

Planning Ref: 23/01195/FUL
Applicant: Mr And Mrs Gagin
Ward: Newbold Verdon with Desford & Peckleton



Hinckley & Bosworth
Borough Council

Site: Land North East of the Hovel, Spinney Drive, Botcheston

Proposal: Proposed dwelling with detached garage and creation of new access (Resubmission 22/01071/FUL) (Self Build)

1. Recommendations

- 1.1. **Refuse planning permission** for the reasons at the end of this report.

2. Planning application description

- 2.1. The application seeks full planning permission for the erection of a detached four - bedroom bungalow with detached double garage at Land North East of The Hovel, Spinney Drive, Botcheston. The proposal is submitted as a self-build dwelling.
- 2.2. The design comprises a 'T' shaped dwelling with a large section projecting to the rear. The proposed four bedroom dwellinghouse will measure 21.5m at its maximum width and 12.1m at its maximum depth. The dwellinghouse has a gable roof, with the roof ridge height at 5.5m and the eaves at 3.6m. No details have been provided in regard to the proposed materials. The 'Proposed Floor Plans & Elevations' document, received 08/12/2023, shows the dwellinghouse will be finished with white render, grey roof tiles and grey aluminium windows and doors.
- 2.3. The proposed single storey detached garage will measure 5.5m at its maximum width and 7.5m at its maximum depth. The garage has a gable roof, with the roof ridge height at 5.0m and the eaves at 3.1m. The 'Proposed Elevations' document, received 08/12/2023, shows the garage will be finished with timber cladding, grey roof tiles and a white double garage door.

3. Description of the site and surrounding area

- 3.1. The application site is located at the end of Spinney Drive, situated within the countryside to the north east of the defined settlement boundary for Botcheston, and within both the National Forest and the Charnwood Forest. The application site comprises a rectangular shaped parcel of undeveloped land that is currently characterised by unmaintained grass and a number of mature trees.
- 3.2. A large residential dwelling known as The Old School is located immediately to the north east of the application site. On the opposite side of Spinney Drive is residential development beyond which is Forest Hill Golf Course. There is farmland to the west and a large paddock to the south and east. There is a mix of housing and architectural types within the vicinity; dwellings range in age and size, with curtilages of differing widths and depth, resultant of the development of the Kirkby Grange retirement village approximately 300 metres to the west of the application site. Development becomes more sporadic along Spinney Drive as it travels east towards the application site, resulting in the area having a rural and open nature, particularly on land to the east of Spinney Drive.

4. Relevant planning history

- 4.1 An application (22/01071/FUL) with identical design at the same site was refused permission on 18/07/2023.

- 4.2 Application 21/00887/FUL was submitted by the same applicants for a site on the opposite side of Spinney Lane. This application for a self-build detached dwelling was approved, given the residential properties on either side.

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 objection has been received on the grounds of overdevelopment and vehicular access.

6. Consultation

- Desford Parish Council – no response.
- HBBC Pollution – no objection.
- HBBC Drainage – advisory notes.
- HBBC Waste – condition recommended.
- LCC Highways – advisory notes.
- LCC Ecology - condition and advisory notes.
- Cadent Gas – no response.
- National Forest – no comment

7. Policy

7.1. Core Strategy (2009)

- Spatial Objective 1: Strong and Diverse Economy
- Spatial Objective 11: Built Environment & Townscape Character
- Policy 13: Rural Hamlets
- Policy 19: Green space and Play Provision
- Policy 21: National Forest
- Policy 22: Charnwood Forest

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM3: Infrastructure and Delivery
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development & Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. Desford Neighbourhood Plan (May 2021)

- Policy H1: Settlement Boundary
- Policy H7: Housing Design
- Policy T1: Traffic Management
- Policy T3: Electric Vehicles

7.4. National Planning Policies and Guidance

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

7.5. Other Relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)
- Hinckley and Bosworth Borough Landscape Character Assessment (2017)

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Self-build and custom build development

Assessment against strategic planning policies

- 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. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. 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.
- 8.3. The current development plan consists of the adopted Core Strategy (2009), the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016) and the Desford Neighbourhood Plan (2021).
- 8.4. Footnote 8 of Paragraph 11 of the NPPF states that the housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites. 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 1st April 2022. Due to this and the change in the housing figures required for the Borough, Paragraph 11(d) of the NPPF is triggered.
- 8.5. Therefore, this application should be determined in accordance with Paragraph 11(d) of the NPPF, whereby 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy, which are attributed significant weight in accordance with Paragraph 225 of the NPPF as they are consistent with the NPPF. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.6. 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.”

