

Planning Statement

Conversion of previously approved garage and store to a separate dwelling

**The Oaks, Main Street, Botcheston,
Leicestershire, LE9 9FF**

Client Name: Mr Robert Beaumont

Date of Issue: August 2023

Local Authority: Hinckley and Bosworth Borough Council

Prepared by: J J M Planning



J J M Planning

Independent Planning Consultancy Services

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1.0 INTRODUCTION, SITE DESCRIPTION AND PROPOSAL

- 1.1 This planning statement has been prepared on behalf of Mr Robert Beaumont in support of a planning application for the conversion of a previously approved garage and store to a separate dwelling at The Oaks, Main Street, Botcheston.
- 1.2 This statement should be read in conjunction with the accompanying documents which include:
 - Plans and drawings prepared by R3Design;
 - Application form.
- 1.3 This statement describes the application site, the locality and comments on the relevant Development Plan and national policy framework policies. It goes onto provide an assessment of the proposal in relation to the relevant policies and a conclusion that assesses the planning balance.
- 1.4 The Oaks is a two storey residential property that is set back from Main Street by around 60 metres. The main property benefits from a detached building located to the south-east which is the subject of this application. To the south, the site abuts the open countryside, with residential properties to the north. The site gradually slopes away to the south from Main Street. There is a public footpath which runs north/south to the west of the site.
- 1.5 The building that is subject to this application was granted planning permission under application reference 14/00446/COU. The planning permission was granted on 4th September 2014 and allowed for a garage and store with accommodation above. Condition 4 of this planning permission required the building to remain ancillary to the main dwelling and for it not be occupied or used as a separate unit.
- 1.6 The building has remained ancillary to the main dwelling since its construction and has been used as a residential annexe and for storage purposes in association with the main dwelling (rather than as a garage and store). The annexe is utilised by Nicholas Lovell and Elizabeth Lovell who are the applicant's parents in law. Mr and Mrs Lovell socialise with the occupants of the host dwelling on a daily basis and eat together at least twice a week. The garage and outbuilding that exists at ground floor level within the building is shared by the occupants of the annexe and the occupants of the main dwellinghouse as is the garden belonging to the host dwelling. The annexe does not have its own address, does not pay separate council tax and does not have its own separate utility supplies. On this basis, it can be reasonably concluded that the existing accommodation is being used as an annexe and not as a separate dwellinghouse.

- 1.7 The building was constructed in 2017 in accordance with Building Regulation approval 15/50192/IN and contains a number of minor alterations to that shown on the approved plans. These include:
- A flue has been inserted into the roofslope;
 - The log store has been filled in;
 - A rooflight has been inserted into the monopitched roof on the side elevation;
 - Glazed full height doors have been inserted to the front elevation;
 - A ground floor window has been installed on the side elevation;
 - An enlarged fire escape rooflight has been inserted into the front roofslope.
- 1.8 These works are not considered to be material in comparison to the approved planning drawings when having regard to their scale and nature. In any case they have been in place in excess of 4 years and are now lawful and immune from enforcement action. No additional external alterations are proposed as part of the current application.
- 1.9 The proposals consist of the conversion of the existing building to form a separate dwellinghouse. At ground floor level the dwelling would benefit from a garage/store and then a hall, WC, lounge and kitchen. At first floor level the dwelling would benefit from a landing, bathroom and two bedrooms.
- 1.10 The submitted plans show dedicated areas of car parking to the front of the building and an enclosed amenity space located to the north-eastern side of the building. Parking for the host dwelling would be provided by utilising the existing gravel turning area which is located to the front of the host dwelling.
- 1.11 Access to the site is from Main Street and this would remain unaffected by the proposed development.

2.0 PLANNING HISTORY

2.1 The site has been subject to the following planning applications:

ERECTION OF ONE DWELLING

Ref. No: 08/00023/FUL | Status: Refused

ERECTION OF ONE DWELLING

Ref. No: 08/00843/FUL | Status: Planning Permission

Change of use of land to form part of the existing residential curtilage including demolition of outbuilding and reconstruction of garage and store

Ref. No: 14/00446/COU | Status: Planning Permission

Proposal for a lake no larger than 980 square metres to be used for horticultural purposes.

