

Delegated Report

Planning Ref: 26/00139/CONDIT
Applicant: Dr R Gohil
Ward: Barwell



Site: Inglenook Farm, Leicester Road, Barwell

Proposal: Application to vary condition 2, 3, 6, 7 and 8 of planning permission 23/00146/FUL, amendments to increase size of the dwelling, materials, landscaping, bat boxes and refuse and recycling storage.

1. Recommendations

1.1. **Grant planning permission for the variation of 23/00146/FUL** subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.

2.2. In this case, planning permission for application 23/00146/FUL granted an approval of full planning permission for A Proposed two storey detached house and garage (following demolition of existing dwelling and semi-temporary accommodation).

2.3. The application seeks to vary the following from the original approval (23/00146/FUL):

- C2: Vary to include amended plans
- C3: Vary wording to reflect information submitted under this application
- C6: Vary wording to reflect information submitted under this application
- C7: Vary wording to reflect information submitted under this application
- C8: Vary wording to reflect information submitted under this application

3. Description of the Site and the Surrounding Area

3.1. The site is located approximately 500m south of the settlement boundary of Barwell/Earl Shilton. The wider site has measures approximately 10 acres. It falls within the countryside and within the designated Hinckley/Barwell/Earl Shilton/Burbage Green Wedge, to the southeast of Barwell, southwest of Earl Shilton and directly north of the A47.

- 3.2. Within the site is the existing dwelling, a static caravan whilst agricultural/equestrian outbuildings enveloping it to the west and a manège to the south. The formal access onto Leicester Road is to the southeast of the dwelling and serves the neighbouring equestrian use.

4. Relevant Planning History

24/00805/FUL

Erection of an indoor riding school, including associated works
Planning permission
12/02/2026

24/00213/FUL

Retention of timber stables
Planning permission
01/05/2024

23/00535/FUL

Erection of 9 accommodation pods, 4 holiday lodges, management building with associated internal access roads, parking, landscaping and surface water balancing
Refused – Appeal dismissed
30/11/2023

23/00146/FUL

Proposed two storey detached house and garage (following demolition of existing dwelling and semi-temporary accommodation)
Planning permission
26/07/2023

23/00131/FUL

Proposed replacement and extension of existing barns and erection of new detached barn
Planning permission
13/04/2023

5. Publicity

- 5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 5.2. In this instance, the application has been publicised by letters issued to neighbours.
- No comments have been received.

6. Consultation

6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.

6.2 There have been no responses from the following consultants:

- Barwell Parish Council

6.3 Further comments have been received from:

- HBBC Waste: No further objection received.
- LCC Ecology: No objections.

7. Policy

7.1 Core Strategy (2009):

- Policy 3: Development in Barwell
- Policy 6: Hinckley/Barwell/Earl Shilton/Burbage Green Wedge

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM14: Replacement Dwellings in the Rural Area
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Earl Shilton and Barwell Area Action Plan (ESBAAP, 2014)

- Policy 22: Development and Design

7.5 Other Relevant Guidance:

- Good Design Guide (2020)

8. Appraisal

- 8.1. In accordance with Planning Practice Guidance (NPPG), there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part of the permission. The operative part of the planning permission being the description of the development.
- 8.2. Section 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (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).
- 8.3. The application seeks to vary the original permission, to amend the development plans. The principle of development within the site has been established and is therefore acceptable in principle.
- 8.4. Therefore, the key issues in respect of this application are:
- Design and impact upon the character of the area
 - Impact on neighbouring amenity
 - Ecology
 - Waste Management
 - Previously imposed conditions

Design and Impact upon the Character of the Area:

- 8.5 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.6 The key variation from the plans relates to the increased height and size of the attached double garage. The main amendment relates to an increase in height, and within this application process, amendments were sought to reduce the height. Following the submission of amended plans, it is considered that the amendment to incorporate a raised roof height in relation to the garage would be acceptable owing to the limited visibility from public vantage points, its limited impact on the character of the area, and its appropriate scale and design.
- 8.7 In addition to the amended height, details of the materials used on the dwelling have been detailed, which are included within the site plan drawing. The materials used are of an appropriate palette and would be considered to be of a high quality to ensure that the development is of a high standard. The materials would not cause any harm to the character of the area and would be of an acceptable design quality.
- 8.8 Details of the landscaping for the development has also been provided which includes details of the boundary treatments, hard surfacing for the relevant parking provision

and details of the soft landscaping. The details provided on the site plan are considered to be acceptable and would not be out of keeping with the area and would be of an acceptable design.

- 8.9 As such it is considered that the variation and additional information submitted would be acceptable and in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring amenity

- 8.10 Policy DM10 of the SADMP seeks to ensure that development would not have significant adverse effect upon the privacy or amenity of nearby residents and occupiers of adjacent buildings, and the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.

