

Delegated Report

Planning Ref: 23/00857/FUL

Applicant: Titan Properties

Ward: Newbold Verdon With Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: 7 Stapleton Lane Kirkby Mallory Leicester

Proposal: Demolition of existing bungalow and erection of two new bungalows

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 two two-bedroom bungalows at 7 Stapleton Lane, Kirkby Mallory. To facilitate this development, the existing bungalow within the site is demolished.
- 2.2. The two new dwellings externally measure 11.7m in width x 9m in depth, with a total footprint of 90.7sqm. The bungalow features a 22-degree pitched roof with a ridge height of 5.2m, and an eaves height of 3.1m. The materials of the scheme have not been confirmed.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is within the identified settlement boundary of Kirkby Mallory, which is classified as a rural hamlet within the adopted Core Strategy. The site consists of an existing bungalow is brick built with a render finish on its northern side elevation and western rear elevation. The existing dwelling has a pitched roof with a ridge height of 5.7m and has a total width of 13.1m and a depth of 9m, which includes an attached outbuilding to the north.
- 3.2. The application site is accessed via a private road on to Stapleton Lane, which is an adopted, but unclassified road that is accessed from Bosworth Road and Peckleton Road, which are both adopted and classified 'C' roads. All three roads are subject to a 30mph speed limit near the application site. There is no discernible unique character to the street scene due to the variety of styles and designs of buildings near the application site.
- 3.3. To the northwest of the site is several residential dwellings along Stapleton Lane. There are further residential dwellings to the northeast of the site to the north of Main Street. However, beyond these residential properties is open countryside.

- 3.4. To east of the site is three Public Right of Ways, Footpaths and T81, T83 and T84, which run through the adjacent playing field. The playing field is visually separated from the application site by mature vegetation on its western boundary. Beyond the playing field is further residential dwellings in Kirkby Mallory. To the south of the site is Mallory Park racing circuit.

4. Relevant Planning History

- 4.1 N/A.

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents.
- 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 (subject to conditions)
- HBBC's Waste Management Officer
- Leicestershire County Council (LCC)'s Ecology Unit
- Local Highway Authority (LHA)

- 6.2 Kirkby Mallory Parish Council have not commented on the application.

Ecology:

- 6.3 Leicestershire County Council (LCC)'s Ecology Department highlighted that, due to the proposed demolition of the structure on site, additional information is required in relation to roosting bats because it is not possible to conclude that the proposal will not cause an offence under the Conservation of Habitats and Species Regulations 2017.
- 6.4 The Applicant submitted an Emergence Survey which confirmed that no bat roosts were present within the site. Consequently, the Ecology Department confirmed that there was no further requirement to provide any additional information or mitigation in relation to roosting bats and removed its holding objection to the development.

Pollution:

- 6.5 The Council's Pollution Officer expressed concerns regarding the proximity of the Mallory Park Racing Circuit to the application site and the proposed dwellings as this is likely to result in noise pollution issues.

- 6.6 However, the Applicant has stated that Mallory Park has undertaken works such as the formation of new bunding and the provision of acoustic fencing to mitigate any noise concerns for neighbouring residents. These developments were approved by planning permissions 14/01102/FUL, and 17/00657/CONDIT.
- 6.7 The Pollution Officer has also referred to Environmental Health's comments on a similar application, 23/00824/OUT, near Kirkby Mallory for seven dwellings. In line with those comments, the Pollution Officer requested a scheme that demonstrates the dwellings will meet the requirements of BS8233-2014 should be secured via a pre-commencement planning condition.
- 6.8 Given that the development is required to comply with these under statutory Building Regulations, it is not considered that such a planning condition is reasonably necessary to make the development acceptable in planning terms in accordance with Paragraph 57 of the National Planning Policy Framework (Dec 2023). Therefore, the proposed planning condition has not been applied.

Waste:

- 6.9 The Council's Waste Management Officer requested that adequate space was provided to store the waste containers on the property and at the kerbside, where the property meets the public highway, on collection day. The Waste Management Officer has suggested that it would be advisable that the development includes an area near to the roadside for the safe placement of various containers on collection day, for up to two bins per property.
- 6.10 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):
- Policy 13: Rural Hamlets
 - Policy 14: Rural Areas: Transport
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Preventing Pollution and Flooding
 - 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) (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

8.2 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.

8.3 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document. In accordance with Paragraph 225 of the NPPF, due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.4 The development comprises demolition of an existing dwelling and provision of two new residential properties within the identified settlement boundary of the rural hamlet, Kirkby Mallory. Given the above, the development is acceptable in principle in accordance with Policy 13 of the adopted Core Strategy, and Policy DM1 of the SADMP, 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 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 5.6 years of deliverable housing on 29 July 2024.

8.9 However, due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered in accordance with Footnote 8 and Paragraph 11 of the NPPF.

- 8.10 Paragraph 11(d)(ii) of the NPPF requires planning permission to be granted unless 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.
- 8.11 The development is for one additional 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.
- 8.12 Whilst the Council is unable to deliver a five-year supply of land for housing, given the provision of one additional 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 proposal.

