

Delegated Report

Planning Ref: 23/00560/FUL
Applicant: Mr Manjeet Hayre
Ward: Hinckley Castle



Hinckley & Bosworth
Borough Council

Site: 37A London Road Hinckley Leicestershire

Proposal: Conversion of detached outbuilding to studio apartment

1. Recommendations

- 1.1. **Refuse planning permission** subject to:
- Reasons detailed at the end of this report

2. Planning Application Description

- 2.1. This full application seeks retrospective planning permission for the conversion of a detached outbuilding located at the rear of a dwelling into a studio apartment occupied independently from the main dwelling. All external works and most internal fitting out works have been completed but no occupation was evident at the time of the site visit. The studio apartment has a floor area of less than 21 square metres.

3. Description of the Site and Surrounding Area

- 3.1. The property is located within the settlement boundary of Hinckley and close to the town centre. The outbuilding is located to the rear of a two storey end terraced house. One off-street parking space is available within the open site frontage off London Road.
- 3.2. There is a small hard-surfaced yard area between the outbuilding and 37 London Road and the building that is the subject of this application. The apartment is accessed by a shared gated passageway between it and the neighbouring terraced house. The outbuilding is 7 metres in depth by a maximum of 4.25 metres in width and has a flat roof to a height of 2.8 metres. It is constructed with matching cream rendered walls and a flat roof with white uPVC fascia. It has two large flat roof lights providing natural lighting together with two high level windows, one obscurely glazed serving an en-suite facing the enclosed yard and one facing a private communal car park serving a block of flats at the rear.

4. Relevant Planning History

82/00951/4

- Conversion of building to two flats, 37 and 37A London Road
- Permitted
- 25.01.1983

The application was subject to conditions that included that the existing garage to the rear of the premises be made available for the use of the occupants of the two flats at all times for the parking of cars and that the use of the garage should remain incidental to the enjoyment of the flats at all times and that no trade or business should be carried out from the garage

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

5.2. No responses have been received as a result of public consultation.

6. Consultation

6.1. No other consultations necessary or undertaken.

7. Policy

7.1. Core Strategy (2009)

- No relevant policies

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM18: Vehicle Parking Standards

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (Dec 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide (GDG) (2020)
- National Design Guide (2019)
- Local Highway Authority Design Guide (2022)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal

8.1. The application seeks permission for works to an outbuilding and for its use as a studio apartment. The key issues in respect of this application are therefore:

- Principle of development
- Housing land supply
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision
- Planning balance

Principle of Development

8.2. Section 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. The NPPF is a material planning consideration in planning decisions.

8.3. Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.

- 8.4 However, 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. Where planning applications conflict with an up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.5 The current Development Plan consists of the adopted Core Strategy and the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.6 Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF. Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary.
- 8.7 In accordance with Paragraph 225 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF. Ultimately, the closer the policies in the plan are to the policies in the NPPF, the greater weight they may be given.
- 8.8 The site lies within the settlement boundary of Hinckley where new residential development is considered acceptable in principle. Whether the proposal is acceptable in practice is assessed below.

Housing Land Supply

- 8.9 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.
- 8.10 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.
- 8.11 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 01 April 2022. The latest figures up to 01 April 2023 are currently being worked on and will be available in due course.
- 8.12 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.

- 8.13 Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.14 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay. The overall aim is to meet as much of the area's identified housing need as possible with an appropriate mix of housing types for the local community.
- 8.15 Paragraph 70 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area. In order to promote sustainable development in rural areas, Paragraph 83 of the NPPF requires new housing to be located where it will enhance or maintain the vitality of rural communities.
- 8.16 The development is for a single small residential studio apartment within the settlement boundary of Hinckley, and therefore Policy 15 (Affordable Housing) and Policy 16 (Housing Density, Mix and Design) of the adopted Core Strategy are not applicable for this scheme.
- 8.17 Whilst the Council is unable to deliver a five-year supply of land for housing, given the provision of one dwelling within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, it is considered that very limited weight should be given to the provision of the proposed dwelling in this particular case.

Design and Impact upon the Character of the Area

- 8.18 Paragraph 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.
- 8.19 Paragraph 139 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 8.20 DM10 of the adopted SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features and for building material to respect existing/neighbouring buildings and the local area generally. The Council's adopted Good Design Guide provides further advice in respect of the siting and design of house extensions.
- 8.21 Although the development is sited to the rear of London Road and is faced in acceptable materials, it is located such that it is clearly viewed from the public realm, from the car park to the apartments and from many overlooking dwellings. The outbuilding is changed from something that is ancillary to the main dwelling at

37 London Road to a separate independent unit of accommodation which changes the character of its use significantly. This intensification in the use of the outbuilding is considered to represent a significant overdevelopment of the site that is clearly at odds with the grain of development in the local area. The development fails to respect and complement the scale and character of the area and is considered to have significant adverse impacts on the character of the site and surrounding area. It is considered that the proposal is contrary to both the requirements of Policy DM10 of the adopted SADMP and the requirements of the NPPF.

