

Delegated Report

Planning Ref: 26/00697/FUL

Applicant: Various

Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Land to rear of 6-11 Rodney Gardens, Sheepy Magna

Proposal: Retrospective change of use of strip of agricultural land to garden land, to serve 6 houses.

1. Recommendations

1.1. Grant planning permission subject to:

- Conditions outlined at the end of this report.

2. Planning application description

2.1. The application seeks full planning permission for the change of use of an existing strip of agricultural land to garden land, extending the gardens of properties No. 6-11 Rodney Gardens, Sheepy Magna.

2.2. The development proposal is retrospective in nature.

3. Description of the site and surrounding area

3.1. The site is located to the rear of 6-11 Rodney Gardens, Sheepy Magna. Rodney Gardens is a residential estate located off Twycross Road. The site itself is located outside of the settlement boundary of Sheepy Magna, on agricultural land which was formerly part of the agricultural holding to the rear.

3.2. The site is well screened from public view with large rear garden amenity spaces to the north, alongside existing woodlands, and woodlands to the south.

3.3. The site is located north of Trout Ponds, which is a locally important heritage asset, located south of the woodlands, however, this is not considered to be impacted under this proposal. The site is not located within a conservation area, and is located within Flood Zone 1.

4. Relevant planning history

No relevant planning history.

5. Publicity

5.1. Neighbours were notified of the application via neighbour letters and a site notice placed within the vicinity of the site.

5.2. No comments were received.

6. Consultation

6.1. Sheepy Parish Council

6.2. Objection relating to development being out of the settlement and therefore not in the neighbourhood plan, notably Policy S1 and S10, it is also raised that if approved, PD rights should be removed, and that retrospective applications should not be encouraged or condoned.

6.3. Hinckley & Bosworth Borough Council (HBBC) Environmental Health

6.4. No objections.

6.5. Leicestershire County Council (LCC) Minerals

6.6. No objections.

6.7. Leicestershire County Council (LCC) Ecology

6.8. No objections.

7. Policy

7.1. Site Allocations and Development Management Policies DPD (SADMP) (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 DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.2. Sheepy Parish Neighbourhood Plan (2022)

- Policy S1: Countryside
- Policy S10: Housing Development

7.3. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2026)
- Planning Practice Guidance (PPG)

7.4. Other relevant guidance

- Good Design Guide (GDG) (2019)
- National Design Guide (2019)

8. Appraisal

8.1. The application site is located within the countryside outside of any defined settlement boundary. The key issues in respect of this application therefore are:

- Principle of development
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Drainage and flood risk
- Ecology and biodiversity net gain
- Planning balance

Principle of development

8.2. Paragraph 3 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 national decision making policies within the NPPF are material planning considerations in planning decisions.

- 8.3. Paragraph 15 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 17 of the NPPF. Therefore, in accordance with Chapter 4 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.
- 8.4. Policy S3 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. It also states that Policy S5 should be applied for developments outside of the settlement boundary.
- 8.5. With regards to the Development Plan, the site lies outside of the settlement boundary within the countryside and Policy DM4 of the SADMP is applicable. Policy DM4 states that that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:
- a. It is for outdoor sport or recreation purposes, and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - b. The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - c. It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - d. It relates to the provision of stand-alone renewable energy developments; or It relates to the provision of accommodation for a rural worker
- 8.6. The development is not listed within a-d of Policy DM4 of the SADMP.
- 8.7. Policy S5 of the NPPF also states only certain forms of development should be approved outside settlements, the types of development acceptable are set out in a list. Applicable development should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework. There are no applicable exceptions listed.
- 8.8. Whilst not adhering to Policy DM4 of the SADMP, Policy S1 of the SPNP or Policy S5 of the NPPF (2026), the principle for this nature of development is confirmed within planning application 22/00916/FUL and the subsequent planning appeal referenced APP/K2420/W/23/3317828, at 12 Rodney Gardens and for the change of use of agricultural land to domestic garden.
- 8.9. Within this appeal it was confirmed by the planning inspectorate that whilst at odds with Policy DM4, that “the site benefits from a considerable degree of containment in the wider rural context as a consequence of its position in relation to the adjoining garden and mature woodland beyond. This relationship serves to reduce the effect of the change of use in terms of significant visual encroachment into the surrounding agricultural land. Having regard to these matters, the use of the land as garden has a negligible effect on the qualities of the open countryside setting”.
- 8.10. The inspectorate goes on to confirm that, “I therefore conclude that the use of the land as garden is in clear conflict with Policy DM4 of the SADMP insofar as it does not constitute a type of development considered to be sustainable and therefore

appropriate in the countryside. Nevertheless, I have not identified any actual planning harm arising from the change of use of the land. Moreover, the development accords with the aims of paragraph 174 of the National Planning Policy Framework, in so far as it seeks to ensure that developments recognise the intrinsic character and beauty of the countryside”.

- 8.11. Policy S5(4) goes on to state that development proposals which do not fall within one of the categories set out the policy should only be approved in exceptional circumstances, where the benefits of the proposal would substantially outweigh the adverse effects, including to the character of the countryside and in relation to promoting sustainable patterns of movement. The benefits of the development are solely for the benefit of the private occupiers of the properties. However, the previous appeal decision, for a much larger parcel of land identified no adverse effects to the character of the countryside or sustainable movement.
- 8.12. As such in this instance, whilst it is acknowledged that there is policy conflict with DM4 of the SADMP and S5 of the NPPF, the impact on the countryside is negligible, and given the previous appeal decision which is a significant material consideration, it is considered acceptable in principle.

