

Delegated Report

Planning Ref: 24/00678/FUL

Applicant: Melvyn Mandy Terry Wendy - Noakes Williams Noakes Pettifor

Ward: Twycross, Sheepy & Witherley

Site: 17 Bridge Lane, Witherley, Atherstone

Proposal: Erection of a single dormer bungalow with associated access and parking.



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 planning application proposes the erection of a single dormer bungalow with associated access and parking. The proposal includes two off-street car parking spaces to the site frontage with Bridge Lane, with associated garden land to the rear.
- 2.2. The dwelling would sit adjacent to 17 Bridge Lane in a similar building line and would be a 1.5 storey detached property with 2 bedrooms. Materials include red brick, off-white render and grey concrete roof tiles.
- 2.3. A previous application for two dwellings on the site was refused, with an appeal dismissed in 2022. This application differs from that previously proposed as it comprises just one dwelling which has been sited further from the southern boundary of the site.

3. Description of the site and surrounding area

- 3.1. The application site is located on Bridge Lane, Witherley. The site is within close proximity to the A5, and is within close proximity to Witherley Conservation Area. The site consists of a single dormer bungalow and associated garden land, with off-street parking afforded to the dwelling. The site is also adjacent to a number of dormer properties along the A5, which are of a mix of designs and materials.

4. Relevant planning history

22/00447/FUL

Proposed construction of 2no detached dwellings with vehicular access and parking
Refused

Appeal Dismissed

25.11.2022

5. Publicity

- 5.1. The application has been publicised by posting neighbour letters. A site notice was posted within the vicinity of the site, and a public notice was posted in the Atherstone Herald.
- 5.2. One objection has been received which raised concerns relating to:
 - Overshadowing impacts
 - Overlooking/Loss of privacy
 - Discrepancies with neighbouring plot on site plan

6. **Consultation**

- 6.1. HBBC Pollution: No objections.
- 6.2. Environment Agency: No objections, note to applicant.
- 6.3. LCC Drainage: No objections.
- 6.4. HBBC Drainage: No objections, note to applicant.
- 6.5. HBBC Waste Management: No objections.
- 6.6. LCC Highways: No objections.
- 6.7. HBBC Conservation: No objections, wall requested to be retained if compatible with Highways constraints.
- 6.8. LCC Ecology: No objections.

7. **Policy**

7.1. **Core Strategy (2009)**

- Policy 12: Rural Villages

7.2. **Site Allocations and Development Management Policies DPD (2016)**

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM11: Protecting and Enhancing the Historic Environment
- Policy DM12: Heritage Assets
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3. **National Planning Policies and Guidance**

- National Planning Policy Framework (NPPF) (2023)
- 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
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Biodiversity Net Gain
- Planning Balance

Assessment against strategic planning policies

- 8.2. The 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 current development plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough.
- 8.4. The Emerging Local Plan for 2020-2041 is currently at Regulation 18 stage, with the public consultation running from Wednesday 31 July to Friday 27 September 2024. The latest Local Development Scheme (LDS), was published on 08 February 2024. The update revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including the Regulation 19 Consultation which is not scheduled until January-February 2025. Given the early stage of the Emerging Local Plan and outstanding evidence, the emerging policies are attributed very limited weight.
- 8.5. The Council has published an updated 5yr housing land supply calculation (Monday 29th July 2024). This updates the 5yr housing land supply position from March 2023 to March 2028 and demonstrates a 5.6yr supply of housing, with a surplus supply of 145 dwellings over the five year period.
- 8.6. For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of relevant housing policies in the Core Strategy, in accordance with paragraph 11d) of the NPPF, the Council should still grant permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.7. Policy 12 of the adopted Core Strategy states that rural villages are less sustainable areas for development than Key Rural Centres as car travel will be required in most cases to access employment and services. However, some level of development is considered necessary to ensure existing services and community cohesion is maintained. Policy 12 supports housing development that is within settlement boundaries and provides a mix of housing types and tenures as detailed in Policy 15 and Policy 16 of the adopted Core Strategy. This application is within the settlement boundary of Witherley and is supported by Policy 12 of the adopted Core Strategy. However, this application is for the erection of one dwelling and therefore the requirements of Policies 15 and 16 are not applicable.
- 8.8. The development site is small scale development located within the settlement boundary of Witherley and is therefore acceptable in principle in accordance with Policy 12 of the Core Strategy.

