

Planning Committee 8 November 2016
Report of the Chief Planning and Development Officer



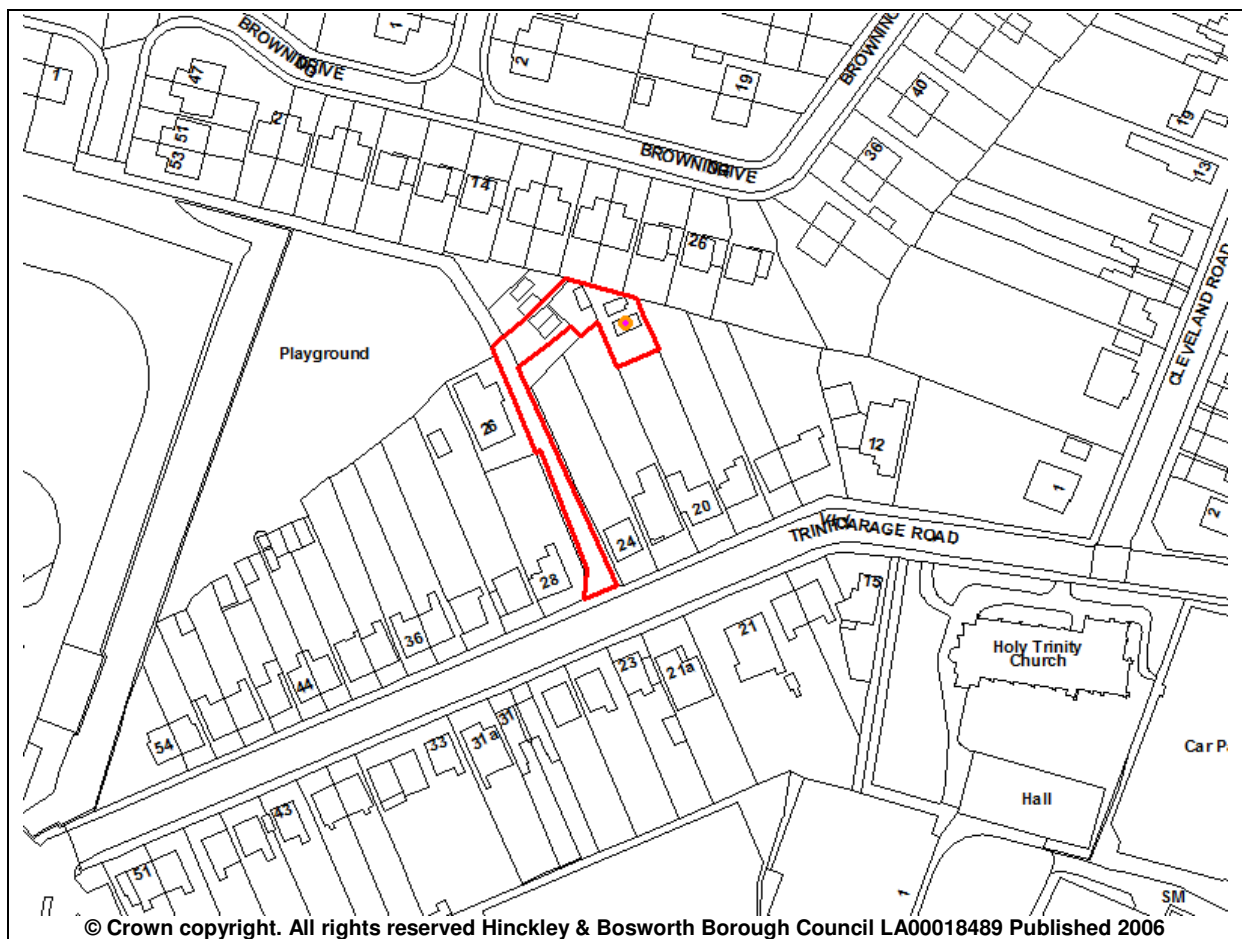
Hinckley & Bosworth
Borough Council

A Borough to be proud of

Planning Ref: 16/00517/CONDIT
Applicant: Mr Knapp
Ward: Hinckley Castle

Site: 20 Trinity Vicarage Road Hinckley

Proposal: Variation of conditions 1 and 4 of planning permission
16/00027/CONDIT to add 1x window to rear elevation and 8x roof
lights and accommodation within roof space (Retrospective)



