

Delegated Report

Planning Ref: 24/00434/CONDIT
Applicant: Mr and Mrs D Heath
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: Sketchley Hill House, Rugby Road, Burbage, Hinckley

Proposal: Variation of condition 2 of planning application 22/00236/FUL. Proposed amendment to plot 2 general arrangement.

1. Recommendations

- 1.1. Grant planning permission** subject to:
- Planning conditions detailed at the end of this report

2. Planning Application Description

- 2.1.** Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission.
- 2.2.** In this case, planning permission for application 22/00236/FUL granted full planning permission for the erection of 3 dwellings on land to the rear of Sketchley Hill House. Changes are now sought to all three dwellings with each the subject of a separate application for variations to the approved plans. Work has already commenced on site following the discharge of pre-commencement conditions relating to application 22/00236/FUL.
- 2.3.** Plot 2 is located in the north east corner of the site. It remains as previously sited with no increase in its overall depth and a very small 0.1m increase in its width. Revised plans have been received to address concerns regarding overlooking and loss of privacy. The alterations sought are as follows:
- The wing closest to the northern boundary is increased in height by 0.5m to provide space for a larger fourth bedroom within the roofspace – the number of bedrooms does not increase
 - The wing closest to the northern boundary is increased in depth by 1m to provide a larger lounge and provide room for larger study at ground floor – the projection still keeps this wing set back from the rest of the frontage
 - A study window is provided at ground level facing the northern boundary at a distance of 2m but faces 2m high hedging and the back of a large shed
 - A kitchen window is provided at ground level facing the gable of plot 3
 - The previous first floor bedroom window facing the eastern boundary becomes a bathroom window – there are now no habitable room windows above ground floor level facing east
 - A skylight is provided to the new bedroom four that faces the northern boundary. The Agent has confirmed that this will be at least 1.7m above floor level in that bedroom and a condition is attached to that effect. As a result of moving this skylight an alternative means of escape is required and so an additional skylight to the bedroom is provided on front facing room slope. This is 18m from the proposed dwelling on plot 1. Given that the windows do not directly face each other, that there are other bedroom windows that are closer and that these are front elevations it is not considered that further notification is required

- An en-suite skylight is provided on the front elevation
- Both windows to bedrooms 2 and 3 on the front elevation are reduced in size and now match each other – previously the window to bedroom 3 above the porch was more of a feature window
- Materials are specified as off white render to all elevations except for the main front facing gable of the southern wing closest to plot 3 which is to be a buff stone effect product. The roof is natural Spanish slate. A condition is attached regarding materials

3. Description of the Site and Surrounding Area

- 3.1. The application site is located within the settlement boundary of Burbage and on the north side of Rugby Road to the rear of Sketchley Hill House, which is a large two storey dwelling with a parking area, driveway and extensive gardens and an approximate site area of 0.52 hectares. The site is surrounded by residential development on all sides.
- 3.2. Rugby Road is characterised by a range of dwellings of different sizes, types and styles. Dwellings are predominantly traditional though. To the immediate south of the site are bungalows, and to the north, west and east dwellings are two storey.
- 3.3. Historic mapping shows that the site had its own access on to Rugby Road adjacent to but separate from the access to Sketchley Hill House. The site contained several fruit trees, and the likelihood is that it was an orchard with its own access separate from the curtilage of Sketchley Hill House. Four of the trees on the site are protected by Tree Preservation Order. In addition there are several non-protected trees. The site is bounded by hedges in addition to fencing in parts on each boundary.
- 3.4. As a result of the discharge of Condition 4 of planning permission 22/00236/FUL, which related to surface water drainage, a gravity solution has been approved which has resulted in the ground floor level of all three houses being raised above the existing ground levels by up to 1m in the case of Plot 2 to enable a fall to the existing drainage system to the rear of the site.