Ref. No: 23/00333/AGDO | Status: GDO Prior Approval Refused

Continued use of land as residential garden and retention of machinery shed and summer house

Ref. No: 23/00502/CLE | Status: Planning Permission

Proposed single storey rear extension and retention of existing timber shelter

Ref. No: 23/00530/HOU | Status: Planning Permission

3.0 MAIN ISSUES

- 3.1 Section 70(2) of the Town and Country Planning Act 1990 requires that when dealing with an application for planning permission, Local Planning Authorities must have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section S38(6) of the Planning and Compensation Act 2004 requires that decisions on planning applications should be made in accordance with the policies of the development plan unless material considerations indicate otherwise.
- 3.2 Having regard to the above, it is considered that the main issues raised by the application are:
1. Principle of the development
 2. Design and visual amenity
 3. Residential amenity
 4. Highway safety and off-street parking
 5. Other matters
- 3.3 The main planning policies that are relevant to these main issues are included in Section 5.0 below.

4.0 PLANNING POLICIES

- 4.1 The (revised) National Planning Policy Framework (2021) (NPPF) confirms that it does not change the statutory status of the development plan as the starting point for decision making. It also confirms its status as a material consideration in determining planning applications. The NPPF continues to advise that proposed development that accords with an up-to-date local plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise. The NPPF also advises that due weight should be given to development plan policies according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).
- 4.2 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, an application for planning permission should be determined in accordance with the Development Plan unless other material considerations indicate otherwise.
- 4.3 The policy context for this application is provided by the development plan and national planning policy in the NPPF as well as Planning Practice Guidance issued in April 2014 (as subsequently amended) (PPG). The development plan includes the Core Strategy (adopted 2009) (CS), the Site Allocations and Development Management Policies DPD (adopted 2016) (SADMP) and the Desford Neighbourhood Plan (adopted 2020) (DNP).
- 4.4 Those policies which are the most important for determining this planning application are set out below:

Core Strategy (2009)

- 4.5 *Policy 13 – Rural Hamlets* provides the policy framework for Rural hamlets. Botcheston is identified as a rural hamlet which have limited services and generally rely on Key Rural Centres or surrounding urban areas for schooling, employment and the provision of goods and services. Given the limited services in these Rural hamlets, development is confined to infill housing or for 'local need' through local choice or rural exemption sites.

Site Allocations and Development Management Policies DPD (2016) (SADMP)

- 4.6 *Policy DM1 – Presumption in Favour of Sustainable Development* repeats the presumption in favour as found in the Framework.
- 4.7 *Policy DM4 – Safeguarding the Countryside and Settlement Separation* seeks to protect the intrinsic value, beauty, open character and landscape character from unsustainable development and lists suitable sustainable development, subject to satisfying certain criteria.

- 4.8 *Policy DM7 – Preventing Pollution and Flooding* seeks to ensure that development does not create or exacerbate flooding.
- 4.9 *Policy DM10 – Development and Design* provides a series of design-based criteria to which new development is required to meet.
- 4.10 *Policy DM17 – Highways and Transportation* confirms that development proposals should be in accordance with highways design standards as set out in the most up to date guidance adopted by the relevant Highway Authority.
- 4.11 *Policy DM18 – Vehicle Parking Standards* confirms that new development proposals will be required to provide an appropriate level of parking provision justified by assessment.

Desford Neighbourhood Plan (2020) (DNP)

- 4.12 *Policy H5: Housing Mix* requires housing development proposals should to provide a mixture of housing types specifically to meet identified local needs as evidenced Parish Housing Needs Report or more recent document updating this report.
- 4.13 *Policy H6: Windfall Site Development* states that small residential development proposals on infill and redevelopment sites will be supported, subject to proposals being well designed and meeting the relevant requirements set out in other policies in this Plan and Borough wide planning policies and where such development meets with a number of criteria.
- 4.14 *Policy H7: Housing Design* states that new dwellings will need to enhance and reinforce local distinctiveness, provide adequate off road parking, reflect the character and historic context of existing developments, enhance biodiversity, enclose plots with suitable materials, use sustainable design and construction techniques, have appropriate lighting, incorporate SUDS and be of an appropriate density.
- 4.15 *Policy T1: Traffic Management* states that all housing development must:
 - a) Be designed to minimise additional traffic generation and movement through the villages.
 - b) Incorporate sufficient off-road parking in line with housing policy H6;
 - c) Not remove or compromise the use of any existing off-road parking areas unless a suitable equivalent alternative is provided.
 - d) Provide any necessary improvements to site access, communal parking and the highway network either directly or by financial contributions.
 - e) Consider, where appropriate, the improvement and where possible the creation of footpaths and cycleways to key village services.

