

Delegated Report

Planning Ref: 23/00309/CONDIT

Applicant: Mr James Perry

Ward: Newbold Verdon with Desford and Peckleton

Site: 44 High Street, Desford, Leicester, Leicestershire, LE9 9JF



Hinckley & Bosworth
Borough Council

Proposal: Variation condition 2 of planning application 22/00496/FUL. Amendment to include skylight to the front and rear elevation

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

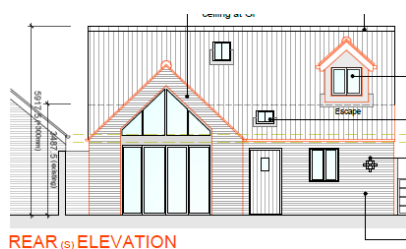
2. Planning application description

2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made to vary or remove conditions associated with a planning permission. In this case permission was granted in 2022 (22/00496/FUL) for the conversion of extension to an existing barn to create a new dwelling. Condition 2 of the planning permission required that the development be built in accordance with the approved plans that were submitted to the Local Planning Authority.

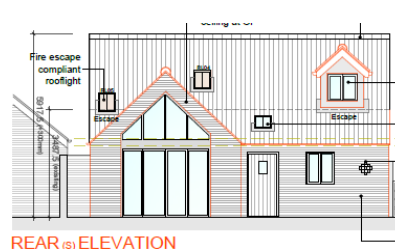
2.2. This application seeks permission to vary condition 2 and amend the approved plans relating to the siting and installation of rooflights. The applicant has stated that during the implementation of planning permission 22/00496/FUL they found a number of issues, pertinent to this application, this included that each bedroom required a fire escape to comply with building regulations. Amendments were subsequently made to the layout/roof structure which resulted in amendments to the rooflights. The amendments sought as part of this application include:

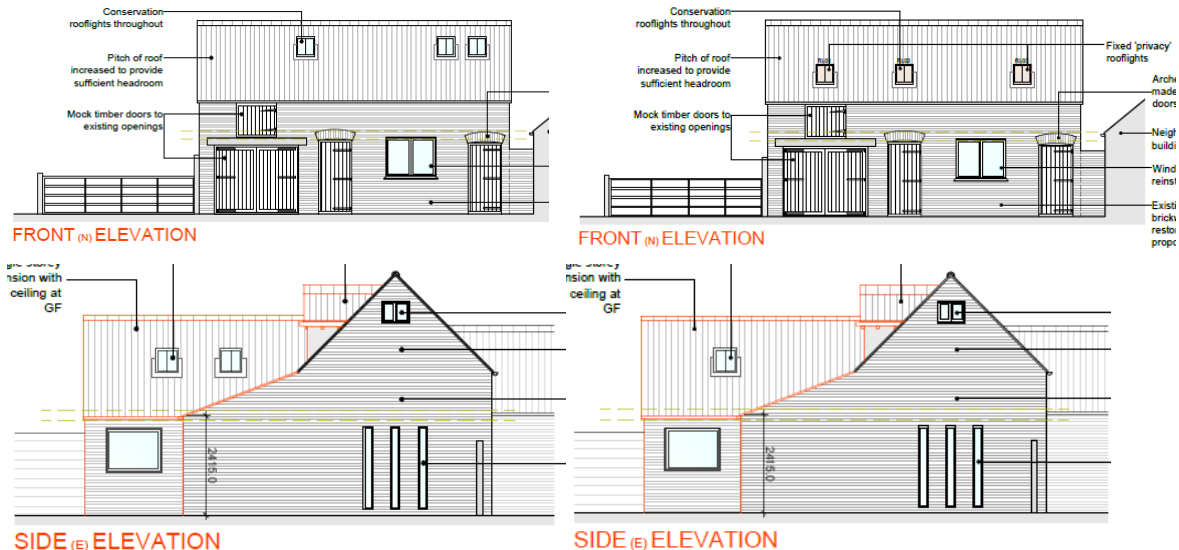
- The addition of two rooflights to the rear (south) elevation. One rooflight is proposed to serve the bathroom, the other is a fire escape compliant rooflight serving a bedroom;
- Amendments to the siting of the three rooflights on the front (north) elevation, the rooflights are proposed to be lowered and spaced reasonably evenly within the roof slope. The central window serves the landing with two outermost windows serving bedrooms, the latter are proposed to be obscure glazed and non-opening;
- Removal of one rooflight on the side (east) elevation

Extract of Approved Plans:



Extract of Proposed plans:





3. Description of the site and surrounding area

- 3.1. The application site comprises a detached one and a half storey brick and slate former agricultural building set back from High Street. Work has commenced on the conversion of the building and the rooflights are in situ at the time of the application.
- 3.2. The building is accessed via an existing shared access off High Street, alongside no.40 High Street. The land levels slope gently up from the highway towards the barn. The site is located within the Desford Conservation Area and is within the vicinity of two listed buildings (Old Manor House, attached barn and service block, 32 High Street – grade II* listed, and the pigeoncote at 32 High Street – grade II), all located immediately west of the application site.

