

Delegated Report

Planning Ref: 25/00452/REM

Applicant: MR PETER SIMPSON

Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: New Rookery Farm, 6 Church Lane, Fenny Drayton, Nuneaton,
Warwickshire, CV13 6BA

**Proposal: Approval of Reserved Matters (Landscaping) of outline planning permission
21/00402/OUT - Residential development for 5 dwellings**

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The application seeks approval for reserved matters associated with landscaping for 5 dwellings and associated works at New Rookery Farm. The proposed dwellings comprise one-and-half storey and two-storey elements/structures.
- 2.2. The outline permission for this scheme was approved in September 2022 (ref 21/00402/OUT) and access, appearance, layout and scale were considered and approved at the outline stage by the Planning Committee.

3. Description of the site and surrounding area

- 3.1. The site is situated off Church Lane, to the north of the rural hamlet of Fenny Drayton. Most of the application site lies adjacent to but outside of the settlement boundary; however, the access to the site is within the confines of Fenny Drayton.
- 3.2. Access to the site from Church Lane is provided along an existing driveway. The site is bound by a timber post and rail fence along Church Lane and a hedgerow flanks a public right of way that is adjacent to the southern boundary of the site. Fenny Drayton is positioned on a gentle sloping ridge top so there are distant views of the countryside available from the vicinity of Church Lane which includes views westwards over the paddock upon the application site.

4. Relevant planning history

21/00402/OUT - Residential development of up to 5 dwellings including new car park to serve the Fenny Drayton community and demolition of existing bungalow and agricultural buildings (Outline - access, appearance, layout and scale to be considered) – **APPROVED**

20/00030/OUT - Demolition of agricultural buildings and erection of 3 dwellings with associated garaging (outline all matters reserved) – **APPROVED**

18/00868/CQGDO - Change of Use of Agricultural building to 3 dwellings – **PRIOR APPROVAL GRANTED**

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 and the application has been advertised in the local press.
- 5.2. Two letters of objection have been received from local residents raising the following issues as summarised below:

Settlement Boundary - The proposed development straddles a protected hamlet settlement boundary in open countryside. A settlement boundary is there for a reason and therefore should not be moved under any circumstances. It is unacceptable to move a settlement boundary for houses that are not needed when HBBC has already exceeded its housing allocation. The adopted Plan (Core Strategy) identifies Fenny Drayton as a rural hamlet and therefore any development must be of a restricted scale. This application is for a mini estate within the hamlet and therefore in no way on a restricted scale.

Over Development - The quantity of buildings is excessive in terms of demands on infrastructure and services and there will be a massive impact on the character of the hamlet. Five dwellings could easily equate to 2-3 cars per household, (or more) potentially 15 more vehicles accessing a quaint lane with no pathways or turning points. There are no local amenities associated with Fenny Drayton including schools, doctors, shops and enrichment activities for young people or adults. (youth clubs/community centre). Pathways are non-existent which would cause the risk of accidents, due to a higher volume of traffic, a greater risk and more likely.

Loss of Privacy - This development would remove the privacy from existing dwellings on Church Lane and Rookery Lane. It completely envelopes one side of my property and would make the garden overlooked and therefore for me, unusable.

The development will use main sewers. The sewage drains cannot take the waste from this development. Church Lane sewers regularly block and back up onto 12 Church Lane. Severn Trent are aware.

The pond is/was located directly in front of 12 Church Lane. The pond acted as a natural balancing pond and since being filled in, now causes severe flooding at 12 Church Lane during heavy rainfall. The result is the entire front of the property is inaccessible for parking and/or using the front door or porch.

Trees and hedges – the hedge alongside the property following the public right of way is extremely old and home to much wildlife.

Protected and priority species – the site is home to the greater crested newt, something which the Parish Council were made aware of over a year ago.

The barns being demolished contain asbestos. Therefore hazardous materials are present.

Historical Factors - The site retains the filled in former fish pond to the Medieval Manor and church (filled in without permission by the present land owner), and there is extensive Roman, Medieval and Tudor Archaeology across the Rookery Farm site, the churchyard and the surrounding fields. Examples of Roman tesserae have been excavated and more are excavated during grave digging in the church yard. The site and adjacent fields (Churchyard) are all part of a Medieval manorial site that was the core of the Fenny Drayton at that time. It will impact upon the listed buildings close by.

This development has a massive impact on Rookery Close and Church Lane dwellings which will become immediately overlooked, losing their private gardens.

The existing farm buildings along with the church are roosting and nesting sites of a variety of bats and are frequently witnessed by myself. The proposed application will

be in the direct way of the bats natural flight path. This area of Church Lane is a natural dark area and should stay that way.