4. Relevant Planning History

24/00281/DISCON – Application to discharge Condition 4 (Surface water drainage scheme) on planning permission 22/00236/FUL. Discharged May 2024

23/00794/DISCON – Application to discharge Conditions 3 (Materials), 4 (Drainage), 12 (Waste and Recycling) attached to planning permission 22/00236/FUL. Part discharged with regard to conditions 3 and 12 only December 2023

23/00236/FUL – Erection of 3no dwellings with vehicle access improvements, associated parking, amenity space and refuse/recycling facilities. Approved October 2022

14/01189/OUT – Erection of nine dwellings and associated roads and car parking, following demolition of existing property (outline – access, layout and siting). Approved December 2016

5. Publicity

- 5.1. The application has been publicised by sending out letters to the occupiers of 21 neighbouring dwellings. In addition the application has been advertised by means of a site notice.
- 5.2. No formal responses have been received to this neighbour notification. Complaints have been received though regarding the increased height and massing, overbearing impact and resulting loss of privacy issues of the dwelling that is under construction, which is the building as approved under application 22/00236/FUL. These complaints have been made to the enforcement team and verbally to planning officers have been assessed on site by two planning officers and the enforcement case officer with regard to the impact on neighbouring dwellings.

6. Consultation

- 6.1. Burbage Parish Council – no objections
- 6.2. LCC Highways – no objections (the access arrangements remain unaltered)
- 6.3. HBBC Waste Services – no additional comments to add (previously a condition was requested – this is repeated)
- 6.4. HBBC Environmental Services – no objection
- 6.5. HBBC Drainage – no objections

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 4: Development in Burbage
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. Burbage Neighbourhood Plan (2020)
 - Policy 1: Settlement Boundary
 - Policy 2: Design and Layout
 - Policy 4: Parking
- 7.4. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.5. Other relevant guidance
 - Burbage Village Design Statement (2006)
 - Good Design Guide (2020)
 - Leicestershire Highway Design Guide

- National Design Guide (2019)

8. Appraisal

- 8.1. The principle of development, siting and design of the proposed extensions and alterations have already been established through the earlier grant of the extant planning permission 22/00236/FUL on the site. As this application only involves the alteration of the development's materials, the key issue in respect of this application is therefore:
- Design and Impact upon the Character of the Area
 - Impact upon Residential Amenity
 - Other Issues
 - Conditions

Design and Impact upon the Character of the Area

- 8.2 Policy DM10 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.
- 8.3 The overall design remains as previously approved. The increase in footprint and height are minimal in terms of how they affect the character of the area. The main material remains an off-white render but the introduction of the buff stone product is new and is uncharacteristic of the area. However, the dwelling is located on a backland plot where there is little visibility from any public vantage point. In these site-specific circumstances therefore the use of this material is considered on balance to be acceptable.
- 8.4 Given the scope and scale of the alterations proposed to plot 2, the application is not considered to result in a significant adverse impact to the character of the surrounding area in accordance with Policy DM10 of the SADMP, and the Good Design Guide.

Impact upon Residential Amenity

- 8.5 Paragraph 135(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive, and accessible, which promote health and well-being, and a high standard of amenity for existing and future users.
- 8.6 Policy DM10 states that 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.
- 8.7 The Good Design Guide requires the way buildings relate to each other, and their orientation and separation distances to provide and protect acceptable levels of amenity.
- 8.8 The proposed alterations would bring the only window to the lounge to within 2.7m of the blank side gable of the proposed garage. The garage is low though with a flat roof and as it is their own garage and the lounge window is large it is not considered that the amount of light in what is a main habitable room would be too low. The skylights to the fourth bedroom are also considered to provide sufficient outlook and light to that habitable room.

- 8.9 The increase in the height of that part of the dwelling closest to the northern boundary is seen against the backdrop of the greater mass and bulk of the dwelling which is unchanged. In addition the neighbouring property most affected has tall hedging on the rear boundary which mitigates the impact of the increased mass. The new skylight is positioned sufficiently high in the sloping ceiling to prevent overlooking or loss of privacy to gardens to the north and the interrelationship with the new forward facing skylight is no worse than already existing under the previously approved plans with regard to the relationship between other windows.
- 8.10 The occupier of the neighbouring property to the north has expressed concern regarding the ground floor window to the study which faces this northern boundary. The window is in exactly the same position as approved by application 22/00236/FUL and is raised due to the approval of the surface water drainage by application 24/00281/DISCON. Due to the hedging on the common boundary officers are satisfied that there is no significant overlooking or loss of privacy. It is the case that the very small increase in the massing of the dwelling for which approval is now sought is minimal compared to the dwelling as originally approved by planning permission 22/00236/FUL and the impact on neighbours that results from the increase in the height of the finished floor levels required to provide the drainage approved under application 24/00281/DISCON

Other Issues

- 8.11 No changes are proposed to any matters that impact on highway matters and as such the Local Highway Authority consider there would be no material impact on the public highway.
- 8.12 There have been no legislative or policy changes that affect the consideration of the application.

