

Delegated Report

Planning Ref: 24/00118/FUL

Applicant: Mr C Whitehill

Ward: Ratby, Bagworth and Thornton

Site: Land Adj. 10 Wolsey Drive, Ratby, Leicester



Hinckley & Bosworth
Borough Council

Proposal: Erection of two dwellings

1. Recommendations

- 1.1. **Refuse planning permission** for the reasons outlined below.

2. Planning application description

- 2.1. This application seeks full planning permission for the demolition of the existing garages at land adjacent to 10 Wolsey Drive, for the erection of two, two-storey detached dwellings with tandem off-street parking.
- 2.2. Design amendments were suggested to the applicant and agent during the determination process to overcome design concerns and compliance with SADMP Policy DM10, however this was not pursued by the applicant.

3. Description of the site and surrounding area

- 3.1. The application site relates to the land adjacent to 10 Wolsey Drive and to the rear of 98 Stamford Street and includes garages which are accessed via Wolsey Drive. The site measures approximately 400m² and includes four garages and hardstanding to the front. The site is generally level, and neighbouring dwellings opposite are on slightly raised ground (circa 0.5m)
- 3.2. The surrounding area features a range of dwelling styles, however the Wolsey Drive street scene is exclusively characterised by bungalows with varying styles and materials. The site is surrounded on all sides by residential development.

4. Relevant planning history

92/00288/4

- ERECTION OF BUNGALOW AND GARAGE OUTLINE
- Outline Planning Permission
- 19.05.1992

21/00690/OUT

- Demolition of existing garage and erection of detached dwelling, garages and associated parking and landscaping (access and layout)
- Outline Planning Permission
- 29.11.2021

22/00035/FUL

- Demolition of existing garages and erection of detached dwelling, with link attached garage together with associated landscaping, access and off-street parking
- Planning Permission
- 29.11.2021

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 from a neighbouring address, raising the following concerns:
 - Not in keeping with the surrounding pattern of development
 - Loss of privacy

6. Consultation

- Ratby Parish Council - Object: *"the area designated in this application does not provide enough space for 2 houses. Councilors also objected to the fact that all the existing dwellings in Wolsey Drive are bungalows and to erect 2 houses would be totally out of character."*
- LCC Highways – request for additional information regarding access visibility splays and revised parking arrangements with dimensions of 3.4m width x 5.5m length.
- HBBC Drainage have no objections, a note to applicant has been provided.
- LCC Archaeology - no objection
- LCC Ecology – no objection
- HBBC Environmental Services - no objection.

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 7: Key Rural Centres
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - 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) (2023)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
 - Good Design Guide (2020)
 - National Design Guide (2019)

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

Assessment against strategic planning policies

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. Paragraph 12 of the NPPF confirms 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.
- 8.3 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted SADMP set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) and the Site Allocations and Development Management Policies DPD (2016).
- 8.4 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Policy 7 of the Core Strategy identifies that Ratby supports housing development within the settlement boundary that provides a mix of housing types and tenures.
- 8.5 However, the housing policies in the development plan are considered to be out of date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5-year housing land supply when using the standard method set out by MHCLG. Therefore, the application should be determined against Paragraph 11(d) of the National Planning Policy Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.6 The tilted balance of Paragraph 11d of the NPPF is engaged. This is weighed in the balance of the merits of the application when considered with other policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, a tilted balance in favour of development is engaged and development in this instance should be approved unless adverse impacts would outweigh the benefits of the proposal.
- 8.7 The principle of development is established by the outline approvals 21/00690/OUT and 22/00035/FUL. Additionally, given the location of the site within the settlement boundary of Ratby, a sustainable location, the proposal would be in accordance with adopted strategic planning policies and the principle of development is acceptable. There is a presumption in favour of sustainable development as set out in Policy DM1 of the SADMP and the wider policies of the NPPF. Therefore, the principle of the development is acceptable subject to all other material considerations.