The National Planning Policy Framework 2021 (NPPF)

- 4.16 At the heart of the NPPF is a presumption in favour of sustainable development. There are three overarching objectives which are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives. These are an economic objective, a social objective, and an environmental objective. The economic objective seeks to ensure sufficient land of the right types is available in the right places at the right time to support growth. The social objective seeks to support strong, vibrant, and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of the present and future generations and by fostering a well-designed and safe built environment. The environmental objective seeks to contribute to protecting and enhancing our natural, built, and historic environment, including making effective use of land.
- 4.17 Amongst other things, paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and that for decision-taking, this means approving development proposals that accord with an up-to-date development plan without delay.
- 4.18 Paragraph 47 of the NPPF indicates that planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
- 4.19 Paragraphs 60 and 62 of the NPPF are concerned with delivering a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes. The size, type and tenure of housing needed for different groups should be reflected in planning policies.
- 4.20 Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
- 4.21 Paragraphs 119 and 120 of the NPPF seeks to make the effective use of land. It states that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. It goes on to say that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs.
- 4.22 Paragraphs 126, 127, 128 and 130 of the NPPF seeks to achieve well-designed places. It states the creation of high-quality buildings is fundamental to what the planning and development process should achieve. Good design is a key aspect of

sustainable development and creates better places in which to live. Planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting and establish or maintain a strong sense of place using streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit. It also states permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

- 4.23 Paragraph 159 of the NPPF states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 states that Local Planning Authorities should ensure that flood risk is not increased elsewhere when determining planning applications.

