

Delegated Report

Planning Ref: 24/00716/FUL
Applicant: Common Land Dev Limited
Ward: Barwell



Hinckley & Bosworth
Borough Council

Site: Land Opposite 49, Moore Road, Barwell

Proposal: Erection of one new dwelling with associated landscaping and access formation

1. Recommendations

1.1. Refuse planning permission for the following reason:

1. The overall design and siting of the proposed erection of a single dwelling in this location, is considered to cause detrimental impacts to the prevailing character of the area and as such is considered to not be in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2015, and Policy 22 of the Earl Shilton and Barwell Area Action Plan.
2. The proposal is considered to provide a lack of sufficient private garden amenity space for future occupiers, which is considered to be contrary to Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2015 and the Good Design Guide (2022).

2. Planning application description

- 2.1. The proposal seeks permission for the erection of one, one bedroom dwelling. The dwelling is proposed to be 1.5 storeys with the front elevation facing Moore Road and the garden area to the west side of the plot. A new site access is proposed off Moore Road, with one associated off-street car parking space to the front of the dwelling.
- 2.2. A red roof tile is proposed, along with red brick external walls. Windows would be white to match the surrounding properties. Landscaping includes the retention of the low level wall with the addition of slatted fencing above to Moore Road.

3. Description of the site and surrounding area

- 3.1. The site lies within the settlement boundary of Barwell close to the junction of Moore Road with Red Hall Road. The site is a small triangular parcel of land adjacent to a block of single storey flat roof garages to the south-west. The rear gardens of houses/apartments on Red Hall Road backs on to the site to the north and backs on to rear gardens of houses to the south-east.
- 3.2. The site is currently accessed via the garage forecourt and appears disused and overgrown at present.

4. Relevant planning history

22/10146/PREHMO

Erection of one dormer bungalow
19.12.2022

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents and a site notice posted within the local vicinity.

5.2. One objection has been received. The objection raises concerns relating to:

- Highway safety
- The plot being too small for a dwelling
- Detrimental visual impacts
- Drainage impacts

6. Consultation

6.1. The following consultation responses are:

- LCC Highways: No objections, subject to notes to applicant.
- HBBC Waste Management: No objections, notes to applicant.
- HBBC ES Pollution: No objection.
- HBBC Drainage: No objections, notes to applicant.
- Barwell Parish Council: Objection received in relation to Policy DM10: overdevelopment of the site, garden size too small and highways safety issues.

7. Policy

7.1. Earl Shilton and Barwell Area Action Plan

- Policy 22: Development and Design

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

- Policy DM1: Presumption in Favour of Sustainable Development
- 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)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (2020)

8. Appraisal

8.1. Key Issues

- Principle of Development
- Design and impact upon the character of the Conservation area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Ecology/BNG
- Planning balance

Principle of Development

8.2. The 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, permission should not usually be granted unless other material considerations

indicate otherwise.

- 8.3. The development plan in this instance consists of the Core Strategy (2009), and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 8.4. The site lies within the settlement boundary of Barwell and as such development is in principle supported.

Design and impact upon the character of the area

- 8.5. Policy DM10 relates to development and design and seeks to ensure that all development meets acceptable standards with regard to impacts on the character of the surrounding area, neighbours, materials, landscaping, drainage, security and conservation of energy and resources.
- 8.6. Policy 22 of the Area Action Plan also relates to development and design and accords with Policy DM10. In particular the policy states that development will be permitted providing that there is no detriment to the character or appearance of the host building or the surrounding area, the siting and density respects the character and layout of the area, the design respects the scale, proportions and height of the existing building, neighbouring structures and overall street scene and it incorporates a high standard of landscaping where this would add to the quality of the design and siting. The policy concludes that development which does not meet the above criteria and would result in poor design which fails to improve design standards in the locality will be refused.
- 8.7. The site is small, and its longest side is directly adjacent to Moore Road. The site is such that the proposed dwelling on the site would break the building line on Moore Road, which is not established by the garages but instead by the dwellings that front the highway on both sides. This breaking of the clear building line is somewhat reduced by the fact that the garages are adjacent, that the dwelling is separated from the neighbouring dwelling on Moore Road by some distance and by the fact that this is a dormer bungalow rather than a two storey dwelling.
- 8.8. However, the proposed dwelling would clearly be at odds with the prevailing characteristics of dwellings in the immediate vicinity of the site. It is acknowledged though that a two storey dwelling could not be accommodated on the site and provide suitable neighbouring amenity standards and that a flat roofed dwelling would appear too similar to the adjacent flat roofed garages. This was established within the pre-application advice afforded to the applicant.
- 8.9. It is acknowledged that the applicant has incorporated some design features which draw upon the surrounding units such as the ground floor window width and door feature. However, the overall scale of the dwelling and its scale in relation to that of the plot results in a cramped and contrived form of development which would be highly visible in the surrounding context.
- 8.10. The overall design of the dwelling, including its siting and detrimental impacts to the character of the area and considered significant. As such the proposal is considered not to be in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2016, and Policy 22 of the Earl Shilton and Barwell Area Action Plan.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the adopted SADMP seeks to ensure that development does not adversely affect the amenity of occupiers of neighbouring properties and that the amenity of occupiers of proposed development would not be adversely affected by activities in the vicinity of the site. Similarly paragraph 135 of the NPPF (inter alia) requires development proposals to create places which promote health and well-being, with a high standard of amenity for existing and future users. Policy 22 of the Area Action Plan requires that development does not adversely affect the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion.
- 8.12. The pre-application responses previously addressed the shortcomings in the allocated garden land for the proposed new dwelling. The Good Design Guide (2022) specifies a minimum garden length of 7m. The plans indicated 8.6m from the across the rear garden at its maximum length. The reality is that, owing to the triangular shape of the garden that much of the garden is less than 7m in depth. A front garden area has been included, however, this would not offer any private amenity space for future residents. The garden space provided however, is considered to still be insufficient in total sqm area and is considered to have low amenity value for future occupiers given the proposed boundary treatments, as indicated within the applicant design and access statement. This would be considered to be enclosed, despite the use of slats and not of a high standard.
- 8.13. The two storey dwellings to the south-east are less than 9.5 metres from the common boundary. As such it is considered that not only would insufficient garden space be provided for future residents but it would also be overlooked such that insufficient amenity would be provided for future residents of the proposed dwelling. The applicant has indicated within their design and access statement that some sections of the garden would be private if seated, however, there is still a large degree of overlooking. Furthermore owing to the proposed reduction in garden ground level, the height of the boundary treatments would ~2.7m above ground level. This would lead to a garden space which would be subject to a degree of overlooking, a high degree of enclosure on each side and subsequent less natural light. Overall, it would not be considered to be the formation of acceptable private garden amenity space.
- 8.14. As such the proposal is considered to provide a lack of sufficient private garden amenity space for future occupiers, which is considered to be contrary to Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2015, the Good Design Guide (2022) and paragraph 135 of the NPPF.

