

Delegated Report

Planning Ref: 25/00081/FUL
Applicants: Mr and Mrs Pratt
Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: Land adjacent Paddock View, Twycross Road, Sheepy Magna

Proposal: Change of use of agricultural land to domestic garden

1. Recommendations

1.1. Refuse planning permission subject to:

- Planning reasons detailed at the end of this report.

2. Planning Application Description

- 2.1. This planning application seeks full planning permission for the change of use of 423sqm of agricultural land to domestic garden to the north of, and to be associated with, Paddock View, Twycross Road, Sheepy Magna. No buildings or structures are proposed as part of this planning application. This is a retrospective planning application.

3. Description of the Site and the Surrounding Area

- 3.1. The application site comprises agricultural land that is part of a wider agricultural field, and a field gate that has recently been upgraded to a vehicular access. The application site is to the north of, but outside of, the identified settlement boundary of Sheepy Magna in the designated open countryside. This area of the countryside is located within the Sheepy Magna and Surroundings (North of B5000) Landscape Sensitivity Area (LSA) and the wider Sense Lowlands Landscape Character Area (LCA).
- 3.2. Both the LSA and the LCA are characterised by a flat to gently rolling lowland vale landscape that is predominantly arable with a regular pattern of rectilinear fields. The landscape areas provide a rural setting to the former agricultural villages, Sheepy Magna and Sheepy Parva. The key sensitivity and values of the LSA include the historic field pattern and smaller fields around settlements, as well as the strong rural character of the area.
- 3.3. The eastern boundary of the site is bordered by Twycross Road, which is a classified 'C' road that is subject to the National Speed Limit to the north of the site and 30mph speed limit as it progresses south past Paddock View and into Sheepy Magna. The public highway to the north of the site is bounded by established mature hedgerows.

- 3.4. To the north, east (beyond Twycross Road), and west of the site is characterised by open agricultural fields. To the south and southeast of the site is the built form of Sheepy Magna, including Paddock View. Paddock View is the residential property immediately to the south of the application site, which was approved via planning permission 14/00292/FUL alongside two other dwellings, Blossom House and Rowan House. To the southwest of the site, and to the rear of Paddock View, is an area of woodland that is subject to an English Woodland Grant Scheme by the Forestry Commission. This woodland was approved to be utilised as domestic garden in association with Hollytree Cottage via planning permission 24/00902/FUL.

4. Relevant Planning History

- 4.1 N/A.

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents and a site notice was posted within the vicinity of the site.
- 5.2 No responses have been received.

6. Consultation

- 6.1 Sheepy Parish Council objected to the development as the proposal is outside of the identified settlement boundary of Sheepy Magna and is not compliant with Policy S1 (Countryside) of the Sheepy Parish Neighbourhood Plan and due to highway safety concerns of opening up a previously derelict and unused field gateway onto a classified 'B' Road. Should planning permission be granted, Sheepy Parish Council requested that Permitted Development Rights were removed by planning condition.
- 6.2 There have been no objections from the following consultants:
- Leicestershire County Council (LCC)'s Ecology Department
 - LCC's Minerals
 - Local Highway Authority

Highways

- 6.3 Leicestershire County Council as the Local Highway Authority (LHA) confirmed that whilst the existing access does not appear to have been used for a number of years, it could be re-opened to serve the field at any time. On the basis that the proposal serves a garden and that the host dwelling has an existing driveway and shared access, it is considered unlikely that the access would be in regular or daily use. However, any further intensification of the use of the access to serve other uses would likely require the submission of a further planning application. Therefore, the LHA have no objections to the development.

Minerals

- 6.4 Leicestershire County Council as the Minerals and Waste Planning Authority (MWPA) confirmed that, due to the relatively modest size of the site and its proximity to adjacent residential properties, the scheme does not raise any significant mineral safeguarding concerns. Given the above, the MWPA have no objections to the development.

National Gas

- 6.5 National Gas have confirmed that the application site is outside of the High-Risk Zone of National Gas Transmission's apparatus. Therefore, the proposal can proceed.

Pollution

- 6.6 The Council's Pollution Officer has stated that consideration should be given to land contamination as the existing agricultural use of the site has the potential to have contaminated the soils with pesticides and herbicides.
- 6.7 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):

- Policy 12: Rural Villages

- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

- 7.3 Sheepy Parish Neighbourhood Plan 2018 – 2035 (SPNP) (2022):

- Policy S1: Countryside
- Policy S5: Ecology and Biodiversity
- Policy S8: Design

7.4 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- National Design Guide (2019)
- Planning Practice Guidance (PPG)

7.5 Other Relevant Guidance:

- Good Design Guide (2020)
- Landscape Character Assessment (LCA) (2017)
- Landscape Sensitivity Assessment (LSA) (2017)
- Leicestershire Highway Design Guide (LHDG) (2024)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

Principle of Development

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) identifies that planning law requires that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in planning decisions.