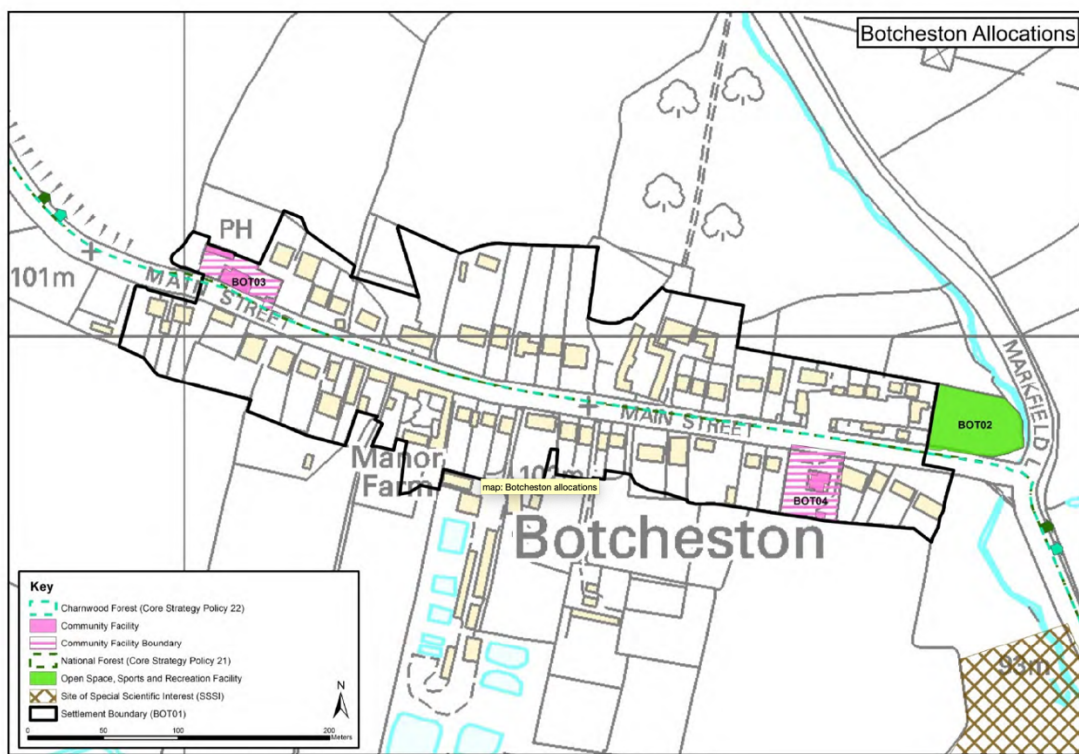
Other Policy and Guidance

- 4.24 Although not having the formal status and weight of adopted planning policy there are a number of other pieces of guidance relevant to decision-making within Hinckley and Bosworth including:
- National Planning Practice Guidance - March 2014 (as amended)
 - Good Design Guide SPD – 2019
 - The Conservation of Habitats and Species Regulations 2017
 - Circular 06/05 (Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System
 - National Forest Strategy 2014-2024
 - National Design Guide – October 2019
 - Leicestershire Highways Design Guide (Leicestershire County Council)

5.0 PLANNING ASSESSMENT

The principle of development

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004, S70(2) of the Town and Country Planning Act 1990 and Paragraph 2 of the NPPF require 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, development permission should not usually be granted unless other material considerations indicate otherwise.
- 5.2 The current development plan consists of the adopted CS, SADMP and the DNP. The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the CS. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. Policy 13 of the CS identifies Botcheston as a rural hamlet. The extent of the settlement boundary is shown below:



- 5.3 As can be seen from the image above, the site is located outside of the limits to development but immediately adjacent to the settlement boundary. Policy DM4 of the SADMP is relevant as it seeks to protect the countryside from inappropriate

development. However, the policy states that development in the countryside will be considered sustainable where the proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting.

- 5.4 The proposal would re-use an existing building and therefore comply with the general thrust of the policy. There would be no alterations taking place to the building but the scheme includes for the planting of a new native hedgerow to define the boundaries of the site. The inclusion of a native hedgerow and lack of any substantial built development would ensure that the proposal enhances the immediate setting of the site.

- 5.5 Policy DM4 of the SADMP also requires an assessment against a number of additional criteria. These are detailed and assessed below:

- It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside;

The building already exists on the site and no extensions or alterations are proposed to the existing structure. On this basis, the proposal would not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside.

- It does not undermine the physical and perceived separation and open character between settlements;

The building already exists on the site and no extensions or alterations are proposed to the existing structure. On this basis, the proposal would not undermine the physical and perceived separation and open character between settlements.

- It does not create or exacerbate ribbon development;

The building already exists on the site and no extensions or alterations are proposed to the existing structure. On this basis, the proposal would not create or exacerbate ribbon development.

- It protects the role and function of the Green Wedge;

The site is not located within land identified as Green Wedge.

- It contributes to the delivery of the National Forest Strategy.

The site is not located within the National Forest.

- 5.6 On the basis of the assessment above, it is clear that the site would be in accordance with the detailed policy requirements set out by Policy DM4 of the SADMP. Indeed, the conversion of existing annexes/garages to separate dwellinghouses in the countryside have been found to be acceptable by the Council recently in a number of instances including the following applications:

21/00241/FUL - Use of residential annexe (approved under ref: 04/00424/COU) as a separate dwellinghouse (Use Class C3) (retrospective) at Land Rear Of Thatched Cottage Bosworth Road Shenton

23/00521/FUL - Proposed conversion and extension of existing garage to new dwelling, new pergola and boundary with associated access, parking, landscaping and solar panel at Cottage Farm Barr Lane Higham On The Hill

22/00066/FUL - Conversion of existing garage and outbuilding into self-contained family dwelling at The Moorings, Ibstock Road, Odstone, Hinckley, Leicestershire

21/00941/FUL - Proposed Conversion of existing garage to dwelling and relocation of vehicular access at Winter Cottage Stanton Lane Stanton Under Bardon

- 5.7 Policy H6 of the DNP states that small residential development proposals on infill and redevelopment sites will be supported subject to a number of detailed criteria. It is noted that the policy is not directly relevant to the application proposals because the scheme relates to the conversion of an existing building rather than infill development or the redevelopment of the existing site.
- 5.8 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 5.9 Following two recent planning inquiries in November/December 2022 (Land at Sketchley Lane, Burbage) and February 2023 (Land east of The Common, Barwell) the Council has agreed through a statement of common ground a revised position on its 5-year housing land supply. The current figure is 4.76-year supply as of 31 March 2022. This is below the current published figure of 4.89-years as of 31 March 2022, with it being demonstrated that a single site of 61 dwellings is not currently considered to be deliverable within the 5-year period. This revised figure of 4.76 years was agreed through the Inquiries and accepted by the Inspectors.
- 5.10 Given the above, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered. Paragraph 11 (d) of the NPPF requires planning permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh

the benefits, when assessed against the policies in this Framework taken as a whole.