The churchyard Yew trees are over a 1000 years old and mentioned in the Doomsday book, and form a ring based on the lunar cycle. The Poplar trees and Ash trees are of a significant age and extremely valuable. This proposed development would cause significant root damage.

Last time the application went in the applicant suggested a car park for the church - The car park is unnecessary as villagers walk to the church, and there is plenty of on-street parking for the small number of visiting parishioners. The Church has not requested and also confirmed to the Witherley Parish Council they do not want these spaces.

Pollution and impact on wildlife - The large pond on this site has already been drained by the applicant. These ponds formed a natural environment for ducks, Moorhens, feeding ground for bats, home to newts and frogs.

Lack of Amenities including schools - There is no local shop, no footpath and the pub mentioned is not in Fenny Drayton.

There is no pavement or room for a pavement in church lane which would be needed for safety with increased traffic, and due to the limited vehicle visibility to the right i.e. towards the proposed development when cars are exiting Rookery Close.

Current very low traffic level in Church Lane beyond Rookery Close (just the handful of houses down the single carriageway section without passing places plus blind junction) would obviously change. A 21 bedroom development with 4 vehicular movements per day could put at least 84 movements onto Church Lane, without taking into account online shopping, chemist deliveries etc. The road width between the proposed development towards Old Forge Road junction is already insufficient to allow central carriageway markings for two lanes for free flow of increased volumes of traffic.

Old Forge Road is already an over busy rat run with A5/A444 traffic, and with a speed problem on the stretch with the Church Lane/Old Forge Road junction. Additional traffic directly related to Fenny Drayton will only increase the risk of further accidents and deaths. With the new MIRA (Horiba) plans we have already had several fatalities at this junction without extra traffic.

The site and landscaping plan do not take into account neighbouring properties to show the effect on them and is therefore misleading. This development completely overshadows gardens on Rookery Close and Church Lane.

There is not enough parking for a 21 bedroom development shown on the plan.

The chain link fence shown on the plan is not the applicants, it is mine and it has already been damaged by the applicant. I need to know what the boundary plans are along the edge to my property?

The applicant fails to show the metal spiked palisade fencing they have put up in two areas and this is not shown on the plan. This was done in retaliation by the Simpsons when we exercised our right to object to the original planning application.

The applicant is proposing trees next to mine which will impact my trees and our hedge.

- 5.3. A letter has also been received from a representative of the local Church neither objecting or supporting the application but raising the following comments:

'We notice that the resubmitted plans still show parking spaces for the church. Whilst we appreciate that additional parking may be beneficial for certain events, we have not

requested this facility: indeed our regular, aging, congregants would prefer to park at the front where less walking is involved. Is the gift intended to transfer ownership of the land to our name for us to use for a different purpose in the future, should we see fit? We do have concerns that there may be costs associated with the upkeep and, since this facility is in our name, that we may be expected to meet them; sadly, we do not have the resources to cover such expenditure. As such, whilst the PCC are custodians of the church, we do not have the legal authority to accept gifts which may incur liabilities in the future. Whilst recognising the generosity of this gift, we therefore have to ask that the church name is removed from the application to prevent misinterpretation.'

6. Consultation

- 6.1. No comments have been received from the Council's Greenspaces Team.
- 6.2. Witherley Parish Council – Objection.
 - Over development of the site
 - The access road would appear to be not wide enough for traffic and pedestrians safe passage
 - The bin collection point is not sufficient
 - Yew tree circle in the church yard is misrepresented on the drawing (is on the boundary wall) and should be reviewed to keep protected. This was first raised by Witherley Parish Council in September 2021.
 - The parking shown on the drawings encroaches onto the yew tree routes.
 - There is not enough parking for a 21 bedroom development and visitors, which will mean visitors and possibly residents parking on Church Lane outside the church. This will impact the road and make it more dangerous, especially as part of Church Lane is a single track.
 - The Yew tree root area appears to be incorrect and the development should not encroach the 15 metre perimeter laid down in NPPF standing advice and BS5837.
 - The parking for the church has now been removed – is this correct?
 - Ridge height of the eaves has increased in excess of the specified maximum as approved on application 20/00030 which the Council would request to be lowered to the previous agreed level.
 - Concern around the privacy encroachment onto neighbouring property – this should be protected
 - Protection for the bat flight path and damage from light pollution
 - Bat boxes and swift bricks should be used
 - Residents have previously raised the issues of the site being home to the Great Crested Newt
 - It is unclear if the village boundary would be affected by this application being passed and therefore the Council would want it to remain unchanged as per the current position.
 - Church Lane is a single track lane with no pavement area for pedestrians
 - Increased traffic onto Church Lane is still an issue.
 - There remains no facilities in the village to sustain this size of development.
- 6.3 . Conservation Officer - In my opinion the boundary treatments, hard and soft landscaping as proposed on the revised plans are of a satisfactory character and appearance which would ensure no adverse effects upon the setting of the nearby grade II* listed building The Church of St Michael and the grade II listed building The Firs.