4. Relevant planning history

22/00496/FUL

- Conversion of and extension to existing barn to create self-contained dwelling with associated landscaping, amenity space and parking provision
- Planning permission
- 15.11.2022

19/01297/FUL

- Change of use of existing barn to form one dwelling
- Planning permission
- 17.10.2019

19/00765/FUL

- Change of use of existing barn to form annexe with associated parking area
- Application withdrawn (Reason: Accommodation wouldn't constitute an annexe)
- 17.10.2019

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 and a notice displayed in the local press.
- 5.2. Objections have been received from two households on the following grounds:

- Overlooking from the skylight to the rear to neighbouring gardens
- Loss of privacy will devalue property as it could no longer be sold as having a private garden
- Means of escape and headroom requirements should have been considered by the architect for the original application. Alternative solutions could be found and are suggested by the objector.

6. Consultation

6.1. No comments received from:

- Desford Parish Council

6.2 No objections from the Conservation Officer whose comments are summarised below:

- The additional roof light is a conservation style light as per the others. The repositioning of the front rooflights has resulted in no more than a negligible visual change so the significance of the heritage assets is not adversely impacts and the proposal remains in accordance with the relevant heritage policies.

7. Policy

7.1. Desford Neighbourhood Plan 2018-2036

- Policy H1: Settlement Boundary
- Policy H6: Windfall Development
- Policy H7: Housing Design
- Policy T1: Traffic Management
- Policy T3: Electric Vehicle Charging

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Related to Leicester

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

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

- National Design Guide (2019)
- Good Design guide (2020)

8. Appraisal

- 8.1. The principle of development, highway, drainage and ecological impacts were assessed and established through the earlier grant of planning permission. As this application only involves the relocation and addition of rooflights, the key issues in respect of this application are therefore:

- Design and impact upon the character of the area
- Heritage assets
- Impact upon residential amenity

Design and impact upon the character of the area

- 8.2 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.
- 8.3 Policy H7 of the NP relates to Housing Design and requires new development to enhance and reinforce the local distinctiveness of the area in which it is situated and should not disrupt the visual amenity of the street scene or landscape views. Development should be of an appropriate density, use a diversity of materials and provide adequate off-road parking.
- 8.4 The Good Design Guide SPD outlines that development should be an appropriate height, width, depth and complement the character of the area as well as the detailing and materials of existing buildings.
- 8.5 The additional rooflights to the rear will not be readily visible from the public realm. The amendments to the position of the rooflights to the front make a negligible change to the appearance of the building, the spacing is judged to be more even which creates more symmetry and is judged to be an enhancement to this elevation. As per the original consent all rooflights are proposed to be conservation style rooflights which is appropriate for the character of the building and surroundings.
- 8.6 The proposal continues to complement the area as it brings a locally distinctive traditional vernacular building back into a viable use. The development accords with Policy DM10 of the SADMP, Policy H7 of the NP and the Good Design Guide.

