

Delegated Report

Planning Ref: 24/00112/FUL
Applicant: Mr Bill Angus
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Cottage Farm Barr Lane Higham On The Hill

Proposal: Demolition of existing outbuildings and construction of a new dwelling (revised scheme of 23/00521/FUL)

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 planning application seeks full planning permission for the provision of a new three-bedroom, 'L'-shaped dwelling at Cottage Farm, Barr Lane, Higham on the Hill.
- 2.2. This application is a revised scheme of planning permission 23/00521/FUL and does not seek to make any amendments to the previously approved plans. However, to facilitate this new proposal, the existing outbuildings are now demolished, and the new dwelling is relocated 3m further away from the existing dwelling. The Applicant has explained that this is to ensure a better-quality result and to ensure that the development achieves modern technical standards.
- 2.2. As per the previously approved scheme within planning permission 23/00521/FUL, the current proposal is 21.7m in width by 20.2m in depth, with a total footprint of 225sqm. The development utilises a variety of pitched roofs and at its highest, the scheme has a gable-fronted pitched roof on the principal elevation of the scheme that has a ridge height of 8.5m.

3. Description of the Site and the Surrounding Area

- 3.1. The 0.49ha application site is located 694m to the southeast of, and outside of, the identified settlement boundary of Higham on the Hill in the designated open countryside. The application site is wholly surrounded by open countryside, but there are four further dwellings to the east of the site, and two agricultural structures to the north and east of the site respectively.
- 3.2. The application site comprises of one existing residential dwelling, and a couple of existing residential outbuildings, including a five-bay garage and a tractor shed, that are constructed with red brick and grey slate roofs. The application site benefits from planning permission for the conversion and extension of the existing garage into a new dwelling via planning permission 23/00521/FUL.
- 3.3. Planning permission 23/00521/FUL approved the conversion and the extension of the existing detached garage, and the existing tractor shed to the southeast into a new 'L' shaped, three-bedroom dwelling.
- 3.4. The scheme was constructed with red brick and grey slate roof tiles to match the existing outbuildings and Cedral Lap fibreboard cladding in Dark Grey C15 was utilised for the single storey lounge element of the development, and on aspects of the first-floor front and rear elevations of the scheme.

- 3.5. The application site features two vehicular accesses on to Barr Lane, and an additional separate vehicular access to the east of the site for the site's associated outbuildings. Barr Lane is an adopted, but unclassified, road that is subject to a 30mph speed limit.

4. Relevant Planning History

4.1 23/00521/FUL

- Proposed conversion and extension of existing garage to new dwelling, new pergola and boundary with associated access, parking, landscaping and solar panel.
- Permitted
- 20.07.2023.

4.2 22/00097/OUT

- Replacement of outbuildings associated with a dwelling house, with one new detached dwelling house and associated vehicle storage (Outline Application – All Matters Reserved).
- Refused.
- 23.09.2022.

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 responses have been received.

6. Consultation

- 6.1 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
- HBBC's Environmental Services' Pollution Officer
- HBBC's Waste Management Officer (subject to conditions)
- Leicestershire County Council (LCC)'s Ecology Unit (subject to conditions)

- 6.2 The Local Highway Authority referred to standing advice.

- 6.3 Higham on the Hill Parish Council did not comment on the planning application.

Ecology

- 6.4 Based on submitted photographs, aerial images and google-street view, the County Council's Ecology Department did not consider ecological surveys to be required. Nevertheless, the Ecology Department requested a planning condition that secured a biodiversity enhancement scheme for the site to be approved in writing by the Local Planning Authority.

- 6.5 The Applicant provided a biodiversity enhancement scheme, which LCC Ecology confirmed was acceptable on 18 March 2024.

- 6.6 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- N/A.

- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM14: Replacement Dwellings in the Rural Area
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3 National Planning Policies and Guidance:
- National Planning Policy Framework (NPPF) (December 2023)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4 Other Relevant Guidance:
- Good Design Guide (2020)
 - Leicestershire Highway Design Guide (LHDG) (2022)
 - Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

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

- Principle of development
- Housing land supply
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

- 8.1 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. The NPPF is a material planning consideration in planning decisions.
- 8.2 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.
- 8.3 However, 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. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.4 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the Core Strategy. This identifies and

provides allocations for housing and other development in a hierarchy of settlements within the Borough.

- 8.5 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. 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.
- 8.6 Nevertheless, in accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given. 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 Outside the defined settlement boundaries, the countryside is not regarded as a sustainable location for new development. Section 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 180(b) specifically highlights that this should be achieved by, *“Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.”*
- 8.8 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 8.9 Therefore, the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable.
- 8.10 Importantly, Policy DM4 also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.11 For example, the application site benefits from planning permission for the provision of a dwelling through the conversion of the existing residential outbuildings via planning permission 23/00521/FUL. Therefore, this proposal is considered to represent a replacement dwelling in the rural area, which is determined via Policy DM14 of the SADMP. This is considered to be a significant material consideration within the planning balance.

- 8.12 Given the above, whilst the Council considers that the proposal is offered no support by Policy DM4 of the SADMP, the development is considered to be acceptable in principle, subject to the assessment of all other material considerations, including the assessment of the scheme's compliance with Policy DM14 of the SADMP. Other material considerations are set out within the next sections of the report.

Housing Land Supply

- 8.13 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.
- 8.14 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.
- 8.15 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. The latest figures up to 01 April 2023 are currently being worked on and will be available in due course.
- 8.16 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.
- 8.17 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.
- 8.18 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. The overall aim is to meet as much of the area's identified housing need as possible with an appropriate mix of housing types for the local community.
- 8.19 Paragraph 70 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. In order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.
- 8.20 The development is for one singular residential property within a rural area, and therefore Policy 15 (Affordable Housing) and Policy 16 (Housing Density, Mix and Design) of the adopted Core Strategy are not applicable for this scheme.

- 8.21 Whilst the Council is unable to deliver a five-year supply of land for housing, given the provision of one dwelling within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, it is considered that limited weight should be given to the provision of the proposed dwelling.

Design and Impact upon the Character of the Area

- 8.22 Section 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.23 Paragraph 139 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.
- 8.24 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where:
- i.) It does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside; and
 - ii.) It does not undermine the physical and perceived separation and open character between settlements; and
 - iii.) It does not create or exacerbate ribbon development.
 - iv.) If within a Green Wedge, it protects its role and function in line with Core Strategy Policies 6 and 9; and
 - v.) If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy 21.
- 8.25 In accordance with Policy DM14 of the SADMP, a proposal for the demolition and rebuild of an existing dwelling outside the settlement boundary will be supported where:
- (a) It leads to an enhancement of the immediate setting and general character of the area.
 - (b) The new dwelling is proportionate to the size, scale, mass, and footprint of the original dwelling and situated within the original curtilage.
 - (c) The proposed development accords with Policies DM10, DM11, and DM12 of the SADMP.
- 8.26 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.27 The current scheme is the identical in size, scale, mass, footprint, and design to the approved development, which the Local Planning Authority has already established respects the character of the surrounding area. Therefore, the development is considered to be compliant with Policy DM14 of the SADMP.
- 8.28 Although the scheme is relocated 3m further away from the Cottage Farm, this is not considered to result in any significant adverse impacts to the character of the area and the wider countryside in light of this planning permission.

- 8.29 Given the above, the proposal respects the character of the existing dwelling and surrounding area and is in accordance with Policies DM4, DM10, and DM14 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.30 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.31 Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would 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.
- 8.32 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 8.33 The design of the scheme is identical to the design of the approved development within planning permission 23/00521/FUL, which the Local Planning Authority has already established does not result in any harm to neighbouring residential amenity, nor the residential amenity of the future occupants of the scheme. The relocation of the development 3m further away from the host dwelling is not considered to cause any material harm to neighbouring dwellings.
- 8.34 By virtue of these factors, the scheme is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.35 Section 9 of the NPPF promotes sustainable transport. Paragraph 114 of the NPPF states that planning decisions should ensure that developments provide appropriate opportunities to promote sustainable transport modes, given the type of development and its location and a safe and suitable access to the site for all users. Any proposal should ensure that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
- 8.36 Ultimately, development should not 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, in accordance with Paragraph 115 of the NPPF.
- 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)). Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.