- 5.11 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay.
- 5.12 Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs.
- 5.13 Paragraph 69 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area. Paragraph 79 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 5.14 The development is for one single residential property within a semi-rural area. The provision of a dwellinghouse would make a meaningful contribution towards the Council's current shortfall in housing. The new occupiers of the dwelling would use and support local services which would help them to be maintained. It is also noted that a small two bedroom dwelling would specifically meet the identified housing need in the Borough as set out in the HEDNA and Policy H5 of the DNP.
- 5.15 As the housing policies are considered to be out-of-date and the Council cannot demonstrate a 5 year housing land supply, paragraph 11(d) of the NPPF is triggered and permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Design and visual amenity

- 5.16 Policy DM4 of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features. Policy H7 of the DNP indicates that new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated. 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.
- 5.17 In dealing with the original application for a garage and store in 2014 under application reference 14/00446/COU the Council stated that:

“The change of use and the erection of replacement outbuilding will be well related to the existing barn conversion in terms of its siting. Whilst reasonable in size in comparison to the main dwelling the building is ancillary and of a design that would be typical of an outbuilding, the construction being of timber clad also gives the impression of a rural building. Therefore, the character and visual amenity of the countryside will be retained and no adverse visual impact will occur. As a result of the siting, scale, and proposed external materials the proposed outbuilding would complement the rural character of the area and would not be out of keeping with existing buildings within the site.

- 5.18 There have been some minor alterations to the external appearance of the building since it was approved in 2014 and built in 2017 as set out in Section 1 of this statement. However, none of the alterations have increased the scale of the building and the changes would not affect the previous conclusions reached that the building would complement the rural character of the area.
- 5.19 It is also noted that the alterations to the building were substantially completed more than 4 years ago (they were carried out in 2017). On this basis, the building as it currently exists is lawful due to the passage of time and no enforcement action may now be taken.
- 5.20 Therefore, the proposal is considered to be in accordance with Policy DM4 and DM10 of the adopted SADMP, Policy H7 of the DNP, the Council's Good Design Guide and the advice contained in the NPPF.

Impacts on Residential Amenities

- 5.21 Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DM10(a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site. The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 5.22 In dealing with the original application for a garage and store in 2014 under application reference 14/00446/COU the Council stated that:

The nearest neighbouring dwelling is No. 67 Main Street, which is located approximately 26 metres immediately to the north of the site. Given the land slopes

away to the south the proposed development would not significantly impact upon the residential amenity of this property.

- 5.23 There would be no extensions or alterations to the building and it is noted that none of the existing rooflights or windows look towards No.67 Main Street. On this basis, there are no planning grounds to reach a different conclusion that the proposal would not significantly impact upon the residential amenity of this property.
- 5.24 In terms of impacts on the host property, it is noted that the front elevation of the existing building would look directly towards the rear garden and toward the rear elevation of the host dwelling. However, there would only be a set of patio doors at ground floor level and no views would be established from these given the presence of an existing hedgerow. There are six rooflights in the front elevation of the roofslope but the bottom of the rooflight is set 1.5 metres above the first floor level and the angle of the rooflight would ensure against any direct overlooking impacts. In any case, the rooflights were substantially completed more than 4 years ago and are now lawful. There would be no significant additional impacts over and above the existing lawful situation on the site.
- 5.25 The proposed access drive would run along the boundary with a number of existing residential gardens. Concern is sometimes expressed regarding vehicle movements running in close proximity to rear gardens. However, the vehicle movements associated with a single dwelling would not be significant particular in the context of the number of vehicle movements along Main Street, Botcheston. In addition, the situation would not be dissimilar to a development on a corner site with a side road running close to dwellings and their rear gardens, which was considered to be a yardstick for an acceptable standard in an appeal decision at Ashby de la Zouch (07/00624/OUT) and which occurs elsewhere in Botcheston (a copy of the appeal decision is included at Appendix 2). It is also noted that the existing access road is already in existence and being used in association with the existing residential annexe.
- 5.26 To comply with the Good Design Guide, two-bedroom houses must also provide a minimum of 60 square metres of private outdoor amenity space with a minimum length of 7m. As shown on the submitted plans, the proposal provides sufficient private outdoor amenity space to support the residential amenity of the future occupiers of the dwelling. Therefore, the proposal would be in accordance with the guidance in the Good Design Guide.
- 5.27 Having regard to the above, the proposals would not have a significant impact on the living conditions of occupiers of nearby dwellings. Therefore, the proposal is considered to be in accordance with therefore considered to be in accordance with Policy DM10 of the adopted SADMP, the general principles of the adopted Good Design Guide and the advice contained in the NPPF.

