

Delegated Report

Planning Ref: 23/00758/FUL

Applicant: Mr R Sheppard

Ward: Ambien

Site: Basin Bridge Bungalow, Hinckley Lane, Higham On The Hill

Proposal: Demolition of existing bungalow and construction of single dwelling including revised access, parking and landscaping



Hinckley & Bosworth
Borough Council

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The proposal seeks the demolition of the existing bungalow and construction of a single dwelling, including a revised access, parking and landscaping.

3. Description of the site and surrounding area

- 3.1. The application site is located to the east of Higham on the Hill; outside the settlement boundary and therefore in the countryside. It is located within an agricultural site with associated cattle buildings to the north, the wider area is characterised by agricultural fields to the north, south and west. To the east of the site is the Ashby Canal which is designated as a conservation area and has a public footpath running adjacent to it. The application site comprises a hay storage area and a large undeveloped area currently used for storage on the southern side with a single storey bungalow to the north.

4. Relevant planning history

19/00676/FUL

Replacement dwelling

Planning permission

02.10.2019

17/00695/FUL

Demolition of existing dwelling and erection of replacement two-storey, two-bedroom dwelling.

Refused (appeal dismissed)

31.08.2017

16/00273/FUL

Erection of replacement dwelling

Planning permission

20.06.2016

5. Publicity

- 5.1. The application has been publicised by posting letters to neighbours and a site notice posted within vicinity of the site.
- 5.2. No responses have been received.

6. **Consultation**

- 6.1. HBBC Pollution: No objections, condition recommended and included as part of this report.
- 6.2. HBBC Drainage: No objections, notes to applicant.
- 6.3. LCC Ecology: No objection subject to conditions.
- 6.4. LCC Highways: No objection, subject to conditions.
- 6.5. Canal & River Trust: No comments.
- 6.6. Higham on the Hill Parish Council: objection to the proposal due to the setting and design within the Countryside and within proximity to the canal and conservation area.
- 6.7. LCC Tree Officer: No comments.
- 6.8. HBBC Conservation Officer: No objections, negligible impact upon the conservation area due to retention of boundary treatments.
- 6.9. Inland Waterways Association: No objections subject to condition to protect and enhance the existing boundary treatment towards the canal.

7. **Policy**

7.1. **Site Allocations and Development Management Policies DPD (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 DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM14: Replacement Dwellings in the Rural Area
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.2. **Core Strategy (2009)**

- No relevant policies

7.3. **National Planning Policies and Guidance**

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

7.4. **Other relevant guidance**

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

8. **Appraisal**

8.1. **Key Issues**

- Assessment against strategic planning policies
- Design and impact upon the character of the area and conservation area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Ecology, Biodiversity and Geological Interests

Assessment against strategic planning policies

- 8.2. Paragraph 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. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. Paragraph 12 of the NPPF states 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, permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The development plan in this instance consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).
- 1.1. The application site is located within the countryside and therefore Policy DM4 of the SADMP is applicable. This Policy seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside from unsustainable development. It also identifies several developments that are considered to be sustainable developments within the countryside. A replacement dwelling in the countryside is not identified as a sustainable development in accordance with Policy DM4 of the SADMP. However, the replacement of a dwelling is considered separately, under Policy DM14 of the emerging SADMP.
- 1.2. Policy DM14 of the emerging SADMP states that 'a proposal for the demolition and rebuilding of an existing dwelling outside the settlement boundary will only be considered acceptable where:
- It leads to an enhancement of the immediate setting and general character of the area
 - The new dwelling is proportionate to the size, scale, mass and footprint of the original dwelling and situated within the original curtilage
 - The proposed development accords with Policy DM10, DM11 and DM12.
- 8.4. Applications for replacement dwellings have previously been approved on the site, The previous applications established that the existing building on-site was a dwelling and that the residential use had not been abandoned. Therefore, the application would constitute an application for a replacement dwelling.
- 8.5. The principle of the development of the site for a single-storey replacement dwelling has already been established. However, previous permissions sought for a two storey dwelling have been refused due to urbanising impacts on the countryside. This application seeks to gain permission for a two storey dwelling with amended design and landscaping to alleviate these issues.
- 8.6. It is considered that the proposed development would constitute a replacement dwelling in the countryside and therefore is acceptable in principle, in accordance with Policy DM14 of the SADMP, subject to satisfying the criteria within the policy, assessed further below, and all other applicable policies and material planning considerations.

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

- 8.7. Policy DM4 of the SADMP seeks to protect the intrinsic value, beauty, open character and landscape character of the countryside.

