy from overlooking to the respective neighbouring occupiers.
- 8.15. The proposed dwelling would have an adequate separation distance of 13.5 metres from the main rear elevation of 23 Bradgate Road (which lies to the west of the site), to ensure no adverse overbearing or overshadowing impacts and would have no windows in the west side elevation that would result in any loss of privacy to the occupiers from overlooking.
- 8.16. By virtue of the proposal having the same layout, scale, orientation, design and separation distances as the previously approved schemes, the proposal would not result in any significant adverse overbearing or overshadowing impacts on any neighbouring properties or subject to the retention/provision of appropriate boundary treatments result in any loss of privacy to any neighbouring occupiers from overlooking. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP.

#### Impact upon Highway Safety

- 8.17. Policy DM17 of the adopted SADMP supports development that makes the best use of and/or enhances existing public transport services, ensures convenient and safe access for walking and cycling to services and would not have any significant

adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate/justified level of parking provision. Paragraph 32 of the NPPF states that a safe and suitable access to sites should be achieved and that development should only be refused on transport grounds where the residual cumulative impacts of development are severe.

- 8.18. Objections have been received on the grounds that the proposal would adversely affect highway and pedestrian safety due to the narrowness of the access road, lack of visibility, additional traffic and lack of/reduction in parking within Bradgate Gardens.
- 8.19. The proposed access to the site is the same as that previously approved. The private access road is of adequate width to enable two vehicles to pass and by virtue of the scale of development for one additional dwelling, the cul de sac nature of the road and likely low traffic speeds within it, the proposal would not result in any significant adverse impacts on highway or pedestrian safety. The scheme would provide three off-street parking spaces to serve the proposed dwelling which would be satisfactory in this sustainable urban location. Leicestershire County Council (Highways) has assessed the application and raises no objections to the scheme. The proposal would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

#### Other Issues

- 8.20. Objections have been received on the grounds that there are capacity issues with the existing sewerage system for Bradgate Gardens which relies on an inadequate pumping station. The consultation response from Severn Trent has not yet been received and any response will be reported as a late item. However, the disposal of foul sewerage from the development would ultimately be subject to separate Building Regulations control.
- 8.21. Objections have been received on the grounds that the proposed access is via a private road over which the applicant's have no right of way. However, the applicant has provided proof of Deed of Grant of the right of way from Bradgate Road to the site from the original developer of Bradgate Gardens (Bovis Homes).
- 8.22. Any damage that may occur to the private access during the construction phase is a civil matter between the appropriate parties and not a material planning consideration.
- 8.23. Loss of value to neighbouring property is not a material planning consideration.

### **9. Equality Implications**

- 9.1 Section 149 of the Equalities Act 2010 created the public sector equality duty. Section 149 states:-  
(1) A public authority must, in the exercise of its functions, have due regard to the need to:  
(a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application. There are no known equality implications arising directly from this development

## 10. Conclusion

10.1. The application site is in a highly sustainable urban location within a reasonable distance of a full range of services and facilities and the same scheme has been previously approved in 2010 and extended in 2013. By virtue of the layout, density, scale, design and subject to the use of satisfactory external building materials, the scheme would complement the character and appearance of the surrounding area and would not have any significant adverse impacts on the amenities of any neighbouring properties or highway or pedestrian safety. The proposal would be in accordance with Policy 1 of the adopted Core Strategy, Policies DM1, DM10, DM17 and DM18 of the adopted SADMP together with the overarching principles of the NPPF and is therefore recommended for approval subject to conditions.

## 11. Recommendation

11.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report.

### 11.2. 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 51 of 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 Drawing No. 6291P-03; Existing Block Plan Drawing No. 6291P-04; Proposed Site Plan and Street Elevation Drawing No. 6291P-02 and Proposed Floor Plans and Elevations and Landscaping/Boundary Plan Drawing No. 6291P-01 received by the local planning authority on 20 June 2016.

**Reason:** To ensure a satisfactory appearance and impact of the development to accord with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Before any development commences, representative samples of the types and colours of materials to be used on the external elevations of the dwelling hereby permitted and the hard landscaped areas shall be deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

4. Before first occupation of the dwelling hereby permitted, the access and parking/turning space shall be provided and hard surfaced in accordance with the materials approved under condition 3 of this permission and shall be permanently so maintained as such at all times thereafter.

**Reason:** To ensure that satisfactory access and off-street parking is provided to serve the dwelling hereby permitted and to reduce the possibility of deleterious material (loose stones etc.) being deposited in the private access road in the interests of road safety to accord with Policies DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016)

5. Notwithstanding the submitted details, before first occupation of the dwelling hereby permitted, 2.0 metre by 2.0 metre pedestrian visibility splays shall be provided on both sides of the access with Bradgate Gardens with nothing within those splays higher than 0.6 metres above ground level and one provided shall be permanently so maintained at all times thereafter.

**Reason:** To afford adequate visibility at the access in the interests of pedestrian and road safety to accord with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Before first occupation of the dwelling hereby permitted, the boundary walls and fences to the east, north and west boundaries of the site shall be erected in accordance with the submitted details on the Landscaping/Boundary Site Plan Drawing No. 6291P-01 received by the local planning authority on 20 June 2016 and shall be permanently maintained as such at all times thereafter.

**Reason:** To protect the privacy and amenity of neighbouring properties and the future occupiers of the development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Notwithstanding the submitted details, before first occupation of the dwelling hereby permitted, the windows at first floor serving the bathroom and en-suite facilities as shown on the approved elevations Drawing No. 6291P-01 shall be fitted with obscure glazing and any opening windows shall be top hung only and once so provided shall be permanently maintained as such at all times thereafter.

**Reason:** To protect the privacy and amenity of neighbouring properties and the future occupiers of the development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2, Part 1 Classes A to E shall not be carried out unless planning permission for such development has first been granted by the local planning authority.



**Reason:** To protect the privacy and amenity of neighbouring properties and the visual amenities of the surrounding area to accord with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

### 11.3. Notes to Applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at [buildingcontrol@hinckley-bosworth.gov.uk](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.
2. Application forms to discharge conditions and further information can be found on the planning portal website [www.planningportal.gov.uk](http://www.planningportal.gov.uk).
3. 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.
4. 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.