

Delegated Report

Planning Ref: 23/00585/FUL
Applicant: Mr Paul Philips
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: The Lake House Bosworth Road Wellsborough

Proposal: Proposed lake

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 a proposed lake at The Lake House, Bosworth Road, Wellsborough. The lake is located within the existing open paddock to the northwest of the dwelling, and to the south of Bosworth Road.
- 2.2. The lake is approximately 53.7m in width x 53m in depth, which covers a total area of 2,358.2sqm. Within the lake is a 161.1sqm island. The Agent has confirmed that the lake is for the personal use of the applicant and his family.

3. Description of the site and surrounding area

- 3.1. The 2.1ha application site is characterised by standalone residential development that is located to the south of Bosworth Road outside of any identified settlement boundaries within the designated open countryside. The site is accessed by a 105m long private unmade track and there are grassed paddocks for horses on both sides of the access track.
- 3.2. The site comprises of a five-bedroom dwelling, and a garage, that includes an ancillary residential annexe, to the southwest of the site, as well as stables and a manège to the southeast of the site. Both the dwelling and the garage are large, detached, two-storey buildings that are constructed with a brick finish. However, the dwelling also utilises a rendered finish.
- 3.3. To the immediate south of the site is a lake, which received planning permission in 1999. The application site is approximately over 1.3km west of Market Bosworth, and 1.9km east of Wellsborough, and is surrounded by open agricultural fields. The Bosworth Lakeside Lodges are to the east of the site, but they are separated by an open agricultural field.

4. Relevant planning history

4.1 23/00059/FUL

- Proposed barn to replace existing stables and yard
- Permitted
- 28.04.2023

4.2 20/00823/FUL

- Erection of replacement dwelling and double garage to include ancillary residential annexe (retrospective)
- Permitted
- 21.10.2020

- 4.3 **16/00344/HOU**
- Demolition of double garage and erection of new double garage and ancillary residential annexe
 - Permitted
 - 26.03.2017
- 4.4 **16/01096/FUL**
- Erection of replacement dwelling, extensions and alterations to detached garage and conversion to ancillary living accommodation annexe and garaging
 - Permitted
 - 31.01.2017
- 4.5 **16/00812/HOU**
- Extension to main dwelling and extension and conversion of detached garage to form two storey double garage and annexe with ancillary living accommodation (resubmission of 16/00344/HOU)
 - Permitted
 - 09.11.2016
- 4.6 **16/00344/HOU**
- Extension to main dwelling and extension and conversion of detached garage to form two storey double garage and annexe with ancillary living accommodation
 - Permitted
 - 23.06.2016
- 4.7 **15/00937/FUL**
- Erection of a stables and construction of manège
 - Permitted
 - 13.10.2015
- 4.8 **13/00858/CLUE**
- Certificate of lawful existing use for the storage of caravans
 - Permitted
 - 22.11.2013
- 4.9 **13/00009/HOU**
- Extensions and alterations to dwelling
 - Permitted
 - 28.02.2013
- 4.10 **08/00036/CLU**
- Certificate of existing use of dwelling without complying with agricultural occupancy condition (condition 2 of planning application 8276/1963)
 - Permitted
 - 13.10.2015
- 4.11 **99/00190/FUL**
- Creation of lake
 - Permitted
 - 14.05.1999

4.12 **89/01446/4**

- Garage conversion to accommodation for elderly relative
- Permitted
- 23.01.1990

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 Sheepy Parish Council are in support of the planning application.

6.2 There have been no objections from the following consultants:

- Hinckley & Bosworth Borough Council (HBBC)'s Environmental Services' Pollution Officer
- Leicestershire County Council (LCC)'s Ecology Unit
- Local Highway Authority (LHA)

6.3 LCC Ecology have advised that the proposed lake is located entirely within a small paddock, there is no requirement to provide any supporting ecological information.

6.4 No further responses have been received.

7. Policy

7.1 Core Strategy (2009)

- N/A.

7.2 Site Allocations and Development Management Policies (SADMP) DPD (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 DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Sheepy Parish Neighbourhood Plan

- Policy S1: Countryside
- Policy S5: Ecology and Biodiversity
- Policy S8: Design

7.4 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5 Other relevant guidance

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

8. Appraisal

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

- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Design and Impact upon the Character of the Area

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. 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.

8.4. 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.

8.5. 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. 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 174(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."

8.7. 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 new 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”.
- 8.8 Therefore, the proposed development does not relate to any of the criteria above in either Policy DM4, but this does not mean that the development is not sustainable.
- 8.9 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.
- 8.10 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.
- 8.11 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.
- 8.12 Policy S1 of the Sheepy Parish seeks to protect the countryside in the same way as Policy DM4 of the SADMP.
- 8.13 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.
- 8.14 The development is for the provision of a lake. There are also two other lakes in close proximity to the application site such as to the east and to the south, which demonstrates that it is not out of character for this feature to be in the surrounding area. There are also no structures within this proposal, and therefore the scheme retains the rural character of the site in accordance with Policy DM4(i) and Section 15 of the NPPF.
- 8.15 In addition, LCC Ecology welcomes the provision of a lake as it is likely to increase the biodiversity value of the site, which is in accordance with both Paragraphs 174(e) and 179 of the NPPF.
- 8.16 By virtue of these factors, it is considered that the proposal respects the character of the existing dwelling and surrounding area and is in accordance with Policies DM4 and DM10 of the SADMP, Section 15 of the NPPF, and the Good Design Guide.

Impact upon Residential Amenity

- 8.17 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.
- 8.18 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.
- 8.19 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.20 There are no neighbouring properties immediately adjacent to the application site, and no structures are created within this development. By virtue of these factors and the fact that there have been no objections to the scheme, the proposal does not result in any adverse impacts to residential amenity in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.21 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.
- 8.22 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)).
- 8.23 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.24 The development is the provision of a private lake, which is not considered to result in any material impact on the public highway. Therefore, it is considered that the proposal does not create an unacceptable impact on highway safety or the road network 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 The proposed development is considered to be compliant with the relevant national and local policy as it:
- Is an appropriate scale and design
 - Does not have an adverse impact upon the character and appearance of the area
 - Does not have a significant adverse impact upon the amenity of neighbours
 - Does not have a significant adverse impact upon highway safety
 - Provides sufficient vehicle parking spaces for off-street parking
- 10.2 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:
- Proposed Location Plan 23 04 01A (submitted: 24.07.2023)
 - Site Location Plan – Drg No. 23 04 01 (submitted: 13.06.2023)
- 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. No development shall take place until a scheme of hard and soft landscaping works, including boundary treatments and levels, for the site, including an implementation scheme, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping shall be maintained for a period of five years from the date of planting. During this period, any trees or shrubs which die or are damaged, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The proposed lake hereby approved shall be for the use of the applicant and his family only and shall not be used for any commercial purposes.

Reason: The assessment of the application has been undertaken on the basis that the proposed lake is for the use of the applicant only and not for any commercial use.

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. Any potential planting on the banks or margins of the newly dug lake should be of native species of local province.