Conditions

- 8.13 Planning permission 22/00236/FUL is subject to 17 conditions. They are assessed as follows:
- C1 – Time limit – not required as development has commenced
 - C2 – Approved plans – updated condition required
 - C3 – Materials – these have been discharged for all three plots under application 23/00794/DISCON with white render, Weinerberger Thorn Grijs Gesintered bricks which are a multi-grey hand-moulded brick made in the Netherlands, composite agate grey cladding and Redland Cambrian slates to the roof. With regard to plot 2 while an off white render is used, the applicants' preferred materials are Spanish slates for the roof and a buff stone effect to the main front elevation gable. These materials are considered acceptable in these site specific circumstances and so a compliance condition is attached
 - C4 – Surface water drainage scheme – this has been discharged under application 24/00281/DISCON. A compliance condition is required
 - C5 – Hours of working – this condition is required
 - C6 – No burning of materials – this condition is required
 - C7 – Access surfacing – this condition is required
 - C8 – Visibility splays – this condition is required
 - C9 – Pedestrian visibility splays - this condition is required
 - C10 – PD rights gates etc – this condition is required

- C11 – Provision of parking spaces – this condition is required
- C12 – Waste and recycling provision – this condition has been discharged under application 23/00794/DISCON. A compliance condition is required
- C13 – Tree replacement – this condition is required with improved wording in the interests of precision and to address the requirement for replacements for trees affected by the service trench excavated in the south side of the access drive
- C14 – PD rights extensions – this condition is required as the site is small in comparison to the size of the dwellings and further development is considered to result in overdevelopment of the site
- C15 – Tree fencing – this condition is required
- C16 – Arboricultural method statement – this condition is required
- C17 – Obscure glazing – this condition relates to plot 1 only and so is not required

8.14 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. One additional condition regarding the skylight on the northern elevation being at least 1.7m above floor level is considered to be necessary.

9. Equality implications

9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states: -

- (1) A public authority must, in the exercise of its functions, have due regard to the need to:
 - (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

9.2 Officers have taken this into account and given due regard to this statutory duty, and the matters specified in Section 149 of the Equality Act 2010 in the determination of this application.

9.3 There are no known equality implications arising directly from this development.

9.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

10.1. The proposed development is considered to be compliant with Policies DM1, DM10, DM17 and DM18 of the SADMP, Policy 1 of the adopted Core Strategy and relevant National Policy as it:

- Does not have an adverse impact upon the character and appearance of the area.

- Does not have a significant adverse impact upon the amenity of neighbours and provides future occupiers with adequate amenity.
- Does not affect the sufficient provision of off-street vehicle parking.

10.2. Taking National and Local Planning Policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation

11.1 **Grant planning permission** subject to:

- Planning conditions detailed below

11.2 Conditions and Reasons

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted plans, as follows:
 - Plot 2 Proposed General Arrangement 4800/03 Rev F - received by the Local Planning Authority on 17 July 2024
 - Site Location and Block Plan 4800/02

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

2. The materials to be used on the external elevations and roof of the dwelling hereby approved shall be as follows:
 - Natural Spanish slate
 - Marshalls buff Marshalite pitched walling to the south west gable only
 - Blanc ecru monocouche silicone render
 - Weinerberger Thorn Grijs Gesintered brick

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and as previously approved by application 24/00794/DISCON.

3. The dwelling hereby approved shall be implemented in accordance with the surface water drainage scheme approved under application 24/00281/DISCON which shall be completed in full prior to occupation of the dwelling.

Reason: To prevent flooding by ensuring the satisfactory storage and disposal of surface water from the site to accord with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document.

4. Construction work of the development, hereby permitted, shall not take place other than between the hours of 08:00 hrs and 19:00 hrs on weekdays and 09:00 hrs and 14:00 hrs on Saturdays and at any time on Sundays and Bank Holidays unless other agreed in writing.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. During the site preparation and construction phase no burning of materials shall take place.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Notwithstanding the submitted plans, the proposed access shall have a width of a minimum of five metres, for a distance of at least five metres behind the highway boundary which shall be surfaced in a bound material with a 7.3 metre dropped crossing. The access once provided shall be so maintained at all times.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the National Planning Policy Framework (Dec 2023).

7. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays 43 metres by 2.4 metres have been provided at the site access. 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 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 the National Planning Policy Framework (Dec 2023).

8. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on the highway boundary on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

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

9. The development hereby permitted shall not be occupied until such time as any existing gates to the vehicular access have been permanently removed. 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 vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of five metres of the highway boundary, nor shall any be erected within a distance of six metres of the highway boundary unless hung to open away from the highway.

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 the National Planning Policy Framework (Dec 2023).

10. The development hereby permitted shall not be first used until such time as the designated parking spaces measuring at least 2.4 metres by 5.5 metres have been implemented. Thereafter the onsite parking provision shall be so maintained in perpetuity.

Reason: To ensure that adequate off-street parking provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally in the interests of highway safety and in accordance with the National Planning Policy Framework (Dec 2023).

11. The dwelling hereby approved shall be implemented and thereafter occupied in full compliance with the details for waste and recycling storage of containers and collection across the site which have been approved under application 23/00794/DISCON.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

12. Prior to the occupation of the dwelling hereby approved details of trees, including their location, species, size and future maintenance, to replace the trees selected for removal under Ecolocation Arboricultural Report, Tree Constraints Plan & Tree Protection Detail dated 30/09/22, on file 22/00236/FUL, and to replace the tree closest to the dwelling that has been killed during the construction phase and to replace any trees in the neighbouring gardens of 304 and 306 Rugby Road and the gardens of Lupin Close that back on to the access drive that have been damaged or killed as a result of the services trench that has been dug on the south side of the access drive, shall be submitted to and approved in writing by the Local Planning Authority. The replacement for any tree lost due to the construction phase shall be semi-mature in size and shall be maintained in accordance with the supplier's advice. The replacement trees on the site or access drive shall be planted in accordance with the approved details no later than in the next available planting season (October to March) following occupation of the third dwelling on the wider site. The replacement trees outside of the site shall be planted within the next available planting season (October 2024 to March 2025) or, where the damage to the tree is not noticed until 2024, within the following planting (October 2025 to March 2026). The trees shall be maintained for a period of five years from the date of planting. During this period any trees which die or are damaged, removed, or seriously diseased shall be replaced by trees 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 replacement trees are planted on site in the interests of protecting the amenity of the area in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

13. Notwithstanding the provisions of Article 3, Schedule 2 Part 1, Classes A, B, C and E of the Town and Country Planning (General Permitted Development)

Order 2015 (as amended), or any Order revoking and re-enacting that Order, no extensions to any dwelling or buildings incidental to the enjoyment of any dwelling (except for those approved by this permission) shall be undertaken or constructed unless planning permission has first been granted by the Local Planning Authority.

Reason: The removal of permitted development rights is warranted in this instance due to the size of the dwellings and to safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

14. All trees on the site shown to be retained on the site shall be surrounded by protective fencing in accordance with the Ecolocation Arboricultural Report, Tree Constraints Plan & Tree Protection Detail dated 30/09/22 on planning application file 22/00236/FUL at all times during construction.

Reason: To ensure that trees on or adjacent to the site are to be retained and adequately protected in the interests of the visual amenities of the area and biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 180 of the National Planning Policy Framework (Dec 2023).

15. Further to Condition 6 the access road shall be constructed in accordance with the Ecolocation Arboricultural Report, Tree Constraints Plan & Tree Protection Detail dated 30/09/22 on planning application file 22/00236/FUL.

Reason: To ensure that trees adjacent to the access road are to be retained and adequately protected in the interests of the visual amenities of the area and biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 180 of the National Planning Policy Framework (Dec 2023).

16. The roof light in the north side elevation of bedroom four shown on the Plot 2 Proposed General Arrangement drawing no. 4800/03 Rev F shall be a minimum of 1.7m above the floor level beneath the window in the room.

Reason: In the interests of the amenity of neighbours and future occupiers of the dwelling in accordance with Policy DM10 of the 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 building.control@blaby.gov.uk or call 0116 272 7533.
2. Further to Condition 12 regarding trees in neighbouring gardens the roots of which have been severed by the excavation of the services trench on the south side of the access drive the developer should contact all residents with trees that may be affected. The Local Planning Authority has made all neighbours aware of the requirements of Condition 12.

3. The Applicant is advised to improve drainage in the rear garden. The neighbour to the north has advised that this corner of the site is prone to flooding which will now be exacerbated as a result of the increased floor levels.