Highway Safety

- 5.28 Policy DM17 of the SADMP requires that development proposals should be in accordance with highways design standards as set out in the most up to date guidance adopted by the relevant Highway Authority. Similar considerations are included in Policy T1 of the DNP. Policy DM18 sets out the relevant car parking standards across the borough.
- 5.29 The existing building is being used as an annexe by the applicant's in-laws and generates a modest number of existing vehicle movements. The proposal for a separate dwellinghouse would not result in any significant increase in traffic generation over and above the existing situation on the site.
- 5.30 The SADMP refers to guidance in the Leicestershire Highways Design Guide (LHDG) regarding car parking which outlines that a minimum of two off-street parking spaces would be required for properties of three bedrooms or less. Similar guidance is contained in Policy H7 of the DNP.
- 5.31 As set out on the submitted plans, there is a dedicated area for parking and turning for the proposed dwelling. This area would provide sufficient space for at least two car parking spaces. The host dwelling is a 4 bedroom property and benefits from its own dedicated car parking and turning area immediately in front of the host dwelling which allows for the parking of 3 vehicles. It is clear from the submitted plans that the car parking and turning arrangements for both the proposed dwelling and the host dwelling would be in accordance with the relevant guidance.
- 5.32 Overall, therefore, the highway safety aspects of the scheme are considered acceptable. The proposal is considered acceptable in relation to DM17 and DM18 of the SADMP, T1 and H7 of the DNP, the adopted highway authority design guidance and the advice in paragraph 111 of the NPPF.

Other Matters

- 5.33 The application site does not contain any trees which are protected by a Tree Preservation Order and the site is not located in a Conservation Area. There are no trees on the application site that would be affected by the proposed development.
- 5.34 The site lies within Flood Zone 1 (which has the lowest risk of flooding) and is at a low risk of being impacted by surface water flooding as defined on the Environment Agency's Surface Water Flood Maps.

6.0 CONCLUSIONS

- 6.1 At the heart of the NPPF is a presumption in favour of sustainable development such that development proposals that are in accordance with the development plan should be approved. The NPPF does not change the statutory status of the development plan as the starting point for decision making. Section S38(6) of the Planning and Compensation Act 2004 requires that any decision on a planning application (or appeal) should be made in accordance with the policies of the development plan unless material considerations indicate otherwise.
- 6.2 The planning statement has demonstrated that the proposal is in accordance with the policies in the development plan and there would be no material impacts on visual amenity, residential amenity, highway safety or any other technical planning matter.
- 6.3 The Council has accepted that it does not have a 5 year housing land supply. Consequently, permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 6.4 The sustainable development objectives of the NPPF require economic, social and environmental objectives, which are interdependent and need to be pursued in mutually supportive ways.
- 6.5 The economic objective in paragraph 8 of the NPPF is achieved by the proposals through the development of a single dwelling which would result in an additional ongoing contribution towards council tax and the new occupiers of the dwellings would use and support local services which would help them to be maintained.
- 6.6 The social objective in paragraph 8 of the NPPF is achieved by the proposals through the provision of a new dwelling which would assist in face of the Council's failure to supply an adequate number of dwellings. There would also be social benefits in terms of new residents supporting the existing services in Botcheston and the wider area and it should be noted that a two bedroom dwelling would specifically address the housing size need identified in the HEDNA.
- 6.7 The environmental objective in paragraph 8 of the NPPF is achieved by the proposals relate to the conversion of an existing building which is inherently sustainable in itself. The planning statement has demonstrated that the proposal would have an acceptable impact on highway safety, visual amenity, residential amenity and all other technical planning matters.
- 6.8 It is demonstrably the case that any adverse impacts arising from the proposal do not significantly and demonstrably outweigh the benefits of providing an additional dwelling on the site which would make a positive contribution towards each of these three objectives of sustainable development in a mutually

supportive way. Therefore, the presumption in favour of sustainable development applies and the proposals should be granted planning permission.