I defer to the advice of the HBBC Tree Officer to determine a suitable durable surfacing material of the proposed church car parking area to respect the character of the area and to ensure that the important trees within the church yard are not adversely affected.

6.4. Tree Officer - Regarding the root protection for the trees, I must suggest that instead of reinforced mesh, the use of industry-specific root protection solutions (e.g Geocell or Groundcell) would be the most suitable to encourage the best outcome for the trees.

Further response received - Thank you for sending the revised plan across. I am satisfied that the amendment on 21/07 will afford suitable protection for the rooting areas of the trees located adjacent to the Community Parking and Access Area.

7. Policy

7.1. Core Strategy (2009)

- Policy 13: Rural Hamlets
- Policy 16: Housing Density, Mix and Design

7.2. Site Allocations and Development Management Policies 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 DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets

7.3. National Planning Policies and Guidance

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

7.4. Other relevant guidance/legislation

- Good Design Guide (2020)

8. Appraisal

8.1. Key Issues

- Principle of development
- Landscaping
- Other matters
- Planning balance

Principle of development

8.2. The outline permission for this development has been granted (21/00402/OUT) and as such the principle of development is established in this case. Landscaping is the only detailed matter outstanding and is considered as part of this reserved matters application. Access, appearance, layout and scale have all been previously determined as part of the outline application and are therefore not re-considered as part of this application.

Landscaping

- 8.3. Policy DM10 (e) of the SADMP states that development should incorporate a high standard of landscaping where this would add to the quality of the design and siting. Landscaping is a matter for consideration as part of this reserved matters application and a plan has been submitted to illustrate landscape provision and retention of existing landscape features.
- 8.4. The Council's Good Design Guide identifies design objectives for Fenny Drayton. These objectives are to retain important boundary walls, landscaping, and orientation of properties around the church, and avoid further encroachment of modern generic domestic form in this area, maintaining visual links to the wider countryside.
- 8.5. This application site falls within the Witherley and Surrounds Sensitivity Area and landscape character area Sence Lowlands. It is a flat-to-gently-rolling lowland vale landscape draining to the River Anker. Predominantly arable with some pasture it is an area of planned and reorganised piecemeal enclosures. The low lying landform allows for long view across the rural landscape. Fenny Drayton has expanded outwards from its historic core to include modern residential areas with some exposed edges adjoining the rural landscape. The assessment area is considered to have a medium sensitivity to development. The Hinckley and Bosworth Landscape Character Assessment Document states that within this character area there may be some capacity for small scale development to existing villages providing these are sensitively designed and avoid features of environmental interest.
- 8.6. Condition 2 of the outline planning permission 21/00402/OUT states that:

'No development shall be commenced until plans and particulars of "the reserved matters" referred to in the above conditions relating to the:-

Landscaping of the site including treatment of private and public space to enhance or protect the site's amenity through hard (boundary treatments) and soft measures and details of boundary planting to reinforce the existing landscaping at the site edges to include native species mix hedgerows have been submitted to and approved, in writing, by the Local Planning Authority. The development shall be carried out in accordance with the approved details.'

- 8.7. Proposed hedgerow planting forms part of the landscape proposals on site to include:
 - Holly
 - Hawthorn
 - Blackthorn and
 - Dog Rose

There is also a planning condition relating to the planting of a native species hedgerow on site as part of the outline permission ref 21/00402/OUT. This is yet to be discharged.

- 8.8. 27 new trees are proposed on site both within the gardens of the approved dwellings and also within the public realm/shared areas of the scheme. Proposed tree varieties include:
 - Crab Apple
 - Rowan
 - Silver Birch
 - Cherry
 - Pear and
 - Elder

8.9. Through discussions with the case officer, an amended landscape plan was submitted in order to provide an enhanced provision of planting on site and enhanced boundary treatment particularly where in view of the public realm. The landscaping on site will now include seven areas where native spring bulbs will be planted. Varieties of the bulbs to be provided are to include:

- Daffodil
- Bluebell
- Snowdrop
- Wood anemone
- Wild Garlic

8.10. The proposed landscaping measures also include lawned areas to the rear of the dwellings, grassed areas and shrubs within the main frontage areas of the site interspersed between areas of car parking which will include Elder, Hazel, Lavender, Japanese camellia and guelder rose.