- 8.11 There are no neighbouring dwellings in the vicinity of the site, and as such the variations to the original approval are not considered to create detrimental impacts to neighbouring residential amenity.

- 8.12 Therefore, the application and the development remain compliant with Policy DM10.

Ecology

- 8.13 Policy DM6 of the SADMP requires development proposals to demonstrate how they conserve and enhance features of nature conservation. If the harm cannot be prevented, adequately mitigated against or appropriate compensation measures provided, planning permission will be refused.

- 8.14 The original application was subject to a condition (7) which related to details of the 2no. bat boxes being provided prior to first occupation of the dwelling. The location and specifications of the boxes have been confirmed under this application, and following a consultation with LCC Ecology, it has been confirmed that the location and details are sufficient and welcomed.

- 8.15 As such the proposal to vary the wording of condition 7 is acceptable and in accordance with Policy DM6 of the SADMP.

Waste Management

- 8.16 Condition 8 attached to the original permission related to the pre-commencement condition, requesting a scheme for adequate provision for waste and recycling storage and collection.

- 8.17 Within the plans as amended, an area located towards the front of the site has been provided for waste management. This will be located close to the access point providing shorter dragging distances, and remains well screened by the approved southern wall boundary treatment.

- 8.18 The variation of the condition is considered acceptable and would not result in an unacceptable scheme for managing waste management and refuse collection.

Previously Imposed Conditions:

- 8.19 Permission granted under Section 73 takes effect as a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. A new permission sits alongside the original permission, which remains intact and unamended. It is open to the Applicant to decide whether to implement a new permission or the one originally granted.
- 8.20 Therefore, in accordance with PPG, a Section 73 Decision Notice should set out all the conditions imposed on the new permission, and, for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.
- 8.21 Planning permission **23/00146/FUL** was subject to 9 conditions.
- 8.22 The proposal under this Section 73 application, seeks to vary five conditions, and as such the updated conditions are reflected at the end of this report.
- 8.23 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. No additional conditions are considered to be necessary.

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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation

- 11.1 **Grant planning permission for the variation of 23/00146/FUL** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted application details, received by the Local Planning Authority as follows:

- Site Location Plan - 3802-12 Rev D
- Proposed Site Plan Including Materials and Landscaping Drg No. 3802-12 Rev G
- Amened Proposed Plans and Elevations Drg No. 3802-11 Rev J

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 external materials, including brick, tiles, windows and doors, hereby approved, within 'Proposed Site Plan Including Materials and Landscaping Drg No. 3802-12 Rev G', shall be adhered to in full.

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 Article 3, Schedule 2, Part 1 Classes A - E of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. Notwithstanding the approved plans all windows shown to bathrooms, WCs and en-suites shall be fitted with obscure glazing to a minimum level 3 of the Pilkington scale. The windows shall be permanently maintained as such thereafter.

Reason: To help safeguard privacy and residential amenity in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD and the requirements of the NPPF.

5. The hard and soft landscaping is hereby approved, within plan 'Proposed Site Plan Including Materials and Landscaping Drg No. 3802-12 Rev G'. The scheme shall be carried out in accordance with this plan, and the soft landscaping shall be 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 are 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 by the Local Planning Authority.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

6. The development shall be carried out in accordance with the recommendations and mitigation measures outlined in the Preliminary Bat Roost Assessment and dusk and dawn surveys by Wildlife Consultants Limited, dated 31st May 2023. The approved 2no. bat boxes shown on 'Amended Proposed Plans and Elevations Drg No. 3802-11 Rev J' shall be installed prior to first occupation and shall remain in situ in perpetuity,

Reason: To ensure the enhancement of biodiversity potential and the protection of species in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies DPD (2016).

7. The refuse storage area shown on plan Proposed Site Plan Including Materials and Landscaping Drg No. 3802-12 Rev G' shall be installed prior to first occupation, and shall remain in situ in perpetuity.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Within one month of occupation of the dwelling hereby approved, the static caravan within the site will be removed from the site and will not be replaced.

Reason: To ensure that the site has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 and Policy DM14 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy 22 of the Earl Shilton and Barwell Area Action Plan (2014).

a. **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 building.control@blaby.gov.uk or call 0116 272 7533.
2. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
3. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
4. The active nests of all wild birds are protected under the Wildlife & Countryside Act 1981 (As amended). An active nest is one being built, containing eggs or chicks, or on which fledged chicks are still dependent. All clearance, conversion, and demolition work in association with the approved scheme shall be carried out outside of the bird nesting season which runs from March to August inclusive. If it is necessary for work to commence in the nesting season, then a pre-commencement inspection of the vegetation and buildings for active bird nests should be carried out. If vegetation cannot be clearly seen to be clear of bird's nests, then an experienced ecologist should be called in to carry out the check. Only if there are no active nests present should work be allowed to commence