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 is a Section 73 application to vary condition 1 and 4 of planning permission 16/00027/CONDIT. The previous planning permission (ref: 16/00027/CONDIT) permitted the raising of the proposed eaves and ridge height of the previously approved dwelling.
- 2.2. The applicant seeks to vary 2 conditions of planning permission 16/00027/CONDIT. Condition 1 states the following:-

- 2.3. "The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows: Site location Plan (Scale 1:1250), Block Plan (Scale 1:500), Proposed site plan (Scale 1:100), Proposed ground floor plan, Proposed Roof Plan and proposed elevation plan submitted on Drawing No. ADV-095-TVH-PL01 Rev E received by the Local Planning Authority 11 January 2016."
- 2.4. The second condition which this application seeks to amend is condition 4 of application 16/00027/CONDIT which states:-
- 2.5. "Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking or re-enacting that Order with or without modification) development within Schedule 2: Part 1, Classes A - D inclusive, shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority."
- 2.6. The reason for condition 4 which sought to control development within the roof space was as follows:-
- 2.7. "To safeguard the residential amenity of neighbouring properties in accordance with Policy BE1 of the Hinckley and Bosworth Council Local Plan 2001 and Policy DM10 of the emerging Site Allocations and Development Management Policies Development Plan Document"
- 2.8. The application seeks retrospective permission to retain the use of the roof space for additional living accommodation and the retention of 8 velux windows, and an additional further ground floor window to the north east facing rear elevation.
- 2.9. The roof space has been converted into a second bedroom, with ensuite and walk in wardrobe. Within the north west facing elevation are five roof lights, two serving the proposed bedroom which is situated to towards the rear of the property, one serving the staircase and two serving the walk-in wardrobe. To the south east facing roof slope three rooflights have been inserted, one serving the bedroom one serving the landing and one serving the walk-in wardrobe.
- 2.10. During the course of the application additional plans have been submitted which provide details of the proposed parking provision, provide a cross section of the dwelling and updated floor plans.

3. Description of the Site and Surrounding Area

- 3.1. The site area is 378 square metres with frontage to the access road which extends to the south onto Trinity Vicarage Lane, Hinckley. The site bounds residential properties to the north eastern boundary which are set on a higher ground level. Immediately to the north and south of the application site are single garages. To the south west on the opposite side of the access is a single storey bungalow.

4. Relevant Planning History

16/00027/CONDIT	Variation of condition 2 of planning permission 15/00523/FUL to alter the height of the eaves and ridge	Permitted	30.03.2016
15/00523/FUL	Erection of 2 bedroom bungalow	Permitted	29.10.2015

14/00810/FUL	Erection of 2 bedroom bungalow (revised scheme)	Permitted	16.12.2014
14/00330/FUL	Erection of 2 bedroom bungalow (revised scheme)	Refused	22.07.2014

5. Publicity

5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site. Two letters of objections have been received raising the following concerns:-

- 1) The application has been amended already and is now back to what he wanted in the beginning when the application was first refused
- 2) The proposed scheme results in overlooking
- 3) Applicant has been misleading over the course of submissions
- 4) Looks like a 3 bedroomed house and there would not be adequate parking provided

6. Consultation

6.1. No objections have been received from:-

Leicestershire County Council (Highways)
 Environmental Health (Pollution)
 Environmental Health (Drainage)
 Hinckley and Bosworth Borough Council waste

6.2. Cyclist Touring Club have objected to the proposal due to the access of the proposed dwelling conflicting with an existing rights of way for pedestrians and cyclists, and the development has resulted in obstacles being placed within the public right of way during the construction of the dwelling.

7. Policy

7.1. Core Strategy (2009)

- Policy 1: Development in Hinckley

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM17: Highway Design
- 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. This application should be read in conjunction with the previously approved applications 15/00523/FUL and 16/00027/CONDIT. As the principle of the development and highway access have been accepted by earlier scheme, the main issues for consideration for development are:-

8.2. Key Issues

- Impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon the highway
- Other matters
- Previously imposed planning conditions

Impact upon the character of the area

8.3. Since the previous determination of planning application 16/00027/CONDIT, the Site Allocations and Development Management Plan Policies DPD, has been formally adopted by Hinckley and Bosworth Borough Council. Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (SADMP) seeks to ensure that the development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, material and architectural features with the intention of preventing development which is out of keeping with the surrounding area.

8.4. The amendment to the proposed dwelling would result in rooflights positioned within the north west facing roof slope and south east facing roof slope, the scale and proportions of the dwelling are to remain as previously approved. Within the existing street scene the dwelling is positioned within a row of existing garages which are of varying heights and scale and facing the application site a single storey bungalow, as such the character of the streetscene is varied, and this proposal would not have a detrimental impact upon the character of the area and is therefore considered to be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

8.5. Policy DM10 of the adopted SADMP requires that development does not adversely affect the amenity of neighbouring properties.

8.6. The rear elevation of the application dwelling is approximately 3.2 metres from the rear boundaries of neighbouring properties along Browning Drive, which are in an elevated position to that of the application site, and are characterised by two storey semi detached dwellings.

8.7. The rooflights which are positioned within the north west facing roof slope would be partially obscured by the ridge of the immediately neighbouring garage, and the rear of the properties along Browning Drive beyond this. The velux windows are positioned approximately 1.3 metres above the floor level and therefore views from the windows are possible across the rear gardens and rear elevations when standing within the roof space. The velux windows within the north west facing roof slope look towards the rear amenity spaces of Browning Drive. The two velux windows within the north west facing elevation serving the bedroom specifically when fully opened, is possible to gain more direct views towards the rear elevations of Browning Drive. The proposed plans propose to obscure the two north west facing roof lights which serve the bedroom to a minimum level 3 and restrictive openers would be installed, which would restrict these two windows opening more than 100mm, which would resolve these potential overlooking issues and would make the proposal acceptable. Therefore a condition to secure that this is carried out prior to first occupation of the dwelling, is necessary. The remaining three windows within this roof slope serve the stair well and the walk-in wardrobe which are not habitable rooms, and are set at a greater distance away from Browning Drive, and as such it is not considered to be sufficiently harmful to warrant obscuring in this instance.

- 8.8. Whilst distance views to the rear of properties along Browning drive are possible they are at a distance of approximately 20 metres and given the separation distance and the angled relationship of the application site property with the dwellings along Browning Drive, opportunities for overlooking are limited and are further impeded by the positioning of the ridge to the neighbouring garage.
- 8.9. The proposed rooflights within the south east facing roof slope look out towards the mature evergreen and semi evergreen trees which form the existing boundary treatment along the rear gardens serving dwellings along Trinity Vicarage Road and as such would not create any additional impacts in terms of overlooking or loss of privacy.
- 8.10. The proposal also seeks the inclusion of an additional ground floor window within the rear facing elevation to serve the lounge. Given the change of levels between the application site and properties along Browning Drive, and the existing boundary treatment of a 1.8 metre close boarded fence, there would be no additional detrimental impacts upon the neighbouring residential property in terms of privacy or overlooking which would arise from this additional ground floor window.
- 8.11. As such given the relationship of the application dwelling with the properties along Browning Drive, the positioning of the proposed rooflights and the proposed condition requiring obscure glazing and restrictive openers, the proposal is not considered to have a significant detrimental impact upon the amenity of any neighbouring property, and is in accordance with Policy DM10 of the SADMP.

Impact upon Highway Safety

- 8.12. Policies DM17 and DM18 of the adopted SADMP require adequate access and off street vehicle parking facilities to be provided to serve developments.
- 8.13. The scheme seeks to provide 2 off street parking spaces to serve the two bedroomed dwellings. Leicestershire County Council (Highways) have assessed the scheme and do not object to the proposal which provided adequate off street parking to the serve the proposed dwelling in accordance with the provisions of the 6C's design guidance.
- 8.14. It is therefore considered that the proposed utilisation of the roof space for use as a bedroom would be acceptable and in accordance with Policies DM17 and DM18 of the adopted SADMP.

Other matters

- 8.15. Cycling Touring Club have objected to the application and raised concerns over the use of the access by motorised vehicles. The principle for the development of a single dwelling with the proposed access was established through the earlier grant of planning permission in 2014 (reference 14/00810/FUL). This application does not seek to amend the access. It should also be noted that whilst not all the garages and parking spaces may be in use at the current time, they could without the need for planning permission all be served by vehicles entering and leaving the access serving the garages, consequently there would be no material difference in how the access road would be used whether by serving the proposed dwelling or an existing garage within this location.
- 8.16. Objections have been received based on the retrospective nature of the application. The application must be considered upon its own merits and without being influenced by the fact that it is a retrospective application.