- 8.8. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.9. Policies DM11 and DM12 of the SADMP seek to protect and enhance heritage assets. The application site is located adjacent to the Ashby Canal which is a conservation corridor.
- 8.10. Policy DM14 seeks to ensure replacement dwellings lead to an enhancement of the immediate setting and general character of the area and the new dwelling is proportionate to the size, scale, mass and footprint of the original dwelling and situated within the original curtilage.
- 8.11. The proposed replacement dwelling is located centrally to the site, and its two storey in nature. The proposal seeks to retain and enhance the landscaping on site to reduce any visual amenity impacts to the countryside and conservation area. It is considered that through the amended design submitted as part of this application, the dwelling would not look out of character within the setting, through its rural design and natural materials used.
- 8.12. Whilst it is acknowledged that previously two storey dwellings have been considered unacceptable due to an urbanising impact on the site, the amended design and proposed materials under this proposal are satisfactory to reduce these impacts. Through improved landscaping on site it is considered that there would be an enhancement to the immediate setting, subject to detail which would be required by condition.
- 8.13. Ashby Canal Conservation Area is located along the eastern boundary of the application site so this proposal is located within its immediate setting. The Ashby Canal Conservation Area Appraisal (2009) identifies that despite its industrial origins the Ashby Canal has a semi-rural character as it meanders through the west Leicestershire countryside. Such a character is apparent along the boundary to the application site, with a band of established vegetation flanking the canal towpath and providing a strong visual screen.
- 8.14. As the proposal seeks to retain the existing vegetation along the eastern boundary of the site and adjacent to the canal towpath it is considered that the increased scale and alternative layout of the replacement dwelling will have no more than a negligible, and not adverse visual impact upon the character of the Ashby Canal Conservation Area, thus preserving its significance.
- 8.15. For reasons of visual amenity it is judged to be necessary to removed certain PD rights which could increase the scale and extent of built form of the dwelling and within its curtilage. The proposal is in a sensitive location with it being adjacent to the canal conservation area, in the countryside and a replacement dwelling amongst other matters. In its current format the proposal would not harm the conservation area and complies with the above policies with regards to its design and impact on the countryside. Furthermore policy DM14 requires that replacement dwellings are proportionate to the size, scale, mass and footprint of the original dwelling and leads to an enhancement of the immediate setting and general character of the area. Whilst some extensions/alterations may be acceptable, unconstrained extensions/alterations have potential to harm the visual amenities of the area in conflict with the aims of the aforementioned policies the removal of specific PD rights in this case are considered to be justified.
- 8.16. Overall, it is considered that the proposal is in accordance with Policies DM4, DM10, DM11, DM12 and DM14 of the adopted SADMP.

Impact upon neighbouring residential amenity

- 8.17. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.18. The site is not located within close proximity to any neighbouring residential properties and as such it is considered to have no detrimental impacts to neighbouring amenity in terms of loss of light, overbearing impacts, loss of privacy or noise impacts.
- 8.19. As such it is considered that the proposal is in general accordance with Policy DM10 of the SADMP and the guidance set out within the Good Design Guide.

Impact upon highway safety

- 8.20. Policies DM17 and DM18 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety and requires new development to provide an appropriate/justified level of parking provision.
- 8.21. The application is proposing to relocate the access slightly further west of the existing access currently in situ on Hinckley Lane. The proposed access would be approximately 60m to the west of the canal bridge. Hinckley Lane at the location of the proposed site access is an adopted, unclassified road subject to a 60mph speed limit.
- 8.22. The Applicant also demonstrates on 'Upgraded Site Access With Vis Splays and Tracking' drawing number 3065-03 access radii of 6m (west of access) and 8m (east of access) either side of the proposed access, whilst the tracking demonstrates HGV's accessing and egressing the site by utilising the entire access width, this is still seen as an improvement over the existing access. It should also be noted this is an existing situation with no intensification of HGV's expected given the proposals. The LHA are also aware of vehicle overrun at the existing access leading to severe highway verge damage. As such, the LHA find this acceptable in these site specific circumstances.
- 8.23. The LHA have confirmed that they have no objections to the proposal and with the site specific circumstances believe that the proposal would not have a detrimental impact to highway safety or vehicle parking standards, subject to planning conditions outlined at the end of this report.
- 8.24. As such it is considered that the proposal is in general accordance with Policies DM17 and DM18 of the SADMP.

Ecology, Biodiversity and Ecological Interests

- 8.25. Policy DM6 confirms that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value including proposals for their long term future management.
- 8.26. LCC Ecology have been consulted as part of this application, and offer no objections to the proposal and are satisfied with the applicants Ecological Impact Assessment. This is subject to planning conditions outlined at the end of this report, in accordance with the request from LCC Ecology.

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. It is considered that the proposal has limited impacts on the character of the area and countryside, neighbouring amenity and highways safety. The proposal therefore complies with Policies DM4, DM6, DM10, DM11, DM12, DM14, DM17 and DM18 of the SADMP.
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 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:

Highways Statement
Phase I Geo-Environmental Desk Study
Arboricultural Implication Study
Planning Statement
Ecological Impact Assessment
Site Location Plan
Site Plan as Existing Drg No. 22-106-S0001-P1
Site Plan as Proposed Drg No. 22-106-K0001-P3
Site Plan as Proposed Details Drg No. 22-106-K0002-P2

Plans as Proposed Drg No. 22-106-K0003-P2
Elevations as Proposed Drg No. 22-106-K0004-P3

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. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with Site Plan As Proposed Detail, drawing number 22-106-K0002-P2. Thereafter the onsite parking and turning provision shall be kept available for such use 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 Policy DM18 of the SADMP and the National Planning Policy Framework (2023).