Impact upon Residential Amenity

- 8.22 Paragraph 135(f) of the NPPF states that planning decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
- 8.23 Policy DM10 of the adopted SADMP and the adopted Design Guide require that development would not have a significant adverse effect on the privacy and/or amenity of nearby residents and occupiers of adjacent buildings.
- 8.24 The Council's Good Design Guide requires that occupiers and neighbours are provided with adequate amenity. Page 33 of the Guide states that delivering well-designed internal and external amenity space is critical to quality of life for residents, as it provides the setting for day to day home life. Page 36 states that wherever possible internal space standards for new residential development should aim to exceed those set by the Government's Technical Housing Standards (THS). At page 44 of the Guide it states ensuring adequate space between and around buildings is recognised as a core component of residential amenity and that the minimum distance between principal windows to habitable rooms of neighbouring properties should not be less than 21 metres. At the same page it also states that gardens are an important part of the quality of life afforded by a house and advises against overdevelopment which can be out of keeping with a sites context.
- 8.25 The application relates to the conversion of an existing outbuilding. By being occupied as a separate unit of accommodation though the occupiers of 37 London Road are deprived of the ancillary accommodation or external space that they could reasonably expect. The proposal though does not result in any reduction in outdoor amenity space enjoyed by the occupiers of 37 London Road and Queen's Park is located a short distance to the south.
- 8.26 Occupiers of the studio apartment are provided with little or no outdoor amenity space though and while Queen's Park is a short distance away the lack of outdoor amenity space contributes to the lack of adequate amenity that is provided as a result of this development.
- 8.27 The single high level window that is provided is just 11.2m from the three storey flats at 39 London Road where habitable room windows, particularly at first floor level, would result in overlooking and a loss of privacy for occupiers of the studio apartment
- 8.28 The Technical Housing Standards set out that the standard deals with internal space within new dwellings and sets out requirements for the floor area of new dwellings as well as floor areas for key parts of the home, notably bedrooms, storage and floor to ceiling height. It confirms that the requirements are relevant only in determining compliance with the standard in new dwellings and that the

standards have no other statutory meaning or use. The THS are therefore considered relevant to this application.

- 8.29 The THS requires that the minimum floor to ceiling height is 2.3 metres for at least 75% of the gross internal area. The submitted drawings confirm that the floor to ceiling height is 2.25 metres.
- 8.30 The THS requires that at least 1 square metres of built-in storage is provided. The submitted drawings show the provision of no built-in storage.
- 8.31 The THS requires that for a single person a minimum floorspace of 37 square metres is provided. The submitted drawings confirm that the studio apartment provides less than 21 square metres of floorspace. The studio apartment falls below the Government's standards for floor to ceiling height and for built-in storage and falls significantly below the standard with regard to the minimum amount of floorspace that a person needs. As set out in the GDG, providing sufficient space inside someone's home is critical to their quality of life.
- 8.32 Furthermore, by providing a combination of skylights and high level windows any occupiers of the apartment are considered to be additionally detrimentally affected as a result of poor visual outlook.
- 8.33 The combination of the small amount of floorspace, the lack of any built-in storage, the low floor to ceiling height, the lack of outlook as a result of the use of a single high-level window or skylights only, and the proximity to habitable room windows in the flats to the south which results in overlooking and loss of privacy provides any occupier of the studio apartment with a significantly unacceptably poor level of residential amenity.
- 8.34 The proposal is therefore considered to be contrary to the requirements of Policy DM10 of the adopted SADMP, contrary to the requirements of the THS and the NPPF and contrary to the Council's Good Design Guide.

Impact upon Parking Provision

- 8.35 Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.36 The application site provides no off-street parking space. Notwithstanding this, by virtue of the small size and scale of the studio apartment and its sustainable location on the edge of Hinckley Town Centre with access to a full range of services and facilities by foot, the lack of any additional parking provision is considered to be acceptable in this particular case.

Planning Balance

- 8.37 The Council cannot demonstrate a 5-year supply of housing land and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focus on delivery of a lower housing requirement than is now required. It is therefore considered that the 'tilted' balance in Paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

- 8.38 It is acknowledged that there are some limited social benefits from the scheme such as providing housing for any occupants, and economic benefits associated with the occupant's opportunity to act as customers and employees for local businesses and services. Nevertheless, these benefits when associated with one studio apartment that already exists are very modest and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP. Therefore, the social and economic benefits are given very limited weight within the planning balance.
- 8.39 The development fails significantly in numerous ways to provide occupants of the studio apartment with adequate or appropriate residential amenity. Furthermore, the proposal represents a significant overdevelopment of the site that is significantly out of keeping with the character of the area. The scheme therefore does not represent good design that is required by the NPPF. By virtue of these factors, it is considered that the benefits of the scheme do not outweigh the significant adverse effects of the scheme. Given the above, the development is considered to contrary to, and in conflict with, Policies DM1, DM10 and DM17 of the SADMP, the Good Design Guide, and Section 12 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 proposal is not considered to be compliant with relevant national and local planning policies as it fails to provide occupiers and neighbours with adequate residential amenity and represents severe overdevelopment of the site that has a significant detrimental effect on the character of the local area.

- 10.2. Taking all relevant national and local planning policies and all material considerations into account and weighing the planning balance it is recommended that planning permission be refused.

11. Recommendation

- 11.1 **Refuse planning permission** for the reasons set out below.

11.2 Reasons

1. The development provides occupiers of the studio apartment with unacceptably poor living conditions and a lack of appropriate levels of amenity as a result of the small amount of floorspace, lack of built-in storage, low ceiling height, lack of garden space, poor outlook as a result of the provision of a high level window and skylights and overlooking and loss of privacy as a result of the proximity to habitable room windows at 39 London Road. This is considered contrary to Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the Council's Good Design Guide, the Government's Technical Housing Standards and Section 12 of the National Planning Policy Framework.
2. The development represents a severe overdevelopment of the site that has a significant detrimental effect on the character of the local area contrary to Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the Council's Good Design Guide and Section 12 of the National Planning Policy Framework.

Notes to Applicant

1. The application has been determined in accordance with the following submitted details:
 - Location Plan received 26 June 2023
 - Site Plan and Elevations drawing 0135-02a received 26 June 2023
 - Ground Floor Plan, Roof Plan and Section drawing 0135-01b received 26 June 2023
 - Block Plan received 6 June 2023