Impact upon highway safety

- 8.15. Policy DM17 of the adopted SADMP supports development where there would be no significant adverse impact on highway safety. Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.16. A number of objections have been raised by neighbours and the Parish Council raising concerns relating to parking and highway safety. LCC Highways were consulted as part of the proposal and have confirmed that they have no objections to the proposal and are satisfied with the impacts to highway safety and vehicular parking. One note to applicant was afforded which relates to the need for a separate application for a dropped kerb made directly to the County Authority.

- 8.17. As such it is considered that the proposal is in general accordance with Policies DM17 and DM18 of the SADMP.

Ecology/BNG

- 8.18. Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value.
- 8.19. The applicant has submitted details relating to Biodiversity Net Gain, both the applicant and LPA consider that the development would not be exempt from providing mandatory BNG. The information provided is not considered detailed and were the application otherwise acceptable further details would be required to try to demonstrate how BNG could be achieved given the results of the BNG metric. However, the PPG guidance is clear that “it would generally be inappropriate for decision makers, when determining a planning application for a development subject to biodiversity net gain, to refuse an application on the grounds that the biodiversity gain objective will not be met” [Paragraph 019 Ref ID: 74-019-02240214]. The development if acceptable, would be subject to the standard BNG condition.

Conclusion and 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. Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.22. The Council has published an updated 5yr housing land supply calculation on 29th July. This updates the 5yr housing land supply position from March 2023 to March 2028 and demonstrates a 5.6yr supply of housing, with a surplus supply of 145 dwellings over the five year period.
- 8.23. For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of relevant housing policies in the Core Strategy, in accordance with paragraph 11d) of the NPPF, the Council should still grant permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 8.24. The site is such though that future occupiers would not be provided with sufficient residential amenity as a result of the very small garden, the significant overlooking of that garden and its sense of enclosure which conflicts with Policy DM10 of the SADMP, Policy 22 of the Area Action Plan and paragraph 135 of the NPPF. Furthermore it is considered that the proposed dwelling would be at odds with the prevailing character of the area. The overall design of the dwelling, including its siting and detrimental impacts to the character of the area are considered significant and conflicts with the aforementioned policies of the Development Plan.

- 8.25 As the scheme relates to a single dwelling it would not contribute significantly to the Council's housing land supply and this is attributed limited weight. The scheme would provide limited benefits to the local economy through the creation of jobs, demand for services and materials during the construction phase and from the future occupation of the dwelling supporting businesses in the wider area.
- 8.26 It is concluded that the balance in this particular case weighs in favour of refusal and that the adverse impacts of the development clearly and demonstrably outweigh the limited benefits of the development.

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 **Refuse planning permission for the following reasons**

11. Reasons

1. The overall design and siting of the proposed erection of a single dwelling in this location, is considered to cause detrimental impacts to the prevailing character of the area and as such is considered to not be in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2016, and Policy 22 of the Earl Shilton and Barwell Area Action Plan and paragraph 135 of the National Planning Policy Framework (2023).
2. The proposal is considered to provide a lack of sufficient private garden amenity space for future occupiers, which is considered to be contrary to Policy DM10 of the adopted Site Allocations and Development Management Policies DPD 2015 and the Good Design Guide (2022) and paragraph 135 of the National Planning Policy Framework (2023).