- 8.38 Paragraph 3.151 (Quantum) of Part 3 of the LHDG requires three off-street vehicle parking spaces for four-bedroom dwellings. Paragraph 3.165 (Dimensions) of Part 3 of the LHDG requires minimum parking sizes to be 2.4m x 5.5m, and an additional 0.5m in width is required the parking space is bounded by a wall, fence, hedge, line of trees or other similar obstructions on one side. This width increases to 1m if the parking space is bounded on both sides.
- 8.39 The development proposes no alterations to the existing access on to Barr Lane. It is noted that the Local Highway Authority previously confirmed within planning application 23/00521/FUL that the existing access was suitable for this development.
- 8.40 Moreover, the Proposed Site Layout demonstrates that there is sufficient parking and turning facilities for three vehicles in accordance with Paragraphs 3.151 and 3.165 of Part of the LHDG.
- 8.41 Given the above, and in light of the approved planning permission 23/00521/FUL, the proposal is not considered to 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 LHDG.

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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate 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 91 of the Town and Country Planning Act 1990, as amended by 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 received by the Local Planning Authority as follows:
 - Existing Elevations, Floor Plans, 3D View, Drg No. 22/05 01 A (submitted: 02.02.2024).
 - Existing, Proposed Site Layout Drg No. 22/05 PL105A (submitted: 02.02.2024).
 - Proposed Elevations, Drg No. 22/05 PL03 C (submitted: 02.02.2024).
 - Proposed Floor Plans, Drg No. 22/05 PL102 B (submitted: 02.02.2024).
 - Proposed 3D Views and Details, Drg No. 22/05 PL104 (submitted: 02.02.2024).
 - Site Location Plan, Drg No. 22/05 PL01 A (submitted: 02.02.2024).

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 red brick and slate roof tile materials to be used on the external elevations of the proposed extension and alteration shall match the corresponding materials of the existing dwelling.

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

4. The cement fibreboard cladding to be used on the external elevations on the proposed development shall be Cedral Lap in Dark Grey C15, as detailed within Section 8 of the Design and Access Statement (submitted: 02.02.2024).

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).

5. The development hereby permitted shall not be first used until such time as the scheme makes adequate provision for the storage and collection of waste and recycling containers across the site which has been submitted to, and approved in writing by, 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 support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated

March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

6. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Existing, Proposed Site Layout Drg No. 22/05 PL105A (submitted: 02.02.2024). Thereafter the onsite parking (and turning) provision shall be kept available for such uses in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with the National Planning Policy Framework (December 2023).

7. Works should proceed in strictly in accordance to the Biodiversity Enhancement Scheme (Drawing No: 22-05-PL106) (submitted: 08.03.2024).

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

a. **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 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 soakaways will be subject to the approval of the Building Control Surveyor.
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. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway and do not travel along, nor collect from private roads or driveways. Please refer to the policies within the Wheeled Bin and Container Policy (updated March 2018). It would be advisable to include an area near the roadside for the safe placement of the various containers on collection day. This will then keep the access clear to allow vehicular access. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point.

5. Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore, building demolition should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.
6. The property may be suitable for roosting bats, which are protected by law from harm. It is the applicant's responsibility to ensure that bat legislation is not breached, and therefore may need to consult with a licenced bat ecologist prior to commencement to ensure that bats will not be impacted by the works. The applicant should ensure that all contractors and individuals working on the property are aware of this possibility, as works must cease if bats are found during the course of the works whilst advice from a bat ecologist is obtained. Bats are particularly associated with the roof structure of buildings, including lofts, rafters, beams, gables, eaves, soffits, flashing, ridge-tile, chimneys, the under-tile area, etc. but may also be present in crevices in stone or brickwork and in cavity walls.