

Delegated Report

Planning Ref: 23/00415/OUT
Applicant: Ms Elaine Thorpe
Ward: Hinckley Trinity



Hinckley & Bosworth
Borough Council

Site: 2 Lismore Drive Hinckley Leicestershire

Proposal: Outline Planning Permission for detached dormer bungalow (following demolition of double detached garage to the rear of 2 Lismore Drive) (Access only)

1. Recommendations

- 1.1. **Refuse planning permission** subject to:
- Planning reasons outlined at the end of this report.

2. Planning application description

- 2.1. This planning application seeks outline planning permission for the provision of one detached, two-bedroom dormer bungalow to the rear of, and southwest of, 2 Lismore Drive, Hinckley. To facilitate this development, the double detached garage to the rear of 2 Lismore Drive is demolished, and a new access, which is constructed with permeable paving, is created to serve the host dwelling.
- 2.2. Only access is sought for approval within this outline application and all other matters are reserved. The precise appearance of the scheme is reserved for later approval; therefore, the extent of the application is described and assessed via the indicative scales and appearance of the submitted plan, '*Existing and Proposed Site Plan 2023-07-PL-01*' (submitted: 28.04.2023).
- 2.3. Following concerns regarding harm to residential amenity such as overlooking, loss of light as well as overbearing and overshadowing impacts being raised by the Planning Officer, the Applicant agreed to reduce the scale of the scheme from a two-storey dwelling to a dormer bungalow on 27 June 2023. The Planning Officer still expressed concerns regarding the scheme and the Applicant suggested reducing the scheme to a bungalow, but a revised description was never agreed. Nevertheless, it is not considered that this reduction in scale would reduce the harm caused by the development or deal with other identified problems.

3. Description of the site and surrounding area

- 3.1. The 640sqm application site currently comprises part of the curtilage of 2 Lismore Drive, which is a detached, two-storey residential dwelling that is constructed with red brick and some partial white rendering on its northern front elevation. To the rear of the property, and adjacent to the northern site boundary of 4 Lismore Drive, is a single storey, flat-roofed and brick built double garage, which provides off-street parking for the existing dwelling.
- 3.2. The existing dwelling is the final property along Lismore Drive prior its junction with Hollycroft. Both Hollycroft and Lismore Drive are adopted and unclassified roads that are subject to a 30mph speed limit.
- 3.3. Lismore Drive is wholly residential in character and the application site is surrounded by residential properties. The dwellings along Lismore Drive are all two-storey properties that are either detached or semi-detached and their siting is staggered in a southerly direction on the application site's side of the road, but in a northerly direction on the opposite side of the road. These dwellings are brick built

with concrete roof tiles, and there is also evidence of rendering on the principal elevation of the majority of these properties.

4. Relevant planning history

4.1 N/A.

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 One member of the public objected to the application on the grounds of loss of residential amenity to the neighbouring properties via loss of light and overlooking concerns.

5.3 No further responses have been received.

6. Consultation

6.1 There have no objections to the application from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollutions Officer
- HBBC's Waste Management Officer (subject to conditions)

6.2 The Lead Local Flood Authority, Leicestershire County Council's Drainage Officer, referred to standing advice for this application.

6.3 The Local Highway Authority has also referred to stranding advice.

6.4 No further responses have been received.

7. Policy

7.1 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) (2021)
- Planning Policy for Traveller Sites (2015)
- Planning Practice Guidance (PPG)

7.4 Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- National Design Guide (2019)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity

- Impact upon parking provision and highway safety

Principle of Development

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies 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 planning consideration in planning decisions.
- 8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted 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.
- 8.4 Paragraph 12 of the NPPF states 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. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.5 The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). 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.
- 8.6 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.
- 8.7 The development is within the identified settlement boundary of Hinckley, and therefore the development is considered to be within a sustainable location for development. As a result, the development is considered to be acceptable in principle and complies with Policy DM1 of the SADMP, and Policy 1 of the adopted Core Strategy, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Housing Land Supply

- 8.8 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.
- 8.9 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.

- 8.10 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.
- 8.11 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.
- 8.12 Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.13 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs, and Paragraph 69 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area.
- 8.14 The development is for one residential dwelling, and therefore Policies 15 and 16 are not considered to be applicable to this proposal. As a result of this, the application does not provide any contribution to the provision of affordable housing within the Borough.
- 8.15 In summary, whilst the provision of one dwelling within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, given the Council's failure to deliver a five-year supply of land for housing, it is considered that moderate weight should be given to the provision of the proposed dwelling.