4. No part of the development hereby permitted shall be occupied until such time as the access arrangements including visibility splays of 2.4 metres by 66 metres to the west and 2.4 metres by 42 metres to the east of the access as demonstrated on Upgraded Site Access With Vis Splays and Tracking, drawing number 3065-03 have been implemented in full. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, and to afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network in the interests of general highway safety and in accordance with Policy DM17 of the SADMP and the National Planning Policy Framework (2023).

5. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 11 metres behind the highway boundary and, once provided, shall be so maintained in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with Policy DM17 of the SADMP and the National Planning Policy Framework (2023).

6. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access unless set back a minimum of 11 metres behind the highway boundary.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic including pedestrians in the public

highway in accordance with Policy DM17 of the SADMP and the National Planning Policy Framework (2023).

7. The new vehicular access hereby permitted shall not be used for a period of more than six months from being first brought into use unless the existing vehicular access on Hinckley Lane has been stopped up and removed in accordance with drawing no. 3065-03 in the MTC Highways Statement. Thereafter the access shall be closed permanently in accordance with the approved details.

Reason: In the interests of highway and pedestrian safety in accordance with Policy DM17 of the SADMP and the National Planning Policy Framework (2023).

8. No development approved by this permission shall be commenced until a scheme for the investigation of any potential land contamination on the site has been submitted to and agreed in writing by the Local Planning Authority which shall include details of how any contamination shall be dealt with.

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).

9. The approved scheme shall be implemented in accordance with the agreed details and any remediation works so approved shall be carried out prior to the site first 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).

10. 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 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 site first 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).

11. Prior to commencement a Construction and Environmental Management Plan (CEMP) shall be submitted in writing to and approved by the Local Planning Authority, ensuring that there are no direct impacts on the site as a result of the construction phase. This shall include mitigation for pollution runoff (e.g. fuel spills, surface water/siltation and lighting). Protection measures for the single retained tree identified as having low bat roost potential shall be included with the CEMP.

Reason: To ensure that biodiversity, ecological and geological interests are protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. No development shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted in writing to and approved in writing by the Local Planning Authority. The scheme shall include:
Hard and soft landscaping works, including boundary treatments;
Newly planted hedgerow to mitigate against the loss of circa 17m of native hedgerow;
All other recommended biodiversity enhancements identified within the 'Ecological Impact Assessment'; and
An implementation scheme.

Thereafter the scheme shall be carried out in full accordance with the approved landscaping scheme, including the implementation time periods. 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 biodiversity, ecological and geological interests are protected and to ensure that the development has a satisfactory external appearance and leads to an enhancement to the immediate setting in accordance with Policies DM4, DM6, DM10 and DM14 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. Prior to commencement a Lighting Strategy shall be submitted to and approved by the Local Planning Authority. Ensuring that there are no adverse impacts upon nocturnal wildlife. The lighting strategy should include the location and specification for any proposed lights on the site and should reflect the latest Bat Conservation Trust's (BCT) Bats and Lighting in the U.K. guidance.

Reason: To ensure that biodiversity, ecological and geological interests are protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. Prior to commencement a Method Statement (MS) combined with precautionary working measures and an ecological watching brief shall be submitted to and approved by the Local Planning Authority. The demolition of the bungalow hereby approved shall only take place in accordance with the submitted MMS to ensure there are no impact upon roosting bats. A copy of the MS shall be made available to site workers and displayed on site during the site clearance and demolition,

Reason: To ensure that biodiversity, ecological and geological interests are protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

15. Notwithstanding Condition 12, the vegetation, trees and existing hedgerow sited to the west of the site, located adjacent to the Ashby Canal, shall be maintained in perpetuity. Any trees, shrubs or hedgerow die or are damaged,

removed or seriously diseased shall be replaced by trees, shrubs or hedgerow of a similar size and species, at which time shall be specified in writing by the Local Planning Authority.

Reason: To safeguard the visual amenity of the countryside and conservation area in accordance with Policies DM4, DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

16. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, E and F and Article 3, Schedule 2, Part 2 Class A 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 or within its curtilage shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To safeguard the visual amenity of the countryside and conservation area in accordance with Policies DM4, DM10, DM14, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

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. 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. Any proposed 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).
3. Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.
4. In relation to conditions 8 and 9, advice from Environmental Health should be sought via esadmin@hinckley-bosworth.gov.uk to ensure that any investigation

of land contamination is in accordance with their policy.