8.11. Hard landscaping measures are also shown on the plan submitted for this reserved matters application and include patio slabs for private amenity areas to the rear of the dwellings, block paving for car parking spaces, a tarmac area on entry to the site from Church Lane and Breedon buff aggregate for the shared driveway/courtyard area.

8.12. Further revisions to the proposal were submitted by the applicant subsequent to the case officer seeking a more sympathetic boundary treatment along the frontage of the application site. Specifically, the plan provides for the planting of a new native species hedgerow in front of the feather board fencing situated along the southern boundary of the site not only to provide additional screening to the approved dwelling in this location but also to soften and enhance this part of the scheme which faces onto Church Lane. The proposed section of fencing immediately adjoining the entrance to the site has also been removed and replaced with a hedgerow.

8.14. The Tree Officer also provided comments, raising concerns about construction within the Root Protection Areas (RPA's) of the trees near the Church. Further information was sought to demonstrate that a suitable, low-impact engineering solution could be fully incorporated to facilitate any works within the rooting zone of the high-value trees.

8.15. A revised plan was submitted to show that the use of industry-specific root protection solutions (e.g Geocell or Groundcell) would be implemented in order encourage the best outcome for the trees. The Tree Officer is now satisfied with the revised details.

8.16. The Conservation Officer was also consulted on the landscaping proposals due to the site's proximity to Listed Buildings – the grade II* listed building The Church of St Michael and the grade II listed building The Firs.

8.17. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that:

'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving listed buildings and their settings when considering planning applications that affect them.'

- 8.18. Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD 2016 reinforces the protection of the historic environment, heritage assets and their setting.
- 8.19. The Conservation Officer is of the view that the boundary treatments, hard and soft landscaping as proposed on the revised plans are of a satisfactory character and appearance which would ensure no adverse effects upon the setting of the nearby grade II* listed building The Church of St Michael and the grade II listed building The Firs.
- 8.20. Taking all the above matters into account, it is considered that the changes proposed and the latest revised landscaping plan (Rev E) is appropriate and the landscaping matters for this development are considered to be acceptable and in compliance with Policy DM10 of the Site Allocations and Development Management Policies DPD 2016, the Council's Good Design Guide and the requirements of the NPPF.

Other matters

- 8.21. There are still pre commencement conditions to be approved as part of the outline planning permission, but this does not prevent the reserved matters being considered and determined in this case.
- 8.22. Local objections and an objection from the Parish Council have been received in respect of this application, but many of the points raised are 'in principle' objections which are not for consideration as part of this reserved matters application and were dealt with and assessed as part of the outline application which was granted planning permission by Members of the Planning Committee in 2022. The outline considered matters related to access/parking/highway safety, layout, residential amenity, ecology, flooding and drainage, appearance, scale etc.
- 8.23. A number of the concerns flagged by local residents and the Parish Council for this application are condition requirements attached to the outline permission including site drainage and tree protection measures (arboricultural site monitoring and no dig construction methods).
- 8.24. The matter raised about the provision of car parking for the site was also raised at the outline stage of the application process. But to confirm, the scheme provides for 'community parking' and it has been confirmed that this parking area will be the owner's responsibility and this was a matter agreed as part of the outline application.
- 8.25. Concerns have also been raised about existing palisade fencing which borders part of a neighbouring property. Boundary disputes are a civil matter. However, details were provided to show that some of the palisade fencing is located within the red line of the site. Where this fencing affects the red line of this application, this has been agreed to be removed by the applicant and replaced with the boundary details shown on the latest amended plan.

Planning Balance

- 8.26. The principle of development for this site has been accepted and approved at the outline stage. The remaining detailed matter (landscaping) has been assessed and considered to be acceptable. As such, taking all the above details into account, this reserved matters application is recommended for approval subject to the conditions set out below.

9. Equality implications

9.1. Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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 in the consideration 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. Recommendation

10.1. Grant Reserved Matters consent subject to planning conditions.

Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:
 - Site Location and Block Plan dated 29/4/25 received by the local planning authority 6th May 2025.
 - Revised Landscaping Plan Rev E received by the local planning authority 21 July 2025.

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016) and the requirements of the NPPF.

2. The approved hard and soft landscaping scheme shall be implemented in accordance with the approved details in Condition 1 prior to the first occupation of the dwellings on site and 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 work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations

and Development Management Policies DPD (2016) and the requirements of the NPPF.

Informatives

The conditions imposed on outline planning permission 21/00402/OUT shall also be complied with.

In dealing with the application, through ongoing negotiation the local planning authority have worked with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application and this has resulted in the approval of the application. The Local Planning Authority has therefore acted proactively to secure a sustainable form of development in line with the requirements of the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended).