

## Delegated Report

**Planning Ref: 23/00598/CONDIT**  
**Applicant: Mr R Butler-Milbourne**  
**Ward: Newbold Verdon with Desford & Peckleton**



Hinckley & Bosworth  
Borough Council

**Site: 4 Desford Lane Kirkby Mallory Leicestershire**

**Proposal: Variation of condition 2 (approved plans) of planning permission 21/00561/HOU. Amendments include rebuilding of garage with increase in height and additional external flat roof part enclosed canopy to the side and rear elevations**

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### **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 for permission to develop without complying with a condition previously imposed on a planning permission. In this case, planning permission 21/00561/HOU granted planning permission for the construction of an additional storey and a single storey side extension to a bungalow, 4 Desford Lane, Kirkby Mallory subject to conditions. Condition 2 of the planning permission requires that the development be implemented in accordance with the then submitted and approved plans.
- 2.2. This application seeks planning permission for the variation of condition 2 of that planning permission to enable the development to be implemented in accordance with amended plans which seek to rebuild the previously existing detached flat roof garage with an increase in its parapet roof height and an additional external flat canopy roof to the side and rear elevations. The remainder of the scheme would remain as previously and originally approved.
- 2.3. Amended plans have been submitted to address officer/neighbour concerns in respect of the accuracy and clarity of the amendments being proposed. Re-consultation on the amended plans has been undertaken.

### **3. Description of the site and surrounding area**

- 3.1. The application dwelling is located within the settlement boundary of Kirkby Mallory and to the east of Desford Lane. It has already been extended with an additional storey in accordance with the original planning permission that is the subject of this amended scheme. It is now a two storey detached house with gable sided main roof form. It is constructed with the original red brick ground floor and dark grey monocouche render to the first floor, large plain grey concrete roof tiles and dark grey powder coated aluminium windows. At the time of the site visit the previously existing detached flat roof garage had been demolished awaiting rebuilding in the same position but with a marginally higher parapet roof level to pick up the steels that would support the already approved flat canopy roof across the part front/part side elevation. In addition to the rebuilt garage, an additional four car parking spaces will be made available on the double length driveway and within the hard-surfaced site frontage.
- 3.2. The surrounding area has no defined character with neighbouring properties varying in age, scale, style, design and appearance.

#### **4. Relevant planning history**

##### **21/00561/HOU**

- Construction of additional storey, and single storey side extension
- Permitted
- 29.10.2021

#### **5. Publicity**

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. As a result of public consultation, a response from one neighbouring property has been received raising objections on the grounds that it is very dominant when viewed from the neighbouring garden due to the lower ground level relative to the application dwelling and detrimental impact on amenity due to the design and not being within the character of the immediate area.

#### **6. Consultation**

- 6.1. No response has been received from Kirkby Mallory, Peckleton, Stapleton Parish Council.

#### **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) (2021)
  - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- Good Design Guide (2020)
  - National Design Guide (2019)
  - Local Highway Authority Design Guide

#### **8. Appraisal**

- 8.1. Extensions and alterations to existing domestic properties within settlement boundaries are generally considered to be sustainable development in principle and in this case the principle of development has already been established through the earlier grant of the extant planning permission (reference 21/00561/HOU) on the site. The key issues in respect of this application are therefore:
- Design and impact upon the character of the area
  - Impact upon neighbouring residential amenity
  - Impact upon parking provision
  - Conditions

#### Design and impact upon the character of the area

- 8.2 Policy 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 Supplementary Planning Document (2020) provides further advice in respect of the siting and design of house extensions.
- 8.3 The proposed amendments to the originally approved scheme include the rebuilding of the previously existing flat roof garage in the same position but with a slight increase in its parapet roof height to support the already approved flat canopy roof steels. It is also proposed to extend the originally approved flat canopy roof further to the side elevation and to wrap around and across the rear elevation to the same height. The south side elevation of the extended canopy would be enclosed with external timber (Cedar) cladding whilst the rear (garden) aspect would remain open.
- 8.4 The additional flat canopy roof would be located to the rear of the already approved canopy to the part front and part side elevation and across the rear elevation where it would not be visible from the public highway/street scene. It would be visible from the shared private driveway to the rear of the plot but not visually prominent within it due to the single storey height, flat roof design and screening provided by 2 metres high solid close boarded timber boundary fencing enclosing the rear garden. The additional canopy would be consistent in terms of its scale and design with that already approved within the original scheme and is therefore considered to be an acceptable amendment. By virtue of the additional extent of the flat canopy roof a condition to prevent its use for balcony purposes is considered to be reasonable and necessary by virtue of its close proximity to the neighbouring properties to protect their privacy and amenity.
- 8.5 By virtue of the siting, scale, design and external materials proposed in its construction, the proposed amendment is considered to respect and complement the scale, character and appearance of the existing dwelling and to have no adverse visual impacts on the surrounding area. The amended proposal is therefore considered to be in accordance with Policy DM10 of the adopted SADMP and the general design principles of the adopted Good Design Guide.

#### Impact upon neighbouring residential amenity

- 8.6 Policy DM10 of the adopted SADMP and the adopted Good 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.
- 8.7 A response from one neighbouring property has been received as a result of public consultation raising objections on the grounds that it is very dominant when viewed from the neighbouring garden due to the lower ground level relative to the application dwelling and detrimental impact on amenity due to the design and not being within the character of the immediate area
- 8.8 The additional flat roof canopy would extend further along the south side elevation and across the rear elevation of the dwelling at a height of approximately 3 metres and would be set in from the south side boundary by approximately 2 metres.
- 8.9 The neighbouring property to the south of the site, 10 Main Street, and its approximately 2 metres high boundary fence occupy a lower ground level than the application dwelling and therefore the proposed canopy roof height of 3 metres appears relatively higher. Notwithstanding this, the additional canopy would be set in approximately 2 metres from the boundary and mostly to the north of a hard-

surfaced parking area, albeit there is also a small patio area further to the rear of it adjacent to an outbuilding. It is however considered that the proposal would not result in any significant adverse overbearing impacts or overshadowing to 10 Main Street or any other neighbouring property.

- 8.10 Notwithstanding the differences in ground levels, by virtue of its siting, single storey height, flat roof design and being set in from the south side boundary, the proposed additional flat canopy roof and rebuilt garage would not result in any significant adverse impacts on the residential amenity or privacy of the occupiers of any neighbouring properties. The amended proposal is therefore considered to be in accordance with Policy DM10 of the adopted SADMP and the adopted Good Design Guide.

Impact upon parking provision

- 8.11 Policy DM18 of the adopted SADMP seeks to ensure an appropriate level of parking provision of appropriate design.
- 8.12 The originally approved scheme provided adequate off-street parking for up to five cars within the garage and on the hard-surfaced double length driveway and site frontage. The amended proposal would have no impact on this provision which would remain available within the site once construction works have been completed. The level of retained off-street parking provision would be adequate to serve the resulting three bedroomed dwelling and in accordance with Policy DM18 of the adopted SADMP and the local highway authority design guide standards.

Conditions

- 8.13 The original planning permission reference 21/00561/HOU was subject to 5 conditions. The development has already commenced and is substantially complete and therefore Condition 1 (Time) is no longer necessary. Condition 2 (Approved Plans) will need to be amended to refer to the amended plans submitted with this application. Condition 3 (Materials) will need to be amended to refer to the amended finishes plan submitted with this application which includes the use of timber Cedar cladding to the side elevation of the extended canopy roof. Conditions 4 and 5 (Bat box provision and Bat Mitigation Strategy) should be repeated to ensure protection of this protected species whilst construction works are ongoing.
- 8.14 By virtue of the additional extent of the flat canopy roof an additional condition to prevent its use for any balcony purposes is considered to be reasonable and necessary in this case by virtue of its close proximity to the neighbouring properties to protect their privacy and amenity.

## **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 for an extension to an existing dwelling within the settlement of Kirkby Mallory where there is a general presumption in favour of sustainable development as set out in Policy DM1 of the adopted SADMP and the overarching principles of the NPPF.
- 10.2. By virtue of the siting, scale, design and external materials proposed in its construction, the proposed amendment is considered to respect and complement the scale, character and appearance of the existing extended dwelling and to have no adverse visual impacts on the surrounding area or any significant adverse impacts on the residential amenity or privacy of the occupiers of any neighbouring properties. The resulting three bedroomed dwelling would be served by adequate off-street parking for up to five cars and adequate private amenity space of over 150 square metres. The amended proposal is considered to be in accordance with Policies DM1, DM10 and DM18 of the adopted SADMP and the general principles of the adopted Good Design Guide and is therefore recommended for approval subject to amended and repeated conditions of the original planning permission and an additional condition.

## **11. 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 not be carried out otherwise than in complete accordance with the submitted application details, as follows: Proposed South Elevation Rev 2.0 and Proposed Rear Elevation Rev 2.0 received by the local planning authority on 3 August 2023, Proposed First Floor Plan Rev 2.0 and Proposed Roof Plan Rev 2.0 received by the local planning authority on 1 August 2023, Proposed Ground Floor Plan Rev 1.6 and Proposed Finishes Drawing Rev 1 received by the local planning authority on 15 June 2023, Proposed Front Elevation Rev 1.0, Proposed North Elevation Rev 1.0 and Site Location Plan received by the local planning authority on 4 May 2021.

**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).

2. The materials to be used on the external elevations of the proposed extensions and alterations shall be as constructed and in accordance with the approved Proposed Finishes Drawing Rev 1 received by the local planning authority on 15 June 2023.

**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).

3. The extensions and alterations hereby approved shall include at least one crevice-type bat box positioned in a suitable location in/on the dwelling.

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site to accord with in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby approved shall be carried out in full accordance with the bat mitigation strategy and recommendations specified in the Bat Survey by Midland Ecology dated August/September 2021 and received by the local planning authority on 15 October 2021.

**Reason:** In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. The flat roofed canopy hereby permitted shall not at any time be used as a balcony or sitting out area neither shall any balustrade, railings, wall or other means of enclosure be erected on any part of the flat roof.

**Reason:** To protect the residential amenity and privacy of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

### 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](mailto:buildingcontrol@hinckley-bosworth.gov.uk) or call 01455 238141.