Design and impact upon the character of the area

- 8.9. 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. Paragraph 134

of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 8.10. Policies DM11 and DM12 of the SADMP seek to protect and enhance heritage assets. The application site is located adjacent to the Witherley Conservation Area.
- 8.11. The application site consists of a dormer bungalow, fronted by a detached garage and with a large garden plot to the side and rear. The Witherley Conservation Area boundary is located on the opposite side of Bridge Lane to the application site, and in this location the boundary is defined by a historic brick wall that runs along the Lane. Bridge Lane links the historic core of Witherley Village with the Roman road Watling Street (now the A5). The dormer bungalow dates from the mid-20th century and is of a form, appearance and materiality that does not follow the traditional characteristics of the conservation area. At best, it is a neutral presence within the wider setting of the conservation area, with the application site making no contribution to its heritage significance.
- 8.12. The proposal is for a detached dwelling sited to the south of 17 Bridge Lane and set back on the same building line. It would be a dormer bungalow with front projecting gable and have a modest footprint. It would be constructed of brick and render with a tiled roof. Whilst not having a form or appearance that closely follows the traditional characteristics of the conservation area, as for the existing dwelling, it is considered that the proposed additional dwelling would also be a neutral presence within the wider setting of the conservation area, and thus preserve its significance. As a result, the proposal would comply with Policies DM11 and DM12 of the Site Allocations and Development Management Policies DPD and section 16 of the National Planning Policy Framework.
- 8.13. There is currently a tall, and what appears to be in parts, historic, brick wall along the southern section of the front boundary of the site to Bridge Lane. Despite a stepping down of the wall towards the access point, the wall is considered to have an enclosing presence to the street scene which complements the historic wall on the opposite side of the Lane. The site plan indicates that the wall is likely to be removed and replaced with a hedgerow that curves around a tree, with both being located to the south of the access point. It was questioned whether the retention of this wall could be considered, however with the relevant highways requirements this is not achievable, and whilst regrettable is not considered to cause significant detriment.
- 8.14. The development's massing is similar to that of the existing dwelling and the 1.5 storey bungalows south on Watling Street. The three-storey property at No. 2 Witherley Road is only 45m from the site and there are also notable two-storey properties such as the adjacent neighbouring property to the North and No. 3 Bridge Lane. It is therefore considered that the scale and massing of the scheme respect the character of the street scene.
- 8.15. The second plot has been removed since the previous application and dismissed appeal result in one single dwelling which is set back from the highway in line with the building line of the host dwelling, no backland development is proposed. Thus the design issues raised previously have now been overcome.
- 8.16. The proposed materials of brickwork and render remain to be in keeping the surrounding dwellings and character of the street scene and sufficient landscaping is proposed to the front of the dwelling in compliance with the Good Design Guide.

- 8.17. As a result, the proposal would comply with Policies DM10, DM11 and DM12 of the Site Allocations and Development Management Policies DPD and section 16 of the NPPF and the Good Design Guide with regards to its design.

Impact upon neighbouring residential amenity

- 8.18. 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.
- 8.19. The development is sited within close proximity to the existing dormer bungalow on Bridge Lane, and with a number of bungalows located on the A5, 4-6 Watling Street. The proposed development is for a dormer bungalow, of a similar scale to the existing bungalow on site.
- 8.20. The previous Inspector stated that a 1.5 storey dwelling in this location should be located at least 12m from the principal windows in dwellings at 4-6 Watling Street. This separation distance has been exceeded at 13.4m. The dwelling is offset for both of the rear gardens at 4 and 6 Watling Street meaning both properties also retain a sense of outlook and lack of enclosure for parts of their garden boundaries. Furthermore the dwelling is sited due north of these properties which result in no adverse overshadowing. With the exception of one obscure glazed bathroom window no windows are proposed in the side elevation facing 4-6 Watling Street. Concerns have been raised with regards to the first floor bedroom window which is proposed in the western/front elevation. This window would not directly overlook number 4 Watling Street due to the oblique angle between it and the dwelling. Some views may be possible of the westernmost part of this dwelling and its garden, however, given the angle of sight officers are satisfied that this would not be so significant as to warrant refusal of the application.
- 8.21. Comments have been made that a neighbouring extension has not been shown on the proposed site plan, this is noted. Officers have conducted the appraisal in the knowledge of the extension that has occurred and the situation on the ground.
- 8.22. The host dwelling 17 Bridge Lane has no sole habitable room windows on its southern elevation and the proposed dwelling does not protrude beyond its front or rear elevations. Therefore the scheme would not result in additional loss of light or an adverse sense of enclosure. No habitable room windows would overlook the site.
- 8.23. As such the proposal is considered in accordance with Policy DM10 of the SADMP,

Impact upon highway safety

- 8.24. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the SADMP requires new development to provide an appropriate/justified level of parking provision.
- 8.25. Leicestershire County Council were consulted as part of this application and have confirmed that they have no objections to the proposal. The site is not considered to cause detrimental impacts to highway safety and sufficient car parking and turning facilities are afforded to the proposed two bedroom dwelling, as such it is considered that the proposal is in accordance with Policies DM17 and DM18 of the adopted SADMP.