- 6.9 In conclusion, the proposal is in accordance with the relevant policies of the development plan and it is also in accordance with the NPPF taken as a whole and the presumption in favour of sustainable development. There are no adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal and any outstanding concerns that the Council might have are capable of being addressed by negotiation and/or the imposition of conditions.
- 6.10 In accordance with S38(6) of the Planning & Compensation Act (2004), S70(2) of the Town & Country Planning Act (1990) (As Amended) and the advice throughout the NPPF and PPG, planning permission should be granted in accordance with the terms of the application.

Appendix 1 - Photographs of Site







Appendix 2 Appeal decision APP/G2435/A/08/2065885/WF



Appeal Decision

Site visit made on 22 April 2008

by **David Ward** BSc(HONS) CEng MICE
FIHT

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email: enquiries@pins.gsi.gov.uk

Decision date:
6 May 2008

Appeal Ref: APP/G2435/A/08/2065885/WF

Land to the rear of 59 and 61, Tamworth Road, Ashby-de-la-Zouche, LE65 2PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr J Fisher against the decision of North West Leicestershire District Council.
- The application Ref 07/00624/OUT, dated 20 April 2007, was refused by notice dated 26 July 2007.
- The development proposed is a single storey detached dwelling.

Decision

1. I allow the appeal, and grant planning permission for a single storey detached dwelling on land to the rear of 59 and 61, Tamworth Road, Ashby-de-la-Zouche, LE65 2PX in accordance with the terms of the application, Ref 07/00624/OUT, dated 20 April 2007, and the plans submitted with it, subject to the following conditions:
 - 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 2) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 3) Details of the access, appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

Main issue

2. The main issues in this appeal are the whether the design would be poor quality, having an unacceptable impact on the character of the locality; and whether the use of the access would cause an unacceptable degree of disturbance for the adjacent residents.

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Reasons

3. This appeal follows an appeal¹ dismissed by a colleague of mine. That appeal related to the erection of two bungalows on land in the same location as the appeal site. The Inspector rehearsed the policies which apply in the area, and these have not changed, except that policies E5 and H1 are not saved under recent arrangements for continuity of development plans. Policy E5 sought to prevent development on sites of restricted size, and H1 would have prevented development adjoining existing development where it would be significantly detrimental to amenity, and on sites to the rear of existing dwellings where the access may have had detrimental impacts, or formed tandem development.
4. Policies E3 and E4 are still extant, and require development to respect the amenity of neighbouring residents, and the character of its surroundings. Policy H7 requires good quality design in a number of respects set out in the policy. I have also given appropriate weight to the advice of Planning Policy Statement (PPS)3 – Housing, and in particular the advice on design quality in paragraph 16, and the need to make effective and efficient use of land.
5. The Inspector thought that whilst that proposal would conflict with the spacious pattern and grain of development in the locality, it may be possible to achieve some modest single storey development on the site. He also concluded that the use of the access and parking and turning areas would lead to noise intrusion in the relatively peaceful gardens of Nos 61 and 63 Tamworth Road and the back garden of one of the dwellings in Castle Way. I do not consider that the omission of policies E5 and H1 from the development plan would have led to a different conclusion.
6. The proposal is now for a single storey dwelling. No matters normally reserved under an outline application are presented for permission now. However, detailed plans are submitted of the dwelling, and a layout plan shows the proposed access and the position of the proposed dwelling. Paragraph 44 of Circular 11/95 states that unless it has been indicated formally that these are not part of the application, they must be treated as part of the development for which application is being made. However, the application states in the description of the development that the dwelling is to be single storey, whereas the plans are for a two storey building, with two bedrooms, bathroom, en-suite bathroom and study landing included in the roof space above the ground floor. This is inconsistent with the application, and I shall therefore discount the plans showing the design of the dwelling. The layout however is not inconsistent, and is not marked as illustrative. I shall take it that permission is sought for the access and layout of the site, in accordance with that plan.
7. I consider first the issue of the effect on the character of the area. Policy H7 requires that consideration is given to local character and distinctiveness. There are no policy statements which identify particular distinctiveness of the appeal locality, such as might be found in a Conservation Area, nor is the locality as a whole identified as having distinctiveness. In my view the pattern of development in which the site stands is that which might be found in many residential areas. At its rear there is a spaciousness to which my colleague gave some weight as it contributed to views from Tamworth Road. However