- 8.7. Paragraph 128(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, “The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.”
- 8.8. Policy 13 of the Core Strategy identifies Botcheston as a Rural Hamlet. Rural Hamlets are considered the least sustainable of settlements and have limited, if any services and generally rely on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services.
- 8.9. Policy H1 of the Desford Neighbourhood Plan states that land outside the defined settlement boundary will be treated as open countryside, where development will be carefully controlled in line with local and national strategic planning policies.
- 8.10. Botcheston is a hamlet that has no shops or schools. There is a bus service but the site is over 1000m from the closest stop on Main Street, Therefore, it is considered that the occupants of the proposed dwelling are highly likely to depend on private motorised transport to meet their day-to-day service, employment, and retail needs, which is in conflict with Section 9, and Paragraphs 8(c) and 128(c) of the NPPF.
- 8.11. The site is located within the countryside as defined within the adopted SADMP. Therefore, Policy DM4 is applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- 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
 - The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - It relates to the provision of stand-alone renewable energy developments in line with policy DM2: Renewable Energy and Low Carbon Development; or
 - It relates to the provision of accommodation for a rural worker in line with Policy DM5: Enabling Rural Worker Accommodation. and:
 - It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
 - It does not undermine the physical and perceived separation and open character between settlements; and
 - It does not create or exacerbate ribbon development.
- 8.12. Upon visiting the site and assessing the surrounding topography and character of the area it is considered that the proposal would have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside. This was determined as a result of the proposal not being part of the linear row of houses on the north eastern side of the access lane, Spinney Drive. Allowing this proposal would result in an uncharacteristic encroachment into the countryside to the south-east. It would lead to development pressure on the south-eastern side of the access lane, further detrimentally affecting the existing character of the area contrary to Policy DM4 of the SADMP.

- 8.13. Whilst in close proximity to neighbouring development, the location proposed is considered to be in the open countryside and not a sustainable location for development. Occupiers of any dwelling would be reliant on private cars for their day to day needs. As such the proposal would also be contrary to Policy DM17 of the SADMP which states that development proposals will be supported where there is safe and convenient access for walking and cycling to services and facilities.

Design and impact upon the character of the area and countryside

- 8.14. Policy DM10 (c) of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.15. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.16. The site is within the boundaries of the National Forest and Charnwood Forest where Policy 21 and Policy 22 of the adopted Core Strategy seeks to ensure that the siting of new development is appropriately related to its setting within the forest and that development respects the character and appearance of the wider countryside. While the site area does not meet the threshold for dedicated National Forest planting it is not considered that the proposed development would respect the character and appearance of the wider countryside or retain local character and complement the local landscape as required by the policies.
- 8.17. The application site is rural in character being a grassed area with perimeter trees providing an element of enclosure, additionally, the site is contained within an area adjacent to large existing dwellings known as Grange House and The Old School House. The plot sizes along this stretch of Spinney Drive are of a greater proportion and scale, particularly the aforementioned neighbouring properties. Further down Spinney Drive there is a large care home facility known as Kirby Grange that is almost 4 hectares in size.
- 8.18. In terms of design, the proposed dwelling would be a substantially-sized individually designed bungalow property. The mass of the dwelling would be broken up by changes in orientation and ridge heights. It is noted that the new dwelling would be of a significant size and scale.
- 8.19. It is considered that the proposed scheme would provide satisfactory access, layout, separation distances to existing properties, private amenity, parking and turning space to serve the development. The development also incorporates green space and landscaping, and it is considered that it would not appear cramped or overdeveloped.
- 8.20. No details have been provided as to the proposed materials other than stating that they will match the surrounding buildings. It is considered necessary that should permission be granted a condition be imposed to agree the materials to be used in the development.
- 8.21. The proposed dwelling is smaller in scale when compared to the immediately adjacent dwellings, however, there are similarly sized properties in abundance that

form part of the Kirby Grange care home. The surrounding trees and hedging will provide some screening to the development. However, it is considered that this development would have a significant adverse effect on the countryside due to its scale, massing and position on the south eastern side of the access lane. It is considered that the development would be contrary to the requirements of Policy DM4 and Policy DM10 in that it would have a significant detrimental effect on the character and appearance of the area as well as being contrary to Policy 21 and Policy 22 of the Core Strategy with regard to the National and Charnwood Forests.

