

Planning Committee Report

Planning Ref: 24/00392/CONDIT
Applicant: Peter Jenkins & Gunn
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 62 Lychgate Lane, Burbage, Hinckley

Proposal: Variation of conditions 3 (materials), 4 (levels) & 7 (landscaping) of planning permission 21/01294/FUL. Conditions 3, 4 & 7 have been implemented / carried out as per the planning permission.

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report
- Power to determine the final details of the conditions to be delegated to the Head of Planning.

2. Planning application description

2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission.

2.2. In this case, planning permission for application 21/01294/FUL granted full planning permission for the erection a single detached dwelling at 62 Lychgate Lane, Burbage.

2.3. This application seeks planning permission for the variation of condition 3 (materials), 4 (levels) and 7 (landscaping). The application has been submitted following the raising on an enforcement investigation. It has been confirmed that the pre-commencement condition relating to materials was and has been formally discharged, however, the pre-commencement conditions relating to levels and landscaping were not formally discharged.

2.4. As part of this proposal details of the implemented levels and landscaping have been submitted.

3. Description of the site and surrounding area

3.1. The application site is to the rear of 62 Lychgate Lane. It is partially garden land and partially occupied by an existing garage which serves the existing dwelling with hardstanding to the rear. Flamville Road is quite uniform in nature with detached and semi-detached two storey gabled dwellings. Lychgate Lane is more non-uniform with a variety of dwelling types and styles.

4. Relevant planning history

21/01294/FUL

Single detached dwelling
Planning permission
29.03.2022

22/00633/DISCON

Application to discharge condition 3 (Materials) attached to planning permission
21/01294/FUL

Discharged
09.09.2022

5. Publicity

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

5.2. No comments have been received.

6. Consultation

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

- Burbage Parish Council

7. Policy

7.1. Core Strategy (2009)

- Policy 4: Development in Burbage
- Policy 19: Green Space and Play Provision

7.2. Burbage Neighbourhood Plan (2020)

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 4: Parking

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

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

8. Appraisal

8.1. The principle of development has already been established through the earlier grant of the extant planning permission on the site. This application involves regularising the previous pre-commencement conditions in relation to materials, landscaping and levels – which have been implemented on site. The considerations under this application are:

- Design and impact upon the character of the area and impact upon the setting of nearby listed buildings
- Impacts on neighbouring amenity
- Impact on highway safety
- Conditions

Design and Impact upon the Character of the Area

- 8.2 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.
- 8.3 Policy 2 of the BNP states that any future residential development within the Parish of Burbage must respect its surroundings and, where appropriate, should follow the existing pattern of development and should retain existing important natural features on the site, such as trees, hedgerows and streams.
- 8.4 The Good Design Guide (2020) outlines that built development on infill sites should be of similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development.
- 8.5 The site is situated in a heavily residential area, and has been erected. The submitted levels details and details relating to landscaping are considered to be acceptable as built and therefore it is considered that the former pre-commencement conditions requesting the details to be formally submitted have been satisfied to a degree. The landscaping details are minor and relate to the hardstanding to the site frontage and the artificial landscaping to the rear. It is not considered that this level of landscaping would require a condition to maintain and upkeep owing to the details, and as such both the materials and levels conditions are to be removed.
- 8.6 Details of the materials have been formally discharged under 22/00633/DISCON and are therefore not required to be considered under this application – the condition for pre-commencement is to be removed.
- 8.7 Overall the submission of the relevant details is considered to have no detrimental impacts on the character of the area and as such is in accordance with Policy DM10 of the SADMP and Policy 2 of the BNP.

Impact on Neighbouring Amenity

- 8.8 Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighboring properties.
- 8.9 No objections have been received in relation to the variation of condition application. The details of levels and landscaping are considered acceptable and would not give rise to issues of neighboring residential amenity, in terms of overshadowing, overlooking, loss of light, loss of privacy or noise impacts.
- 8.10 As such it is considered that the variation is in accordance with Policy DM10 of the SADMP.

Impact on highway safety

- 8.11 Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision.
- 8.12 The degree of hardstanding to the site frontage submitted under the landscaping details are considered acceptable to provide sufficient off-street car parking serving the dwelling. As such it is considered that the proposal would not cause detrimental impacts to highway safety or vehicular parking.

Conditions

- 8.13 Planning permission 21/01294/FUL was subject to 9 conditions. Condition 3 relating to materials has been discharged formally under application 22/00633/DISCON and as such shall be removed from the conditions set out at the end of this report.
- 8.14 In addition, owing to the fact that the levels and landscaping details submitted under this application have been implemented, deemed acceptable and are simple in nature, it is not considered appropriate to condition these matters further and as such conditions 4 and 7 of the original application have been removed.
- 8.15

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 proposal remains acceptable in principle, would not result in any adverse impact to the character or appearance of the area, neighbouring amenity or highways. The proposal is therefore considered to accord with Policy DM1, DM3, DM7, DM10, DM17 and DM18 of the SADMP and Policies 4 and 19 of the Core Strategy.

11. Recommendation

- 11.1 **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report
- 11.2 **Conditions and Reasons**
- 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:

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

- Site Location Plan
- Site Layout, Landscaping Drg No: 21.13.02
- Floor Plans, Elevations Drg No: 21.13.01
- Received by the Local Planning Authority on 20 October 2021.
- Levels Plan Drg No. 21.13.20
- Landscaping Plan Drg No. 21.13.19

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).

2. All roof lights shall either have a sill height of a minimum of 1.7 metres above first floor level or shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and non-openable. The roof lights shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The access drive (and any turning space) which has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2023).

4. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E (inclusive) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The window within the eastern side elevation fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and top hung only, shall be permanently maintained as such at all times.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. 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.
3. 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 applicant/developer is advised that the collection of waste and recycling materials is taken from the adopted public highway not private land.