Ecology/ Biodiversity Net Gain

8.26 Policy DM6 seeks to ensure that on site features are retained or included which safeguard and enhance biodiversity. The development is not exempt from the mandatory Biodiversity Net Gain requirements.

8.27 As can be seen within the applicants BNG covering letter, the proposed site design (while providing a small gain) does not currently meet the requirement for a 10% net gain in biodiversity. The shortfall is for 0.0054 Biodiversity Units. Options have been explored by the applicant for addressing this shortfall on site, but unfortunately no viable alternatives present themselves. To provide even this small fraction of a Biodiversity Unit on site would require an increase in garden area (and so corresponding decrease in either building or driveway) of 25sqm. This space does not appear to be available. Specifically, it was suggested that new tree planting could produce the required increase. Unfortunately, DEFRA guidance regarding the metric is very clear that newly planted trees within private gardens cannot count towards BNG, as there is no mechanism to ensure that the trees will be permanent (i.e. new owners may remove them). 0.0054 Biodiversity Units will therefore be purchased in order to achieve the statutory 10% net gain in biodiversity. The deficit is caused by the loss of low distinctiveness habitat, and as such can be offset against any type of Biodiversity Unit (i.e. all offset habitats will satisfy the metric's Trading Rules). Multiple providers offer BU in small enough fractions of a unit to make this approach viable / cost-effective.

8.28 LCC Ecology have been consulted as part of this proposal and have confirmed that they accept this covering letter and have no further objections to the proposal.

8.29 The application will be subject to the standard, mandatory BNG 'pre commencement condition', meaning that the development cannot commence until the final Gain Plan and details of the Biodiversity Units purchased have been submitted to and approved by the Council.

9. Planning Balance

10.1 Currently the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

10.2 No detrimental impacts have been identified as a result of the proposal and as such the proposal is considered acceptable and is granted planning permission.

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 is considered acceptable due to the limited impacts upon the character of the area and the amenity of adjacent buildings. It is considered that the proposed development would be in accordance with Policies DM10, DM11, DM12, DM17 and DM18 of the adopted SADMP.

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 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:

Location Plan Drg No. 100A
Proposed Site Plan Drg No. 160A
Proposed Floor Plans and Elevations Drg No. 250A

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 materials to be used on the proposed elevations of the extensions shall accord with the approved materials detailed within the application form.

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

4. Prior to first occupation of the dwelling hereby approved a scheme of hard and soft landscaping works, including boundary treatments, for the site, including an implementation scheme and landscape management plan, shall be submitted in writing to and approved in writing by the local planning authority.

The soft landscaping scheme shall be in accordance with any soft landscaping approved as part of the Biodiversity Net Gain Plan.

The landscape management plan shall include long term objectives, management responsibilities and maintenance schedules for all soft landscape areas.

Thereafter the development shall be carried out and managed in full accordance with the approved landscaping scheme.

Reason: To ensure that the development has a satisfactory external appearance, that landscaping is thereafter maintained and that the development delivers a biodiversity net gain on site in accordance with Policy DM6 and DM10 of the Site Allocations and Development Management Policies DPD 2016, Schedule 7A of the Town and Country Planning Act 1990 and the National Planning Policy Framework (2023).

Notes to applicant

1. Your attention is drawn to the below Biodiversity Net Gain note which explains that the development is subject to the statutory "biodiversity gain condition". A Biodiversity Gain Plan needs to be submitted to and approved in writing by Hinckley and Bosworth Borough Council prior to commencement of development.
2. 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.
3. 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).
4. Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality – considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order: 1) Connection to the public sewer; 2) Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation); 3) Septic Tank. Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2010

any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, addition to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

Please note that the granting of planning permission does not guarantee the granting of an Environmental Permit. Upon receipt of a correctly filled in application form we will carry out an assessment. It can take up to 4 months before we are in a position to decide whether to grant a permit or not.

Domestic effluent discharged from a treatment plant/septic tank at 2 cubic metres or less to ground or 5 cubic metres or less to surface water in any 24 hour period must comply with General Binding Rules provided that no public foul sewer is available to serve the development and that the site is not within an inner Groundwater Source Protection Zone.

A soakaway used to serve a non-mains drainage system must be sited no less than 10 metres from the nearest watercourse, not less than 10 metres from any other foul soakaway and not less than 50 metres from the nearest potable water supply.

Where the proposed development involves the connection of foul drainage to an existing non-mains drainage system, the applicant should ensure that it is in a good state of repair, regularly de-sludged and of sufficient capacity to deal with any potential increase in flow and loading which may occur as a result of the development.

Where the existing non-mains drainage system is covered by a permit to discharge then an application to vary the permit will need to be made to reflect the increase in volume being discharged. It can take up to 13 weeks before we decide whether to vary a permit.