Impact upon neighbouring residential amenity

- 8.22. Policy DM10 of the SADMP requires that developments do not have a significant adverse effect on the privacy and amenity of nearby residents.
- 8.23. An objection to the application has been received on the grounds of negative impacts on neighbouring residential amenity in the form of overlooking and noise.
- 8.24. The neighbouring property to the north east of the application site is a dwelling known as Old School House. The proposed dwelling would protrude towards the shared boundary with this neighbouring property. However, the dwelling would be single storey in nature, and therefore any overbearing or overshadowing impacts on this neighbour would be minimal. In any case, there is extensive screening provided by the mature vegetation along the shared boundary, which would reduce any impact further. It is also noted that there would be a considerable separation distance between the closest elevations of the properties. Grange House is also located to the north. Once again, there is considerable screening from existing vegetation and a separation distance that is sufficiently large enough to negate any potential amenity concerns.
- 8.25. Overall, it is considered that the proposal would not have a significant adverse impact on the residential amenity of the occupiers of the neighbouring dwellings in terms of loss of light, overlooking or overbearing nature, in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.26. 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.
- 8.27. Objections have been raised on the grounds that the application site would be accessed via a private, unadopted road, and that restrictive easements may prevent access. This is not a material planning consideration. Similarly, in relation to comments received regarding the potential damage to the access roads, this is not a planning matter and cannot be given any weight.
- 8.28. The proposal would be for one dwelling and therefore it is not considered that it would create significant additional traffic.
- 8.29. LCC Highways has raised no objections to the proposal. LCC Highways state that to be classed as a double garage with two car parking spaces, the internal dimensions must be 6m by 6m. The proposed detached double garage falls below this requirement, so it can only be classified as one parking space.

- 8.30. Nonetheless, the front of the application site contains sufficient parking spaces for a four bedroom dwelling.
- 8.31. Therefore, the proposal is considered to accord with Policies DM17 and DM18 of the SADMP with regard to vehicular traffic.

Self-Build and Custom Build Development

- 8.32. Paragraph 60 of the NPPF states that:
- “It is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.”
- 8.33. Paragraph 63 of the Framework confirms that people wishing to build their own homes are one of the groups referred to in paragraph 60. Footnote 29 refers to section 1 of the Self Build and Custom Housebuilding Act 2015 and the requirement for local authorities to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building.
- 8.34. It is noted that as stated above at paragraph 4.2 that the same applicants sought and gained approval for a self-build dwelling in 2022 on the site directly to the north-west on the opposite side of Spinney Drive. The application was approved by the Planning Committee and paragraph 11.3 of the Committee Report sets out that the delivery of a self-build dwelling weighed in favour of the application.
- 8.35. The earlier, identical application that was submitted on this site, 22/01071/FUL, was not submitted as a self-build dwelling. The only difference in that application and the current application is that it is now stated that the proposed dwelling is a self-build.
- 8.36. Section 4 of the Self-Build and Custom Housebuilding Regulations 2016 deals with eligibility for entry on to the self-build register that local authorities are required to keep under section 1(1) of the Self-build and Custom Housebuilding Act 2015. Section 4(3) lists the requirement for an individual being eligible and point (e) is that the individual is seeking to acquire a serviced plot of land for their own self-build and custom housebuilding.
- 8.37. At the very least it is considered that the application cannot be classified as one for a self-build dwelling for the following reasons:
- The applicants already have a permission for a self-build property on the site directly to the north-west on the other side of Spinney Lane; and
 - The earlier application on the site was not submitted as a self-build. The current application has an agent who has a record of submitting applications to the Council citing self-build requirements as a key reason why permission should be granted following refusal of an earlier scheme (23/00328/FUL – Hill Top Farm); and
 - The applicants own the site and are not therefore eligible given section 4(3)(e) of the Regulations that requires individuals are seeking to acquire a plot of land.
- 8.38. Section 2A of the Self-Build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016), and associated secondary legislation, places a duty on local planning authorities to have regard to the Self-Build and Custom

Housebuilding register when making decisions on planning applications. This legislation places a statutory duty on local planning authorities to provide permission for suitable development for enough serviced plots to meet the demand for self-build and custom housebuilding in their area.

- 8.39. The level of demand is established by reference to the number of entries added to the authority's register of people seeking a self-build plot during a base period. In this instance the applicants should not be on the register as they already have a permission for a self-build property directly opposite the site and they own the site that is the subject of this application.
- 8.40. Self-build regulations are not a mechanism whereby disappointed applicants can seek to obtain planning permission on sites within the countryside where planning permission has been previously refused or where planning permission would not otherwise be granted.