Design and impact upon the character of the area

- 8.8 Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.9 The Good Design Guide states that built development should be of a similar scale, mass, and roof form to the wider context, allowing it to sit comfortably within the street scene, and that wherever possible, development should respect building lines.
- 8.10 NPPF Paragraph 135 states that planning policies should ensure that developments are sympathetic to local character, including the surrounding built environment and should establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit.
- 8.11 Wolsey Drive consists entirely of single storey detached dwellings, and whilst individual designs vary within the street scene, there is a prevalent building line of development which characterises the street scene.
- 8.12 The proposed dwellings would be detached two-storey dwellings, designed in a traditional style with pitched roofs, measuring approximately 7m in width and 7.9m in ridge height. The dwellings would be built in brick, with concrete tiled roofs, featuring small front gardens and rear gardens with 7m depth and 10m width. The proposed parking arrangement would feature two tandem spaces to the side of each dwelling.
- 8.13 The scale and form of the proposed dwellings would be entirely at odds with the street scene of Wolsey Drive, where all existing dwellings are single storey. It is acknowledged that two-storey dwellings of similar scale and design feature in the vicinity of the site on Stamford Street, the site and proposed dwellings would be viewed and experienced in the context of the Wolsey Drive street scene, and would therefore appear incongruous and out of keeping with the scale, massing, and prevailing roof line of Wolsey Drive.
- 8.14 Officers engaged with the agent and attempted to find design solutions which could overcome the aforementioned issues with design, scale and conflict with DM10. One option was to maintain a similar development footprint but reduce the height of the dwellings to form two semi-detached dormer bungalow styles, which could also resolve the parking space width issue. However, this was not pursued by the applicant.
- 8.15 By virtue of the siting, scale, massing, and design of the proposed dwellings, it is considered that the proposal would fail to complement the character of the street scene and pattern of development on Wolsey Drive and would appear incongruous and out of keeping with the prevailing design of the area, resulting in unacceptable harm to the character and appearance of the area. The proposal would therefore conflict with Policy DM10 of the adopted SADMP and Paragraph 135 of the NPPF (2023).

Impact upon occupier and neighbouring residential amenity

- 8.16 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy or amenity of nearby residents and occupiers of adjacent buildings or the future occupiers of the site.
- 8.17 The proposed rear gardens would each be roughly 70m² in area with a length of 7m, which is marginally substandard when judged against the Good Design Guide which recommends minimum garden sizes of 80m² for three-bedroom dwellings. If the application was acceptable in all other respects, a garden size of 70m² for each

dwelling would be accepted on balance. A garden size of approximately 60sqm would be retained at 98 Stamford Street which is considered acceptable.

- 8.18 There is potential for overlooking/loss of privacy between the proposed dwellings and No's 1 and 3 Wolsey Drive opposite, which have a separation distance of approximately 16.5m with Wolsey Drive and footpaths intervening the dwellings on either side of the road. If the design and scale of the dwellings was considered appropriate, Officers would seek to ensure that there was no potential for overlooking between the dwellings through window design/placement.
- 8.19 No. 100 Stamford Street lies adjacent to the south west of the site, and the existing garden of No. 98 wraps around the rear courtyard garden. The side (west) elevation of the proposed westernmost dwelling would meet the required separation distance between a blank elevation and a principal window for a two-storey structure (12m) and is therefore considered acceptable.
- 8.20 The proposed windows in the rear elevations would face the rear sections of the gardens of No's 88-96 Stamford Street. Given the separation distance between the windows and the closest garden (No. 96) and factoring in boundary treatments and landscaping which would form conditions if the application were to be approved, it is not considered that there will be an unacceptable overlooking/loss of privacy impact in this regard.
- 8.21 For the reasons outlined above it is therefore considered on balance that the proposed development demonstrates compliance with the requirements of Policy DM10 of the adopted SADMP in terms of neighbouring and resultant/prospective occupier amenity.