Conditions

- 8.17. As this application is a Section 73 application all other conditions from the previous permission must be carried forward, if applicable. Planning permission 16/00027/CONDIT was subject to 4 conditions. It must be considered whether these conditions remain relevant and therefore should be re-imposed on the current scheme.
- 8.18. Condition 1 and Condition 4 are subject to this Section 73 application, and therefore shall be addressed and considered first and foremost, it is also necessary to consider the inclusion of any additional conditions.
- 8.19. Firstly Condition 1, conditions the agreed approved plans for the development. As such this has been superseded by the current application, a condition has been re-imposed to secure that the development will be carried out in accordance with the approved plans.
- 8.20. Condition 4, which makes reference to the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2: Part 1 Classes A-D inclusive, removing the permitted development rights for the dwelling. It is considered necessary to re-impose this condition to safeguard the amenities of surrounding neighbouring dwellings, given the siting and relation of the application site to the surrounding area. This would require the applicant to submit an application for planning permission for works which would otherwise have been possible under permitted development.
- 8.21. As part of the consideration of this Section 73 application the imposition of a further condition is considered necessary, relevant and reasonable, which would seek to alter the two windows which are positioned within the north west facing roof slope serving the bedroom, to be obscurely glazed and require restrictive openers to be fitted to allow the rooflights to be opened by no more than 100mm. This would ensure that the amenities of the surrounding neighbouring dwellings are safeguarded.
- 8.22. Planning approval 16/00027/CONDIT, is also subject to two further existing planning conditions, Condition 2 and Condition 3, which are also required to be considered as to whether these conditions remain relevant and therefore should be re-imposed.
- 8.23. Condition 2 refers to agreed materials to be used during the construction. As the development is complete it is not necessary to re-impose this condition.
- 8.24. Condition 3 seeks to ensure that two off street parking spaces are provided and made available prior to occupation. The dwelling is not occupied to date, and this condition is still necessary to ensure adequate parking is provided to serve the dwelling and will therefore be re-imposed.

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.

9.3. There are no known equality implications arising directly from this development.

10. Conclusion

10.1. The principle of development has already been established through the earlier grant of planning permissions (15/00523/FUL and 16/00027/CONDIT). By virtue of the design and appearance of the proposal it is not considered that inclusion of rooflights within the roof slope would have any materially adverse impact upon the character or appearance of the site or surrounding area. With the imposition of conditions the development would not result in an adverse impact upon neighbours in terms of overlooking and would not have an impact upon parking or highway safety. The proposal would be in accordance with Policies DM1, DM10, and DM18 of the adopted SADMP, Policy 1 of the Core Strategy together with the overarching principles of the NPPF. The proposal 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 not be carried out otherwise than in accordance with the submitted application details as follows:- Site Location Plan (Scale 1:1250), Block Plan (Scale 1:500), proposed Site Plan (Scale 1:100), Proposed elevations and floor plans submitted on Drawing No. AVD-095-TVH-PL01 Rev K received by the Local Planning Authority on the 27 September 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 DPD.

2. Prior to first occupation of the dwelling hereby approved, two car parking spaces shall be provided, hard surfaced and made available for use to serve the dwelling. The parking spaces so provided shall thereafter be permanently maintained.

Reason: To ensure that adequate off street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking problems in the area in accordance with Policy DM18 of the adopted Site Allocations and Development Management Policies DPD.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any order revoking or re-enacting that order with or without modification) development within Schedule 2:Part 1, Classes A-D inclusive, shall not be carried out unless planning permission for such development has first been granted by the Local Planning Authority.

Reason: To safeguard the residential amenity of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD.

4. Notwithstanding the approved plans, prior to first occupation of the dwelling hereby approved the two windows within the north west facing roof slope as identified within submitted plan Dwg No AVD-095-TVH-PL01 Rev K shall be obscurely glazed to a minimum of level 3 of the Pilkington scale, and restrictive openers fitted to no more than 100mm and shall thereafter be permanently retained in this form.

Reason: To protect the privacy and amenities of the occupiers of neighbouring properties to accord with Policy DM10 of the Site Allocations and Development Management Policies DPD.

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 or call 01455 238141.