

Delegated Report

Planning Ref: 23/01095/CONDIT

Applicant: Mr Hinds & Vincent

Ward: Cadeby, Carlton, M Bosworth and Shackerstone

Site: The Limes, Shackerstone Road, Congerstone



Hinckley & Bosworth
Borough Council

**Proposal: Variation of condition 2 and 4 of planning permission 21/00661/FUL.
Amendment to allow for an additional access to serve plot 1.**

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 application seeks to vary the approved plans relating to 21/00661/FUL, to allow for an additional access to serve plot 1. The proposal includes the removal of a section of hedgerow within the Conservation Area, and associated planting within the site to mitigate against the loss.

3. Description of the site and surrounding area

- 3.1. The site is located within Congerstone Conservation Area, and is part in and part outside of the settlement boundary at the northern entrance to the village. It is within the grounds of The Limes, a large plot bound by mature trees particularly along the front boundary to the road. The Limes dates from the early twentieth century and has an Edwardian appearance. Site levels slop downwards towards a stream to the North of the village, a tributary of the River Sence to the South of the village.
- 3.2. The site benefits from planning permission under application 21/00661/FUL for the construction of two detached dwellings and demolition of the Foresters Workshop.

4. Relevant planning history

21/00661/FUL

- Construction of two detached dwellings and demolition of The Foresters Workshop
- Planning Permission
- 04/01/2022

22/01226/CONDIT

- Variation of condition 2 and 4 of planning permission 21/00661/FUL to allow for an additional access to serve plot 1.
- Refused
- 17/02/2023

23/00561/CONDIT

- Variation of conditions 2 and 4 of planning permission 21/00661/FUL. Amendment to include additional access to plot 1
- Refused
- 01/08/2023

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents, a site notice posted in the vicinity of the site and a publication in the Hinckley Times.
- 5.2. One objection received which raised concerns relating to T(38) a protected tree which is not shown on the original plans.

6. Consultation

- 6.1. HBBC Pollution: No objections
- 6.2. LCC Archaeology: No objections
- 6.3. LCC Ecology: No objections
- 6.4. LCC Highways: No objections
- 6.5. HBBC Conservation Officer: Less than substantial harm to conservation area, but some heritage benefit of on-site planting, balancing to be subject to officer recommendation.

7. Policy

- 7.1. Core Strategy (2009)
 - No relevant policies
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
 - National Design Guide (2019)
 - Good Design guide (2020)

8. Appraisal

- 8.1. Given previous approvals the key issues are considered to be:
 - Design and impact upon the character of the Conservation area
 - Impact upon highway safety and parking

Design and impact upon the character of the Conservation area

- 8.2. This proposal seeks to vary conditions 2 and 4 of permission reference 21/00661/FUL (erection of two dwellings) to allow for an additional access to serve plot 1. The application site is located within the Congerstone Conservation Area.
- 8.3. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.