Design and Impact upon the Character of the Area

- 8.16 Policy DM10 requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features.
- 8.17 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.18 This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage, however, they will form details at the Reserved Matters stage. Given the

above, only existing, and proposed site plans have been provided within this application.

- 8.19 Nevertheless, the applicant has clarified in writing that the development is for a dormer bungalow due to concerns regarding overlooking and loss of privacy to neighbouring residential amenity. However, it is considered that given the prevailing two storey character of the area such a property would be uncharacteristic and a discordant feature within the street scene. Ultimately, the necessity to make the development into a dormer bungalow to prevent harm to neighbouring residential amenity demonstrates that the scheme is contrived and represents overdevelopment of the application site.
- 8.20 In addition, in order to provide two off-street parking spaces in accordance with the Leicestershire Highway Design Guide, the development is contrary to the requirements of the Good Design Guide, which requires hard standing to cover less than 50% of a site's frontage.
- 8.21 Given the above, it is considered that the development results in significant harm to the character of the surrounding, which is contrary to, and in conflict with Policy DM10 of the SAMDMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.22 Section 8 of the NPPF requires planning policies and decisions to promote healthy, inclusive and safe places. Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.23 Paragraph 185 of the NPPF states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
- 8.24 In accordance with National Policy, Policy DM10 of the SADMP requires that proposals do not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.25 The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable, and safe internal and external environment.
- 8.26 This is an outline application with all matters reserved except for access and therefore detailed layout and appearance considerations are not being assessed at this stage, however, they will form details at the Reserved Matters stage.
- 8.27 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. In addition, the separation distance between two principal windows to habitable windows should be

a minimum of 21m. However, the Good Design Guide also states that, “An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design.”

- 8.28 Following concerns regarding harm to neighbouring residential amenity such as overlooking, loss of light as well as overbearing and overshadowing impacts, the Applicant agreed to reduce the scale of the scheme to a dormer bungalow.
- 8.29 The indicative Proposed Site Plan suggests that the dormer window is on the principal elevation to the southern side, which faces the street. Therefore, in this illustrative layout, the dormer window is not considered to result in any overlooking or loss of privacy impacts to neighbouring amenity.
- 8.30 The indicative Proposed Site Plan suggests that there are no windows on the northern side elevation, which faces towards 2 Lismore Drive. The two-storey rear elevation of 2 Lismore Drive is 12.7m from the development, and therefore the scheme is not considered to result in any loss of privacy or overlooking impacts. Subject to further information regarding the scale of the development, by virtue of its location and siting, the proposal is not considered to result in any overbearing or overshadowing to 2 Lismore Drive or the neighbouring properties along Hollycroft.
- 8.31 Although there is a window on the ground floor and the first floor of the northern side elevation of 4 Lismore Drive, these are not considered to be principal habitable windows, and therefore the development is not considered to result in any significant adverse harm to the residential amenity of the occupants of 4 Lismore Drive.
- 8.32 Ultimately, further consideration would be required at Reserved Matters stage to ensure that this development safeguards the residential amenity of the neighbouring dwellings.
- 8.33 To comply with the Good Design Guide, two-bedroom houses must also provide a minimum of 60sqm of private outdoor amenity space with a minimum length of 7m.
- 8.34 The Applicant's indicative Proposed Site Plan indicates that 68sqm of private outdoor amenity space could be provided for the new dwelling, which exceeds the requirements of the Good Design Guide. However, none of the residential garden meets the depth requirements of the Good Design Guide, and at its shortest, the residential garden is only 3.6m in depth. As the application site cannot achieve the Good Design Guide's requirements for outdoor private amenity space, the scheme is considered to represent overdevelopment of the site that does not safeguard the residential amenity of its future occupiers.
- 8.35 This is exacerbated by the fact that the two-storey rear elevation of 2 Lismore Drive is only 10.3m away from this private outdoor amenity space. Therefore, it is highly likely that this area is overlooked by the habitable windows on the first floor of the neighbouring dwelling. As a result of this, the development is considered to result in loss of privacy and overlooking impacts to the new dwelling, which has a significant adverse impact on the residential amenity of its future occupants, which is contrary to, and in conflict with, Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.36 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 8.37 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.38 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.39 As the access to the new dwelling is via the existing access for the double garage to the rear of the host dwelling, it is not considered that amendments to the current situation are reasonable.
- 8.40 The development provides a new access for the host dwelling to the north-east of 2 Lismore Drive.
- 8.41 In accordance with Figure DG17 of Part 3 of the LHDG, an access for a single dwelling should have a minimum effective width of 2.75m. The proposed access for the host dwelling has a minimum effective width of 3.1m, which exceeds this requirement.
- 8.42 Given the new access' 20m separation from Lismore Drive's junction with Hollycroft, the provision of this access is not considered to result in any significant harm to highway safety. In addition, it is ultimately considered that the provision of one new dwelling is not considered to result in a significant intensification of the use of highway, nor an adverse impact on highway safety.
- 8.43 To accord with Paragraph 3.151 of Part 3 of the LHDG requires one off-street vehicle parking space is required to accommodate a two-bedroom dwelling, and two off-street vehicle parking spaces are required to accommodate a three-bedroom dwelling.
- 8.44 The capacity of the host dwelling is unknown; however, the scheme provides three off-street parking spaces for 2 Lismore Drive, which is in accordance with Paragraph 3.151 of Part 3 of the LHDG. In addition, two off-street parking spaces are provided for the new dwelling, which exceeds the requirements of Paragraph 3.151 of Part 3 of the LHDG.
- 8.45 To comply with Paragraph 3.165 of Part 3 of the LHDG (Off-Street Parking Dimensions), off-street parking spaces should measure 2.4m in width x 5.5m in depth. If these parking spaces are bounded by a wall, fence, hedge, line of trees or other similar obstruction on one side, then an additional 0.5m of width must be added to the parking space; this increases to 1m if the parking space is bounded on both sides.
- 8.46 Whilst the most southern off-street parking space is indicatively 0.5m narrower than the LHDG requires, it is anticipated that two off-street parking spaces can be provided within the application site that accord with the requirements of the LHDG.

- 8.47 Given the above, is considered that the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP and the adopted highway authority design guide.

Planning Balance

- 8.48 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.
- 8.49 The Council cannot demonstrate a five-year supply of housing land and the housing policies most important for determining the application are out of date. Therefore, it is necessary to consider the 'tilted' balance in accordance with Paragraph 11(d) of the NPPF, where planning permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.
- 8.50 The development is in a sustainable location within the identified settlement boundary of Hinckley. Furthermore, it is acknowledged that there are potential social benefits from the scheme such as providing one dwelling towards the Borough's housing land supply, which may also include economic benefits within the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services. It is considered that these benefits are offered moderate weight within the planning balance.
- 8.51 However, these benefits when associated with a single dwelling are modest and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP.
- 8.52 Moreover, due to the constraints of the application site, the proposal does not provide adequate outdoor private amenity space, and ultimately the scheme is considered to result in overlooking and loss of privacy to the future occupiers of the development from 2 Lismore Drive. These impacts are not considered to safeguard the residential amenity of the future occupiers of the scheme.
- 8.53 In addition, to protect the neighbouring residents from overlooking and loss of privacy, the development is limited to the scale of a dormer bungalow. This is considered to be discordant and uncharacteristic with the character of the street scene, and this ultimately suggests that the development is contrived and represents overdevelopment of the site.
- 8.54 As a result of these factors, it is considered that the significant harm caused by this proposal significantly and demonstrably outweighs the benefits of this development. Therefore, the development is considered to be contrary to, and in conflict with, Policy DM10 of the SADMP, and the Good Design Guide.

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**
- 10.1 The proposed development is not considered to be compliant with the relevant national and local policy as it:
 - Has an adverse impact upon the character and appearance of the area.
 - Has a significant adverse impact upon the amenity of neighbours.
- 10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be refused.
- 11. Recommendation**
- 11.1 **Refuse planning permission** subject to:
 - Planning reasons outlined at the end of this report.
- 11.2 **Reasons**
 1. The development does not provide adequate outdoor private amenity space for the dwelling and results in overlooking and loss of privacy from neighbouring dwellings for future occupiers of the proposal, which is considered to result in significant adverse effect on their residential amenity. This significant harm is considered to be contrary to, and in conflict with, Policy 10 of the Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide (2020), and Paragraph 130 of the National Planning Policy Framework (2021).
 2. By virtue of the constraints of the site, and the likely design and massing of the proposal, the scheme is considered to be contrived and represents a discordant and uncharacteristic development that causes significant adverse harm to the character and appearance of the surrounding area, which is contrary to, and in conflict with, Policy 10 of the Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide (2020), and Section 12 of the National Planning Policy Framework (2021).

a.

Notes to Applicant:

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 28.04.2023)
 - Existing and Proposed Site Plans PL-01 (submitted: 10.07.2023)
 - Planning Statement (submitted: 28.04.2023)