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perception of that characteristic in the representations made is essentially a private view shared by a limited number of people, rather than one which should be respected in the public interest, since there is limited perception of the space from public points. Indeed, the locations at which the space might be perceptible in Castle Way are themselves densely developed residential areas.

8. On a wider assessment, the character of the area as perceived on Tamworth Road has a spaciousness which would be largely unaffected by the addition of the appeal proposal. A single storey dwelling is unlikely to be prominent in any important public view point. I agree with my colleague that the insertion of a single dwelling on the appeal site could be undertaken without undue detriment to local character and distinctiveness. The density of development would remain comparatively low, and it is my view that the proposal would respect local character and distinctiveness, and thus meet the test set by policy, and the similar requirements set out in PPS 1 and 3.
9. Turning to the matter of the effect on the amenities of neighbours, the principal issues are the effect on the enjoyment of the rear garden of No 63, Tamworth Road, and the remaining rear garden of 61 Tamworth Road. The policies require that there should be no significant detriment to amenity. The Council consider that the use of a driveway would be of detriment to the adjoining occupiers. There can be no doubt that such change as might take place would be of detriment to those who enjoy seclusion within their gardens, and I have noted their strongly held objections.
10. Nevertheless, the policy only indicates refusal where the detriment would be significant. That implies some yardstick of what might be normally acceptable, and in technical terms such yardsticks may be found in Planning Policy Statements and other nationally accepted policies. However, development widely acceptable elsewhere may also provide a yardstick, as well as the weight my colleague gave to the peacefulness of the rear area.
11. In this respect, examples are given by the Appellant. Whilst not all of these may be appropriate comparisons, there are very many developments throughout the country on corner sites where the side road will be permitted to run close to the side of rear gardens, and that side road may commonly serve tens or a hundred houses. Locally, short rear gardens of modern dwellings about the lane leading to Castle Way, which is a moderately trafficked road. I take these to be yardsticks of an acceptable standard to be maintained in the public interest. The analysis given by the Council of the amount of use of the access and turning area confirms my view that the gardens either side of the appeal site would retain an acceptable degree of peacefulness.
12. In my view the effect of the appeal proposal on the amenity of neighbours due to the use of the access whilst not negligible, would not be significantly detrimental to amenity.
13. I do not consider that the proximity of the proposed dwelling to houses in Castle Way would be a matter of concern. A separation of about 9m between flank walls would be achieved, and 12m between houses. This compares with much closer spacing between houses in Castle Way.

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14. I have carefully considered whether a single storey dwelling in the location shown on the application plan would lead to overlooking of dwellings in Castle Way. Given that the application is in outline, there is nothing which leads me to the view that harm would be inevitable, and could not be controlled at the detailed design stage.
15. I have noted all other matters raised in objection to the proposal. In my view none are of such significance that they outweigh my conclusions on the main issues.

Conditions

16. The Council suggest five conditions which are not commented upon by the Appellant. Conditions 1 and 2 are standard conditions relating to an outline approval. The approval I shall give approves the layout shown on the plans. Further detail would be necessary of the means of access. Condition 3 requires prior approval by the planning authority of drainage works. As long as the controls given by the Building Regulations are applied, there is no evidence of any planning issue relating to drainage. In my view the condition is unnecessary. Condition 4 requires precise details of ground levels to be supplied. In my view detailed plans which did not indicate these matters would be inadequate, and could be rejected. A development which did not accord with approved plans would be unauthorised. The condition therefore appears unnecessary. Similarly condition 5 would repeat the description given of the development as being single storey. Anything other than a single storey development would not be in accord with the development permitted. The condition is unnecessary.

David Ward
Inspector