- 8.4 Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 205-208 of the NPPF require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.5 Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced.
- 8.6 Policy DM10 of the Site Allocations and Development Management Policies (SADMP) DPD 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.
- 8.7 The proposal for an additional access in a revised location to serve plot 1 of the approved development would result in the loss of a section of a beech hedgerow and the removal of a category B wild cherry tree. This tree and section of hedgerow form an important component of the continuous line of vegetation fronting the application site and the grounds of the Limes which offer amenity value and are an important aspect of the semi-rural character and appearance of Congerstone Conservation Area which can be fully appreciated at its northern entrance.
- 8.8 The loss of vegetation required to create the proposed additional access would not preserve the character and appearance of the Congerstone Conservation Area and would cause harm to its significance. The level of adverse visual impact is reduced in this revised proposal with the proposal of lengths of beech hedgerow to be planted to the sides of the existing and proposed accesses and for one section between the two plots stretching back into the site. Overall the level of harm is caused considered to be less than substantial and due to the revised details it is considered to be at the lower end of this spectrum of harm. As currently proposed the harm caused to the Congerstone Conservation Area must be carefully weighed up against the public benefits of the proposal as required by Policies DM11 and DM12 of the SADMP DPD and paragraphs 205, 206 and 208 of the National Planning Policy Framework.
- 8.9 Paragraph 205 of the NPPF states that great weight should be given to the conservation of designated heritage assets, and the more important the asset, the greater the weight should be. This is irrespective of the level of harm to the significance of the asset.
- 8.10 Paragraph 206 of the NPPF states that any harm to the significance of any designated heritage asset should require clear and convincing justification. The need for clear and convincing justification is re-iterated in Policy DM12 of the SADMP DPD. There remains a lack of clear and convincing justification for the harm caused to the conservation area resulting from the proposed new access given that plot 1 could be accessed from the existing approved position.
- 8.11 Public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in the NPPF (paragraph 8). Public benefits may include heritage benefits as specified in the Planning Practice Guidance (Conserving and enhancing the historic environment - paragraph 20), such as: Sustaining or enhancing the significance of a heritage asset and the contribution of its setting, reducing or removing risks to a heritage

asset, securing the optimum viable use of a heritage asset in support of its long term conservation.

- 8.12 The revised proposal can demonstrate some heritage benefit resulting from the additional beech hedgerow planting which would reflect the semi-rural character of the site at the northern entrance to the conservation area. The public benefits of the proposal (including non-heritage benefits if they can be identified by the decision taker) should be weighed against the harm caused by the proposal as per paragraph 208 of the NPPF and Policy DM11 of the SADMP. In completing this balancing exercise great weight must be given to the conservation of the Congerstone Conservation Area as required by paragraph 205 of the NPPF and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 8.13 It is considered that the proposal, if deemed acceptable in the balancing exercise, is in general accordance with Policies DM10, DM11 and DM12 of the SADMP.

Impact on highway safety and parking

- 8.14 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate/justified level of parking provision.

- 8.15 LCC Highways have been consulted as part of this application. It is noted that previous applications to vary the planning conditions have been subject to objections from LCC Highways. From the submission of amended plans the Highways department are now satisfied that the off-street car parking provision is satisfactory. Alongside this, they are satisfied that through the access widening that vehicles will be able to access and egress the site in a forward gear, thus having no detrimental impact on highway safety.

- 8.16 The proposal is therefore considered acceptable in terms of parking provision and highway safety and is in accordance with Policies DM17 and DM18 of the SADMP.

Ecology and Impact on Protected Trees

- 8.17 Policy DM6 confirms that development must conserve or enhance features of nature conservation and geological interest.

- 8.18 LCC Ecology were consulted as part of the proposal and offered no objections to the removal of hedgerow and subsequent planting of additional hedgerow within the site. The additional planting provides an addition of hedgerow planting and as such can be observed to enhance this feature.

- 8.19 The access is located in close proximity to a number of protected trees to the site frontage, and through the submission of Arboricultural Assessment & Arboricultural Method Statement, it is confirmed that sufficient levels of protection shall be in place to safeguard these trees from the development. The proposal is therefore considered to be in accordance with Policy DM6 of the SADMP.

Planning balance

- 8.20 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.

- 8.21 If non-heritage benefits can be identified, then they should be weighed against the harm caused by the proposal as per paragraph 202 of the NPPF and Policy DM11 of the SADMP. In completing this balancing exercise great weight must be given to the conservation of the Congerstone Conservation Area as required by paragraph

199 of the NPPF and the statutory duty of Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

- 8.22 It is acknowledged that there is less than substantial harm to Congerstone Conservation Area through the amendments to the access, however, given the additional planting within the site to offset any loss to the site frontage it is considered that the harm can be outweighed and as such it is considered that the proposal is in accordance with Policy DM6, DM10, DM11, DM12, DM17 and DM18 of the SADMP.