Planning balance

- 8.41. The Council cannot demonstrate a five-year housing land supply and therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.42. The application site is outside of any identified settlement boundary, where new, unrestricted residential development is not considered sustainable development. The site is considered to be located in an unsustainable location where the future occupiers of the development would be reliant on private motorised transport contrary to policy DM17 of the SADMP and to the social and environmental aims of the NPPF.
- 8.43. The application site is located outside the settlement boundary of a Rural Hamlet (Botcheston). Policy 13 of the Core Strategy outlines that Rural Hamlets have limited, if any services and generally rely on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. Because of the limited services in these hamlets, development will be confined to infill housing development. The location of the proposed development is not considered to be 'infill' development within the rural hamlet, instead being development in the open countryside, albeit adjacent to existing development. The development is considered to comprise new, unjustified residential development in the open countryside that is contrary to, and in conflict with Policy DM4 of the SADMP, and Paragraph 84 of the NPPF.
- 8.44. In spite of this, it is acknowledged that there are social benefits from the scheme such as the provision of a new dwelling that would contribute to the Borough's housing land supply, and economic benefits associated with the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services. Nevertheless, these benefits when associated with one dwelling are limited and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing, self-build housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP.
- 8.45. Furthermore, whilst the development cannot be seen from the highway, the limited visibility of the scheme is not considered to justify the harm that would result from development of the site within the countryside, nor circumvent the significant adverse harm that this form of development has on the intrinsic value, beauty, open character

and landscape character of the countryside, which is also designated within the National and Charnwood Forests.

- 8.46. To conclude, whilst the development may offer some potential social and economic benefits, it is considered that the benefits of the development of one residential dwelling do not outweigh the significant and demonstrably adverse impacts of the scheme to the intrinsic value, beauty, open character, and landscape character of the countryside. The proposal is therefore not considered to amount to sustainable development or an effective use of land in principle, which is contrary to, and in conflict with Policies, DM1, DM4, DM10 and DM17 of the SADMP, Policies 21 and 22 of the Core Strategy, Policy H1 of the Desford Neighbourhood Plan as well as Paragraphs 8, 83, 84, 180 and Sections 11 and 15 of the NPPF.

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:
- Is in an unsustainable location
 - Causes harm to the intrinsic value and beauty of the open and landscape character of the countryside
 - Causes harm to the character and appearance of the site and surrounding area
- 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 for the reasons set out below.

11. Recommendation

Refuse planning permission for the following reasons::

11.1. Reasons

1. The application site is located outside any identified settlement boundary and within the open countryside, where new, unrestricted residential development is not considered sustainable development. The scheme, by virtue of its size, scale, volume, massing, and layout is considered to result in an urbanising and significantly adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside resulting in significant harm to the character and appearance of the site and surrounding area. Overall, the benefits of the development of one residential dwelling are not considered to outweigh the significant and demonstrably adverse impacts of the scheme to the intrinsic value, beauty, open character, and landscape character of the countryside. Consequently, the development is contrary to, and in conflict with, Policies DM1, DM4, and DM10 of adopted Site Allocations and Development Management Policies Development Plan Document (2016), Policy 13 of the adopted Core Strategy (2009), Policy H1 of the Desford Neighbourhood Plan, Paragraphs 8, 83, 84, 128(c), 135(c), 180 and Sections 9, 11, 12, and 15 of the National Planning Policy Framework (Dec 2023), and the Good Design Guide.
2. The unsustainable location of the proposed dwelling is considered to result in the future occupants of the scheme having limited access to facilities, services, employment and retail needs, and sustainable modes of transport, and being reliant upon the use of private motor vehicles. This is not considered to create an accessible development that promotes health and wellbeing for its future users, which is contrary to, and in conflict with, Policy DM17 of the Site Allocations and Development Management Policies Development Plan Document, Paragraphs 8(c), 128(c), and 135(f), as well as Sections 9, and 12 of the National Planning Policy Framework (Dec 2023).

11.2 Notes to applicant

1. The application has been determined in accordance with the following submitted details:
 - Site Location Plan (submitted: 08.12.2023)
 - Block Plan (submitted: 08.12.2023)
 - Landscaping/ Site Plan (submitted: 08.12.2023)
 - Proposed Floor Plans and Elevations (submitted: 08.12.2023)