

Delegated Report

Planning Ref: 24/00030/OUT

Applicant: Mr Max North

Ward: Ratby Bagworth and Thornton



**Hinckley & Bosworth
Borough Council**

Site: 130 Stamford Street, Ratby, Leicester, Leicestershire, LE6 0JU

Proposal: Outline planning application for new residential dwelling (all matters reserved)

1. Recommendations

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- 1.1 **Grant outline planning permission** subject to planning conditions outlined at the end of this report.

2. Planning Application Description

- 2.1. This application seeks outline planning permission for the erection of one dwelling on a 220sqm site to the rear of 130 Stamford Street. The proposed is for one 2 bed bungalow. The property is provided with two parking spaces and private amenity space of 85sqm. Residential amenity for the host property, 130 Stamford Street, would be 140sqm. All matters of detail are reserved and this application seeks outline approval only. The application would see the subdivision of the curtilage of the host dwelling with the proposed dwelling in the eastern section of the existing garden which has an existing access.
- 2.2. The submitted block plan indicates a detached bungalow with a front elevation set back 5.5m from Stamford Street with hardstanding at the front. The proposed would, as a result of the orientation of No. 130 range from 8m to 11m from the rear elevation of the host dwelling and 2m from the western elevation of the bungalow to the east, with garden retained to the north. Layout, scale, appearance, access and landscaping are reserved matters and the design submitted with this outline application is not final.

3. Description of the site and surrounding area

- 3.1. The application site is a small sized parcel of land forming the eastern part of the garden area of no.130 to the west. Stamford Street is at the front and the access road to the 2 bungalows to the east of the site is at the rear. No.130, the host dwelling, is a two-storey dwelling of painted render, and forms part of a mixed street scene of mostly 2 storey terraced dwellings & terraced bungalows of similar size as the proposed dwelling. The site has an existing access which would be widened as a result of the proposed.
- 3.2. The site is located within the settlement boundary of Ratby, a large, well serviced village on the outskirts of Leicester. The site is within a residential area with a strong residential context. The site is a sustainable location being within walking distance of

village amenities including shops, schools, restaurants, pubs, bus stops and leisure facilities. The proposal is not within the conservation area. The site is currently private within the garden area of an existing property. This existing property is to be retained

4. Relevant planning history

4.1. 21/00235/HOU

- Two storey extension at front, side and rear; single storey extension at front; rendering and cladding to house
- Permitted
- 07/05/2021

21/00825/OUT

- Residential development of 2 dwellings (Outline - all matters reserved)
- Refused
- 18/05/2022

23/00232/OUT

- Outline Planning Permission for two new dwellinghouses (all matters reserved)
- Outline permission
- 24/04/2023

23/00774/REM

- Approval of Reserved Matters (Access, Appearance, Landscaping, Layout and Scale) relating to outline planning permission 23/00232/OUT for two new dwellinghouses
- Approved
- 15/12/2023

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.
- 5.2. No letters were received

6. Consultation

- 6.1. No objections received (some with conditions and/or notes) from:
- LCC Highways
 - HBBC Waste but recommend 1 condition
 - HBBC ES Pollution
 - HBBC Drainage
 - LCC Ecology

7. Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centre
 - Policy 8: Key Rural Centre relating to Leicester
 - Policy 21: National Forest
 - Policy 22: Charnwood Forest

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 DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.2. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2023)
- Planning Practice Guidance (PPG)

7.3. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

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 2 of the National Planning Policy Framework (NPPF) (2023) 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. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.4. Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.5. Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth

Borough Council are able to demonstrate 4.89 years of deliverable housing on 01 April 2022. In addition, both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.

- 8.6. Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.7. 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) and the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.8. The spatial distribution of growth across the Borough during the plan period 2006- 2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Policy 13 of the adopted Core Strategy supports small scale housing development.
- 8.9. The above is weighed in the balance of the merits of the application when considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.10. The entirety of the application site is garden land within the settlement boundary of Ratby and is broadly acceptable in principle, when considered against development plan policies outlined above.
- 8.11. With regard to whether the proposed development is 'sustainable', therefore triggering the tilted balance applied by paragraph 11 of the NPPF, there are three key objectives set out with national policy:
 - Economic
 - Environmental
 - Social
- 8.10. The proposal would result in economic benefits through the construction of the scheme, creation of jobs and construction spend, albeit for a temporary period. Additionally, the residents of the proposed development would provide ongoing support to local services. However, given the scale of the proposal this benefit is small.