Design and impact upon the character of the area

- 8.13. Policy DM4 of the SADMP confirms that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development.
- 8.14. Policy DM10 of the SADMP indicates that development will be permitted providing it meets good standards of design including that it would complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and would not have a significant adverse effect on the privacy and amenity of nearby residents.
- 8.15. Policy DP3 of the NPPF states that development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets.
- 8.16. The site area outlined within this proposal is not visible from public vantage points as is located at the rear of 6-11 Rodney Gardens. The site to the rear is agricultural land belonging to Trout Ponds Farm. The site is well screened by an existing garden extension at No. 12, and well established woodland areas and boundary hedgerow belonging to the wider agricultural holdings, containing the visual access to the site. As such the development is not considered to create detrimental impacts on the character of the area, nor the countryside.
- 8.17. That being said, there is a risk of the over domestication of the land which could give rise to additional impacts to the character of the countryside. Whilst noting that the removal of permitted development rights requires a strong justification, in this case it is judged to be necessary and reasonable to prevent unrestricted development within the countryside when noting the potential impacts and policy conflict. Therefore, to align with the aforementioned appeal decision, it is suggested that permitted development rights are removed for Part 1, Class E and Part 2 Class A of the GPDO.

- 8.18. It is considered that the development, by nature of the change of use, would have no detrimental impact on the character of the area, nor the intrinsic value and beauty of the open countryside. As such the proposal is considered in accordance with Policies DM4 and DM10 of the adopted SADMP, and Policy DP3 of the SADMP.

Impact upon neighbouring residential amenity

- 8.19. Policy DM10 of the SADMP confirms the requirements of which permitted developments must achieve. DM10 (a) and (b) confirm that any development must not have a significant adverse effect on 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.
- 8.20. The proposed change of use of the site area, outlined within this proposal, is not considered to cause any impact on neighbouring residential amenity, owing to the fact that the residents themselves are the applicants, and that the change of use would be to extend the garden area to the rear, thus having no impact on loss of privacy, overbearing or loss of light issues.
- 8.21. Overall, it is considered that the proposal would have no impact on residential amenity, causing no detrimental impacts on loss of light, loss of privacy, overbearing or noise impacts. As such, the proposal is considered in accordance with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.22. Policy DM17 of the SADMP states that the development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual and cumulative impacts of the development on the transport network are not severe.
- 8.23. Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision. Any reduction below minimum standards will require robust justification.
- 8.24. The development does not propose any alterations to the public highway, nor the off-street parking provision afforded to each dwelling. The development by its very nature would have no impact on highway safety.
- 8.25. The proposal therefore complies with Policies DM17 and DM18 of the SADMP.

Drainage and flood risk

- 8.26. Policy DM7 of the SADMP confirms that development should prevent adverse impacts from pollution and flooding.
- 8.27. The development site is located with Flood Zone 1, designated as low probability of flooding from rivers and sea, and the principle of development in low flood risk areas is acceptable. The EA Surface Water mapping also indicates that the application site is located in an area at very low risk of flooding from surface water.
- 8.28. The proposal is considered to be in general accordance with Policy DM7 of the adopted SADMP.

Ecology and biodiversity net gain

- 8.29. Policy DM6 of the SADMP states that proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long-term future management.
- 8.30. On site features should be retained, buffered and managed favourably to maintain their ecological value, connectivity and functionality in the long-term. The removal or damage of such features shall only be acceptable where it can be demonstrated the proposal will result in no net loss of biodiversity and where the integrity of local ecological networks can be secured.
- 8.31. Proposals which are likely to result in the loss or deterioration of an irreplaceable habitat would only be acceptable where:
- a. The need and benefits of the development in that location clearly
 - b. It has been adequately demonstrated that the irreplaceable habitat
 - c. Appropriate compensation measures are provided on site wherever possible and of site where this is not feasible.
- 8.32. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.
- 8.33. No ecological impacts are anticipated as part of this proposal, as outlined by LCC Ecology within their consultation response. The site is also except from mandatory biodiversity net gain due to the de minimis exemption.
- 8.34. The proposal is therefore considered to be in accordance with Policy DM6 of the SADMP.

Planning Balance

- 8.35. Annex A of the NPPF confirms that the policies within the framework are material considerations which must be taken in account in decision-making. It goes on within section 2 to state that development plan policies which are materially inconsistent with national decision-making policies should be given very limited weight, except where they have been examined and adopted against the updated framework (2026). Other development plan policies should be given reduced weight simply because they were adopted prior to the publication of this framework.
- 8.36. The development is located outside of the defined settlement boundary. It has been identified therefore that the application does not accord with the criteria set out within Policy DM4 of the SADMP, Policy S1 of the SPNP, or Policy S5 of the NPPF (2026), however, the application does not deliver any detrimental impact on the countryside, and therefore no harm is found.
- 8.37. The development is considered to be in accordance with Policy DM10 of the SADMP and Policy DP3 of the NPPF, regarding its design, impact on the character of the area, and impact on residential amenity.
- 8.38. Despite no identified harms, the development is also unlikely to have any benefits beyond those for the private occupants. However, in light of the appeal decision there is a significant material consideration which indicates that in this exceptional case the decision should be made otherwise than in accordance with the development plan.

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.

10. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 Conditions and Reasons / Reasons

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Site Location Plan Drg No. 02
- Block Plan Drg No. 01

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

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re enacting, substituting, amending, extending, consolidating replacing or modifying that Order), no development within Part 1, Class E of Schedule 2, and no gates, fences or walls within Part 2, Class A of the same Schedule, shall be erected on the land, except in the event that a further planning permission is expressly granted for that development.

Reason: To safeguard the rural character of the countryside in accordance with Policy DM4 and DM10 of the adopted Site Allocations and Development

Management Policies Development Plan Document (2016) and the Good Design Guide (2020).

11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.