Equality implications

- 8.23 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.

- 8.24 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.

- 8.25 There are no known equality implications arising directly from this development.

- 8.26 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).

9. Conclusion

- 10.1. The amendments to condition 2 and 4 of the approved 21/00661/FUL, to allow an additional access to serve plot 1, is considered to have less than substantial harm impacts to the conservation area however is considered acceptable within the planning balance. In addition, it is considered acceptable in terms of off-street parking provision and highway safety, as such it is considered to be in general accordance with Policies DM6, DM10, DM11, DM12, DM17 and DM18 of the adopted SADMP (2016).

10. 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 not be carried out otherwise than in complete accordance with the submitted application for application 21/00661/FUL unless superseded by the following plans/documents:

Amended Application Form, received by the Local Planning Authority on 23 July 2021.
 Site Location Plan, dated 15 July 2021, received by the Local Planning Authority on 23 July 2021
 Plot 1 Ground Floor Plan, received by the Local Planning Authority on 19 May 2021.
 Plot 1 First Floor Plan, received by the Local Planning Authority on 19 May 2021.
 Plot 1 Front and Rear Elevations, received by the Local Planning Authority on 19 May 2021.
 Plot 1 Side Elevations, received by the Local Planning Authority on 19 May 2021.
 Plot 1 Cross Section, received by the Local Planning Authority on 19 May 2021.
 Plot 2 Ground Floor Plan, received by the Local Planning Authority on 19 May 2021.
 Plot 2 First Floor Plan, received by the Local Planning Authority on 19 May 2021.
 Plot 2 Front Elevation, received by the Local Planning Authority on 19 May 2021.
 Plot 2 Rear Elevation, received by the Local Planning Authority on 19 May 2021.
 Plot 2 End Elevations, received by the Local Planning Authority on 19 May 2021.
 Plot 2 Cross Section, received by the Local Planning Authority on 19 May 2021.
 Heritage Statement, received by the Local Planning Authority on 23 July 2021.
 Arboricultural Assessment, dated May 2021. received by the Local Planning Authority on 23 July 2021
 Updated Ecological Walkover Survey, dated 20 July 2021,
 Preliminary Roost Assessment, dated July 2021, received by the Local Planning Authority on 23 July 2021.
 Response to Senior Planning Ecologist, received by the Local Planning Authority on 12 October 2021.
 Response to Waste Management Officer, received by the Local Planning Authority on 12 October 2021.
 Application Form, received by the Local Planning Authority on 17 November 2023.
 Arboricultural Assessment & Arboricultural Method Statement, received by the Local Planning Authority on 19 January 2024
 Access Plan Drg No. CV01 Rev G, received by the Local Planning Authority on 8 January 2024.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The hereby approved hedgerow planted within the site, as shown on the Access Plan Drg No. CV01 Rev G, shall be planted in the first planting season following the completion of the approved access and shall remain in perpetuity thereafter.

Reason: In order to safeguard protected wildlife species and their habitats in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The types and colours of materials to be used on the external elevations of the dwellings hereby permitted shall be implemented in accordance with those approved materials under application 22/00113/DISCON.

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

4. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Access Plan Drg No. CV01 Rev G. Thereafter the onsite parking and turning provision shall be kept available for such use 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 policy DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

4. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 11 metres behind the highway boundary and, once provided, 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 Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).

5. The development shall be carried out in full accordance with the mitigation recommendations specified in the Rothen Ecology report dated 20 July 2021 and the Response to the Senior Planning Ecologist received by the Local Planning Authority on 12 October 2021. New on-site planting should be of locally native species.

Reason: In order to safeguard protected wildlife species and their habitats in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The demolition/development shall comply with the written scheme of investigation (WSI) submitted to the local planning authority under application 24/00062/DISCON.

Reason: To ensure satisfactory archaeological investigation and recording in accordance with policy DM13 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2023).