Impact upon highway safety

- 8.22 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 level of parking provision to serve the development proposed.
- 8.23 The proposed dwellings would create two new accesses onto Wolsey Drive. The submitted drawings indicate an access for each dwelling with a width of 2.45m which is bound on both sides. The LHA does not consider this to be in line with the guidance set out in Part 3, Paragraph 3.192 of the LHDG and request that the applicant reconsiders these access proposals to demonstrate a width of 3.75m for each site access.
- 8.24 The applicant has not submitted a drawing indicating vehicular visibility splays, therefore, the LHA requests submission of a scaled drawing demonstrating vehicular visibility splays of 2.4m by 43m, in line with Table DG4 for the speed of the road and demonstrated in accordance with Figure DG2a of Part 3 of the LHDG. The Applicant is advised that any visibility splays must not cross any third- party land or have any obstructions above 0.6m in height.
- 8.25 The applicant indicates two parking spaces for each property which accords with the minimum provision for a 3-bed dwelling. However, in order to accord with Part 3, Paragraph 3.165 of the LHDG, each parking space should measure at least 2.4 metres by 5.5 metres, with 0.5 metres added if bounded by a wall, fence, hedge, line of trees or other similar obstructions on one side, and one metre added if bounded on both sides. Whilst the Applicant has indicated parking space widths of 2.45m, the parking for both properties is bound on both sides. Therefore, the LHA request that the applicant submits a revised drawing indicated parking space dimensions of 3.4m by 5.5m.

- 8.26 The LPA considers that if the recommended design alterations were implemented, and if acceptable vehicular visibility splay drawings were submitted, the above highway safety issues could be resolved.
- 8.27 In summary, it is considered that the scheme could be designed in a manner so that it would not result in any significant adverse impacts on highway safety and could provide satisfactory parking provision to serve the dwelling and therefore be in accordance with the requirements of Policies DM17 and DM18 of the adopted SADMP.

Equality implications

- 8.28 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.
- 8.29 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.
- 8.30 There are no known equality implications arising directly from this development.
- 8.31 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. 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.
- 10.2. The 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 10.3. The application site is within the settlement boundary of Ratby where sustainable residential development is acceptable in principle. The site is within a reasonable distance of services and town centre facilities, with good levels of accessibility by sustainable transport. The dwellings would contribute to the contribution of housing within the Borough, however, given the limited number of dwellings and limited shortfall in housing supply this is attributed only limited positive weight. Similarly, the economic and social benefits of the development through expenditure and jobs created during construction and post occupation is only attributed limited weight owing to the small scale nature of the development.

- 10.4. The proposal could be designed in a way which would not result in any adverse highway impacts, and sufficient parking for two dwellings could be achieved within the site, in accordance with the relevant SADMP Policies and the LHDG. This is attributed neutral weight in the planning balance as is the fact that the proposed dwellings would not result in any unacceptable neighbouring (or prospective occupier) amenity impacts. Both factors are simply policy compliant.
- 10.5. However, the proposed dwellings would fail to complement the character of the street scene and pattern of development on Wolsey Drive and would appear incongruous and out of keeping with the prevailing design of the area, resulting in unacceptable harm to the character and appearance of the area. Whilst a small scale development, considering the great emphasis placed on establishing good design this is attributed moderate negative weight.
- 10.6. The adverse impacts in this case do therefore significantly and demonstrably outweigh the limited benefits and the proposed scheme would therefore conflict with Policy DM10 the adopted SADMP, the overarching design principles in section 12 of the NPPF, and advice in the adopted Good Design Guide, and is therefore recommended for refusal.

10. Recommendation

Refuse planning permission for the reason below:

1. By virtue of the scale, massing, and design of the proposed dwellings, it is considered that the proposal would fail to complement the character of the street scene and pattern of development on Wolsey Drive. The proposed development would therefore appear incongruous and out of keeping with the prevailing design of the area, resulting in unacceptable harm to the character and appearance of the area. The proposal would therefore conflict with Policy DM10 of the adopted SADMP and Paragraph 135 of the NPPF (2023).