- 8.11. There are no known environmental benefits from the proposed development. The proposal could introduce suitable soft landscaping and mitigations at the reserved matters stage to offset any environmental risk.
- 8.12. The addition of one household to this urban area of Ratby would provide a limited social benefit to services in the town centre and to the residents themselves.
- 8.13. In summary, the proposal is located within the defined settlement boundary in accordance with the relevant development plan policy and is considered to be sustainable development when the three strands of sustainability are applied as per the NPPF. The proposal will be weighed against the considerations below at the end of this report.

Design and impact upon the character of the area

- 8.14. Policy DM10 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 with the intention of preventing development that is out of keeping with the surrounding area.
- 8.15. The site is currently a section of garden with dwellings to the east and west & an access drive/ Stamford Street to the south and north. The site is small but it is considered the site is sufficiently large enough to accommodate the detached dwelling as proposed, with a subdivided plot size proportionate to the proposed dwelling which is similar in size to properties in the wider area.
- 8.16. The layout, scale, landscaping and appearance of the proposal are reserved and are not therefore considered at this outline stage. The indicative site plan shows a site which could accommodate a dwelling of suitable scale for the location whilst retaining sufficient parking and outdoor amenity space. The resultant dwelling will likely need to be a small bungalow to reflect the neighbouring bungalows to the west.

Impact upon neighbouring residential amenity

- 8.17. 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.
- 8.18. By virtue of the size of the plot and its relationship to neighbouring dwellings, and subject to the consideration of additional details at the reserved matters stage (including scale, layout and the position of any windows), the erection of one new dwelling would be able to achieve satisfactory separation distances to neighbouring properties to avoid any significant adverse overbearing or overshadowing impacts. Owing to the proximity to the neighbouring dwelling which has habitable room windows in its rear elevation it is likely that only a bungalow would be achievable with regards to separation distances and to avoid adverse over dominance and loss of light to this property.

- 8.19. The elevations would need to be and could be designed to avoid any primary habitable room windows overlooking neighbouring plots. Windows should be avoided in either side elevation but if proposed should be obscure glazed. Therefore, subject to suitable detailed design, the proposal could protect the privacy and amenity of neighbouring properties and future occupiers of the site from any significant loss of privacy from overlooking.
- 8.20. Following the subdivision of the site, sufficient outdoor amenity space would be retained for both the existing and proposed dwellings.

Impact upon highway safety

- 8.21. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision.
- 8.22. There are no highway safety objections from LCC Highways. Whilst the access is not for consideration at this stage, the Applicant has submitted 'Design three Sixty', drawing number 107-001 which shows access would be taken from Stamford Street.
- 8.23. The Applicant is proposing to utilise an existing wide access that currently provides not only access to 128 Stamford Street, but it appears also private off street car parking. An access width of 4.25m for a minimum of 5m behind the highway boundary should also be demonstrated, this should take into consideration the private off street car parking to the east of the access. This is to ensure vehicles can pass each other within the access. The Applicant should ensure there is adequate dropped kerb provision to facilitate this. Given this, the Applicant is advised that notwithstanding any planning consent, a separate application may be required to be made to the LHA. Further information can be found at:

<https://www.leicestershire.gov.uk/roads-and-travel/cars-and-parking/vehicle-access-dropped-kerbs>

- 8.24. Vehicular visibility to the southwest of the access is approximately 2.4m x 28m as opposed to 2.4m x 43m as per Table DG4 of Part 3 of the Leicestershire Highway Design Guide (LHDG), a copy of which can be found at <https://resources.leicestershire.gov.uk/lhdg>. However given the highway terminates at this point, and given speeds are likely to be slower than the posted speed of the road (30mph), this is unlikely to be of concern to the LHA. Overall, the LHA considers at this stage the principle of a safe and suitable access to the site could be achieved.
- 8.25. The Applicant has demonstrated on 'Design three Sixty', drawing number 107-001 that two off street car parking spaces would be provided. It should be pointed out that there is a contradiction in the 'Application Form' which states within the 'Proposed Units' section there is to be a two bed dwelling and a four bed dwelling. However, it is noted within the 'Design & Access Statement (DAS)' that the proposals are for a single two bed dwelling. Taking this into account, the LHA will consider the proposals are for a single two bed dwelling. As such, two off-street car parking spaces would be in accordance with Paragraph 3.151 of Part 3 of the LHDG.