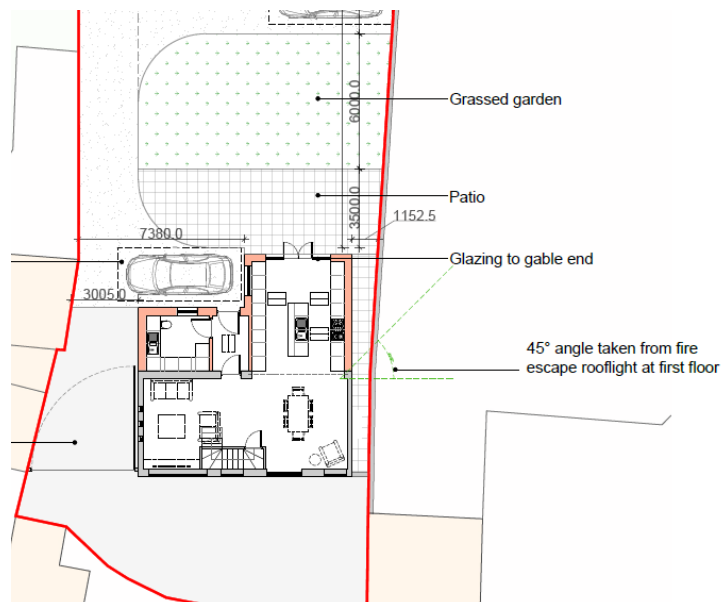
Impact upon residential amenity

- 8.7 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 and the amenity of occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site. The Good Design Guide also provides advice.
- 8.8 The proposed amendments relate solely to the rooflights as such there would be no material change in terms of loss of light or a sense of overdominance/enclosure. Objections have been raised with regards to a loss of privacy which is the key issue with regards to these proposed amendments. The amendments to the three rooflights in the front elevation are unlikely to cause additional adverse loss of privacy. The two bedroom windows are proposed to be obscure glazed and fixed minimising overlooking. The third window does not serve a habitable room, its siting about the stairway would limit views.
- 8.9 Objections have been raised concerning a loss of privacy to number 32 and 32a High Street, particularly to the garden to the south/south west. The rooflight serving the bathroom is sited behind the roof slope of the single storey extension limiting

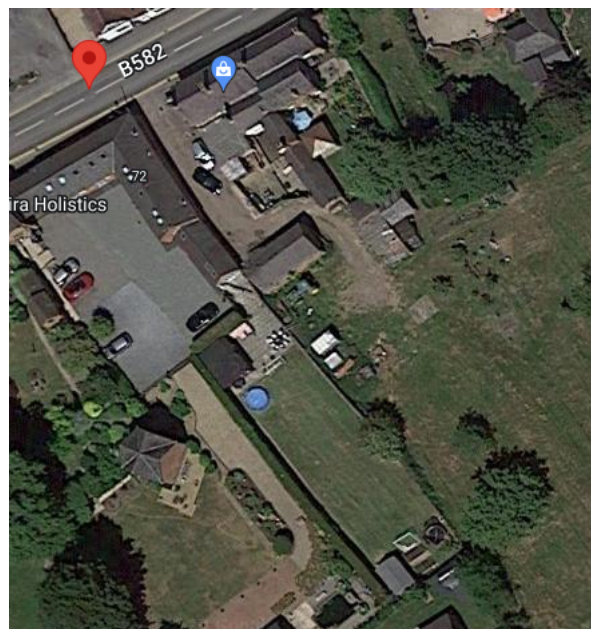
views to the south west towards no. 32/32a High Street. The proposed bedroom rooflight is a fire escape compliant roof light and would serve as the escape route for this bedroom. The rooflight is sited close to the west elevation and shared boundary with nos 32/32a High Street. As seen in the below plan, the rear elevation of the application dwelling is set further back than the rear elevation of no. 32a as such the rooflight would not cause a loss of privacy to the dwelling itself.

- 8.10 The additional rooflight may however result in some additional loss of privacy to the garden of No.32a by virtue of its location adjacent to the shared boundary. This is not an unusual residential relationship, however, it is acknowledged that the garden of no.32a currently experiences a high degree of privacy. Owing to the siting of the rooflight, views of the main patio area close to the rear of 32a will be restricted by the angle of site. Beyond the main patio area the garden is large reducing the impact of the proposal. Overall, whilst the proposal will introduce an element of overlooking not currently experienced, owing to the mitigating factors above the amendments would not cause an adverse loss of privacy to warrant refusal of the application.

Extract of the proposed site plan:



Aerial image:



- 8.11 The proposal is therefore considered to be acceptable in terms of its impact on the amenities of neighbouring dwelling and complies with Policy DM10 of the SADMP and the Good Design Guide.