Design and Impact upon the Character of the Area

- 8.13 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.
- 8.14 The Good Design Guide confirms that garages and car ports should generally be set back from the existing dwelling so as not to dominate the street scene. Furthermore, where hard standing is proposed at the front of a property, this should not constitute more than 50% of its total area. Ultimately, the Good Design Guide states that development with large runs of parking in front of housing does not contribute positively to the street scene and will not generally be considered acceptable.
- 8.15 Both dwellings utilise a similar scale, volume, and massing as the existing property within the site, which is considered to preserve the character of the site. Given the existing residential use of the site, and the dwellings in the surrounding area, the increased capacity of the site to accommodate two dwellings is not considered to have a significant adverse impact on the character of the surrounding area.
- 8.16 Notwithstanding this, the details of the materials, boundary treatment, and landscaping have not been included within this application, so these are secured via planning condition in the interests of visual amenity.
- 8.17 By virtue of the size, scale, massing, and design of the development, the proposal respects the character of the existing dwelling and surrounding area in accordance with Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 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 requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity.
- 8.20 There are no residential properties immediately to the east, south or west of the application site. The closest properties to the north of the site are on the opposite side of Stapleton Lane and are over 21m away from the application site. Therefore, the scheme is not considered to result in any overlooking or loss of privacy. Due to the retention of the single storey massing of the development, the scheme is not considered to result in any loss of light or overbearing impacts to neighbouring residential amenity. Furthermore, as the development only increases the number of residential dwellings in the site by one, it is not considered that scheme causes any increased noise pollution impacts.
- 8.21 Although there are two windows of Plot 2 that face onto the blank side elevation of the Plot 1, these are not the primary habitable windows to this rooms, and therefore this is considered to result in any harm to the residential amenity of the future occupants of Plot 2.
- 8.22 To support the residential amenity of future occupiers of the scheme, one of the aims of Section 4 (New Residential Development) within The Good Design Guide is to ensure that new residential development exceeds the internal space standards set by the Technical Housing Standards (THS) (2015) wherever possible.
- 8.23 The scheme provides 89.3sqm of floor space and 1.8sqm of in-built storage for both dwellings, which complies with the overall floor space requirements of the THS but not the minimum in-built storage requirements.
- 8.24 In accordance with Paragraph 10(c) of the THS, to provide one bed space, a single bedroom should have a floor area of at least 7.5sqm, and a width of at least 2.15m. In order to provide two bed spaces, a double or twin bedroom should have a floor area of at least 11.5m, and a width of 2.75m for the master bedroom, and a width of 2.55m for every other bedroom in accordance with Paragraphs 10(d) and (e) of the THS.
- 8.25 As a result, both plots comply with the Paragraphs 10(d) and (e) of the THS.
- 8.26 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. Based on the Proposed Site Plan, it is considered that both dwellings are provided with sufficient private outdoor amenity space that is compliant with the Good Design Guide.
- 8.27 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 effects to the neighbouring properties or the future occupants of the scheme. Therefore, the development is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.28 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe. 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)).
- 8.29 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.30 The development utilises an existing access from a private road on to Stapleton Lane, which is an adopted, but unclassified road. The proposal makes no alterations to the existing access arrangement.
- 8.31 However, there is an existing brick boundary wall on the northern side of the site adjacent to Stapleton Lane. This boundary is likely to impact the visibility splays to the west. Nevertheless, there is a highway sign in accordance with the Traffic Signs Regulation and General Directions (TSRGD) which states, "*Unsuitable for motor vehicles*," approximately 400m west of the site. Given the above, the Local Highway Authority (LHA) consider the likely of vehicles travelling east along Stapleton Lane and turning right into the private access road to be low. Therefore, the LHA do not have any concerns with the access arrangements for the development.
- 8.32 In addition, two Personal Injury Collisions (PICs) have been recorded in the locality in the last five years, which have both occurred within 500 metres in either direction of the proposed access. One was classified as, "*Slight*," and the other classified as, "*Serious*," in severity. The LHA has considered the circumstances of the above PICs and is satisfied that the development proposal does not exacerbate the likelihood of further such incidents occurring.
- 8.33 Furthermore, given the quantum of development proposed the development is unlikely to result in a significant intensification of the use of the application site, or its access on to Stapleton Lane.
- 8.34 Whilst there are no turning facilities proposed on the site, due to the unadopted nature of the access road, Stapleton Lane's unclassified nature and road safety record, the LHA does not consider the provision of such turning provisions to be necessary.
- 8.35 The development provides two off-street vehicular parking spaces for each two-bedroom dwelling, which is in accordance with Paragraph 3.151 of Part 3 of the LHDG. It is noted that the dimensions of these parking spaces are also in accordance with Paragraph 3.165 of Part 3 of the LHDG.

- 8.36 In light of the above, it is considered that the proposal provides adequate off-street vehicular parking for both dwellings and ultimately the development 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:

- Block Plan (submitted: 05.12.2023)
- Elevations, Drg No. 04 (submitted: 04.10.2023)
- Elevations, Drg No. 05 (04.10.2023)
- Existing Elevations, Ground Floor Plan, (submitted: 05.12.2023)
- Proposed Ground Floor Plan (submitted: 31.08.2023)
- Section AA (submitted: 31.08.2023)
- Site Location Plan (submitted: 05.12.2023)

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 above floor plate 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 external appearance in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall not be occupied until a scheme of hard and soft landscaping works, including boundary treatments, 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 scheme 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, removed, 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 Policy 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 waste and recycling storage of containers and collection 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 the Block Plan (submitted: 05.12.2023). Thereafter the onsite parking provision shall be so maintained 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).

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. 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.