- 8.26 When the layout of the development is applied for, the Applicant will need to ensure that both spaces are designed in accordance with Paragraph 3.165 of Part 3 of the LHDG. The LHA consider at this stage there is inadequate space within the courtyard to fit design compliant parking spaces within the site. Whilst intensity of usage of the adjacent road would modestly increase due to the additional residential use of the site, it is considered a safe and suitable access accordance with policy DM17. Access will be considered in full at the reserved matters stage.

Other matters

- 8.27. With regard to on-site drainage, the applicant is advised that 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 discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
- 8.28 Any proposed 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 (See Environment Agency guidance on the permeable surfacing of front gardens).
- 8.29. The collection point for domestic recycling, garden waste and refuse would be from the adopted highway boundary. Whilst HBBC Waste comments are noted, it is considered that there would be sufficient space within the plot for bin storage and the possibility to safely leave refuse bins on the public footpath for collection without adversely impacting on highway safety.

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, and the matters specified in Section 149 of the Equality Act 2010 in the determination 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. Conclusion and Planning Balance

- 10.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.2. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 10.3. The site lies within the settlement boundary of Ratby. There is therefore a general presumption in favour of sustainable development, and there is a tilted balance applied by the NPPF due to the housing supply shortfall in the District. The sustainability of the proposal has been established in this report, and therefore the proposal is considered to constitute modestly sustainable development carrying some weight in favour of the proposal.
- 10.4. The overall benefit of the modest increase in housing supply, and sustainability on balance of the proposal (subject to detailed layout, design and landscaping), is considered sufficient to outweigh any minor harm to the character and appearance of the area through the introduction of additional built form.
- 10.5. No other significant concerns have been identified which cannot be addressed via the reserved matters stage or planning condition. Therefore, on balance, the proposal is considered to be acceptable.

11. Recommendation

- 11.1. **Grant Outline Planning Permission** subject to the planning conditions outlined at the end of this report

11.2. Conditions and Reasons

- 1) Application for the approval of reserved matters shall be made within three years from the date of this permission and the development shall be begun not later than two years from the date of approval of the last of the reserved matters to be approved.

Reason: To comply with the requirements of Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- 2) No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-
- a) Appearance of the development including the aspects of a building or place that determine the visual impression it makes, including proposed materials and finishes;
 - b) Landscaping of the site including treatment of private space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting at the site edges;
 - c) Layout of the site including the location of an electric vehicle charging point, the way in which buildings, routes and open spaces are provided and the relationship of these buildings and spaces outside the development;
 - d) Scale of the building proposed in relation to its surroundings; and
 - e) Access into the site from the public highway in the interests of highway safety.
- have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

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

Drg No. 107-02 Site Location Plan (received on 11.01.2024)

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

- 4) 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 dwelling hereby permitted have been 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 in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

- 5) No development shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

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

- 6) No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details

should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

Reason: To protect the amenity of neighbours and character of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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.
2. The suitability of the ground for soakaways should be ascertained by using the test in B R E Digest No. 365 before development is commenced. The porosity test and soakaway design requires the approval of the Building Control Section. The soakaway must be constructed using concrete ring sections with a liftable cover or other approved materials to the satisfaction of the Local Authority.
3. Any 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 (See Environment Agency guidance on the permeable surfacing of front gardens).
4. The collection point for domestic recycling, garden waste and refuse is from the adopted highway boundary. Please refer to the following downloads on the website.
http://www.hinckleybosworth.gov.uk/downloads/file/2952/wheeled_bin_information_for_developers_and_planning_officers
https://www.hinckleybosworth.gov.uk/downloads/file/4647/wheeled_bin_and_container_policy_updated_march_2018
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 discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
6. Any proposed 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 (See Environment Agency guidance on the permeable surfacing of front gardens).