Heritage Assets

- 8.12 Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the local planning authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building or its setting or any features of special architectural and historic interest which it possesses. Section 72 of the Act 1990 states that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
- 8.13 Section 16 of the National Planning Policy Framework (NPPF) provides the national policy on conserving and enhancing the historic environment. Paragraphs 199-202 require great weight to be given to the conservation of designated heritage assets when considering the impact of a proposed development on its significance, for any harm to the significance of a designated heritage asset to have clear and convincing justification, and for that harm to be weighed against the public benefits of a proposal.
- 8.14 Policies DM11 and DM12 of the Site Allocations and Development Management Policies (SADMP) DPD seek to protect and enhance the historic environment. Development proposals should ensure the significance of a conservation area is preserved and enhanced. All proposals for development affecting the setting of listed buildings will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting.
- 8.15 Policy 8 of the Core Strategy (2009) requires new development to respect the character and appearance of Desford Conservation area by incorporating locally distinctive features of the conservation area into the development.
- 8.16 Despite not being identified as a significant local building in the Desford Conservation Area Appraisal (DCAA) (2010) the Conservation Officer previously advised that the building makes a positive contribution to the character and appearance and thus significance of the Desford Conservation Area due it's historic and architectural interest. It is noted that the DCAA identifies that former farm buildings reflect the agricultural origins of the settlement and contribute to the character of the conservation area.
- 8.17 The Conservation Officer has advised that the repositioning of the front elevation rooflights and single rear elevation rooflight, and the addition of a single roof light on the rear elevation has resulted in a negligible visual change so the significance of the affected heritage assets is not adversely impacted, and the proposal remains in accordance with the relevant heritage policies identified above.
- 8.18 Overall it is considered that the proposed conversion and extensions will retain the functional form and the semi-agricultural character and appearance of former agricultural building and bring it into a viable use securing its long-term conservation. The retention of its predominant form and appearance also ensures that it will continue to sit comfortably in the setting of the adjacent listed buildings. For the above reasons it is considered that the proposal will preserve the significance of the Desford Conservation Area and it is compatible with the significance of the two adjacent listed buildings. The proposal therefore complies with Policies DM11 and DM12 the SADMP, section 16 of the NPPF and the statutory duties of sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

9. Other issues

- 9.1 One objection comment referred to the devaluation of the neighbouring property as a result of the proposal. Loss of value to property is not a material planning consideration and therefore cannot be taken into account in the determination of a planning application.

10. Equality implications

- 10.1 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.
- 10.2 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.
- 10.3 There are no known equality implications arising directly from this development.
- 10.4 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).

11. Conclusion

- 10.1. The proposal represents an acceptable residential re-use of a traditional building in the village conservation area which would safeguard its future and provide a good quality design. There would be no harm to the significance of nearby listed buildings or the conservation area. There would be no significant adverse impact on neighbouring residential amenity, highway safety, protected species or flood risk. Therefore, subject to appropriate conditions the proposal complies with Policies 7 and 8 of the Core Strategy, Policies DM1, DM6, DM7, DM10, DM11, DM12, DM17, DM18 of the SADMP, Policies H1, H6, H7, T1, T3 of the Desford Neighbourhood Plan, the NPPF and Good Design Guide. Therefore, the proposed amendments to condition 2 to amend the approved drawings are recommended for approval subject to conditions.

12. Recommendation

- 11.1 **Grant planning permission** subject to:
- Planning conditions outlined at the end of this report
- 11.2 **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of planning permission 22/00496/FUL (15/11/2022).

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:
Proposed Site Plan drawing no. (04)03-01 Rev D received 28.03.2023
Proposed Plans, Elevations and Sections drawing no. (04)03-02 Rev D received 28.03.2023

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. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the Local Planning Authority which shall include details of how the unsuspected contamination shall be dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall not be occupied until such time as off street car parking provision (with turning) has been provided and surfaced in accordance with drawing number (04)03-01 Rev D. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (2021).

5. Any additional/replacement bricks or slate required for the external elevations of the dwelling hereby permitted shall be implemented in accordance with the schedule of materials approved under application reference 22/01125/DISCON.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, D, G and F; 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 historic character of the building and the amenities of neighbouring properties in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. Prior to occupation of the new dwelling, an electric vehicle charging point shall be provided in accordance with a scheme that has been submitted to and approved in writing by the Local Planning Authority.

Reason: To maximise opportunities for sustainable energy and transport in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD (2016), Policy T3 of the Desford Neighbourhood Plan (2021) and paragraph 155 of the National Planning Policy Framework.

8. The soft landscaping works, including boundary treatments, shall be implemented in full accordance with the approved landscaping scheme approved under application reference 22/01125/DISCON. The soft landscaping scheme 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 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 in writing by the Local Planning Authority.

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

9. The development shall be carried out in full accordance with the recommendations in part 6.4 of the ecological report by Elite Ecology submitted under application 22/00496/FUL received 23/5/22.

Reason: In order to provide biodiversity enhancements and protect habitats in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework.

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.
2. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: ie soakaways, pervious paving, filter drains etc and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.

The porosity test and soakaway design requires the approval of the Building Control Section. The soakaway must be constructed using concrete ring sections with a liftable cover or other approved materials to the satisfaction of the Local Authority.

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).