8.3 The current Development Plan consists of the adopted Core Strategy, the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP), and the adopted Sheepy Parish Neighbourhood Plan (SPNP). Both the Core Strategy and the SADMP are over 5 years old and were adopted prior to the publication of the current NPPF.

8.4 Nevertheless, in accordance with Paragraph 232 of the NPPF, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the NPPF. Due weight should be given to existing policies according to their degree of consistency with the NPPF.

8.5 Chapter 11 of the NPPF promotes 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. This demonstrates that safeguarding and improving the environment is an effective use of land.

- 8.6 Chapter 15 of the NPPF requires planning policies and decisions to conserve and enhance the natural and local environment. Paragraph 187(b) specifically highlights that this should be achieved by, *“Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services.”*
- 8.7 This is supported by Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. To ensure this, Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 8.8 Policy S1 of the SPNP states that the countryside site will be protected for the sake of its intrinsic character, beauty, heritage, wildlife and the wealth of its natural resources and to ensure it may be enjoyed by all. Therefore, subject to the caveats within Policy DM4 of the SADMP, Policy S1 of the SPNP only considers the following types of development to be sustainable in principle in countryside locations:
- (a) The re-use and adaptation of buildings in accordance with Policies DM14 and DM15 of the SADMP; or
 - (b) Householder development; or
 - (c) Dwellings in accordance with Policy S10 of the SPNP; or
 - (d) Development and diversification of agricultural and other land-based rural businesses, which accords with the NPPF; or
 - (e) Employment development in accordance with Policy S17 of the SPNP; or
 - (f) Development by statutory undertakes or public utility providers; or

- (g) Recreation and tourism provided it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; and
- (h) Renewable energy in accordance with Policy S4 of the SPNP.

8.9 As confirmed on Page 5 of the submitted Planning Statement, the development does not comply with any of the criteria within Policy DM4 of the SADMP or Policy S1 of the SPNP, but this does not mean that the development is not sustainable. Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.

8.10 Given the above, the Council considers that the proposal is offered no support by Policy S1 of the SPNP or Policy DM4 of the SADMP. As such, the application does not accord with Development Plan Policy and is unacceptable in principle, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

8.11 Paragraph 139 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 (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.

8.12 Policy DM4(i) 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.

8.13 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

8.14 Policy S8 of the SPNP requires development to be designed in accordance with seven criteria. Policy S8(a), (b), (c), and (d) of the SPNP confirm that proposals should respond positively to the character of the area, respond to the features of its setting, and work with the scale, form, and character of the location and make a positive contribution to the street scene.

8.15 To justify their proposal, the Applicants have relied on the following material considerations:

- The development is only visible in localised views
- The proposal does not extend residential development beyond the built form of 1 Cotton Fell on the opposite side of Twycross Road
- Three properties in the vicinity of the site have received planning permission for the extension of their domestic gardens

- 8.16 12 and 14 Rodney Gardens and Holly Tree Cottage to the southwest of the application site benefit from planning permission for the extension of their domestic garden spaces via the allowed appeal decision against the refusal of planning permission 22/00916/FUL, and the delegated decisions for planning applications 24/00655/FUL and 24/00902/FUL respectively.

- 8.17 Paragraph 8 of the appeal decision against the refusal of planning application 22/00916/FUL confirmed that:

“The [appeal] site benefitted from a considerable degree of containment in the wider rural context as a consequence of its position in relation to the adjoining garden and mature woodland beyond. This relationship serves to reduce the effect of the change of use in terms of significant visual encroachment into the surrounding agricultural land.”

- 8.18 In addition, Paragraph 8.14 of the Delegated Officer Report for planning permission 24/00902/FUL notes that the approved development did not domesticate the character of the area beyond the depth of the residential gardens approved at 12 and 14 Rodney Gardens, nor beyond the built form of Paddock View to the north. Ultimately, Paragraph 8.15 of the Delegated Officer Report for 24/00902/FUL states:

“The wooded character of the site provides a visual distinction between the site and the wider agricultural context, which reduces the effect of the change of use and its visual encroachment into the surrounding agricultural land.”

- 8.19 In comparison to these previously approved developments, the application site does not benefit from any containment from the wider rural context, nor is it visually distinct from the wider agricultural context of the area. The application site extends beyond the existing woodland and forms part of a wider arable field that delineates the existing built form of Sheepy Magna from the designated open countryside. This separation from the built form of Sheepy Magna is reinforced by the mature hedging along the eastern and southern boundaries of the application site that border Paddock View and Twycross Road. Given the above, the material considerations of the approved developments at 12 and 14 Rodney Gardens and Holly Tree Cottage are considered to attract little weight in the planning balance.

- 8.20 The agricultural character of the application site is considered to positively contribute to the rural character of the area, the setting of Sheepy Magna, and the LSA and the LCA. As a result, the proposal represents the encroachment of urbanising and domestic features into the designated countryside, which results in significant harm to the character of the area.

- 8.21 Although the built form of 1 Cotton Fell extends further than that of Paddock View, this property is on the opposite side of Twycross Road and has a materially different set of circumstances to this application site. As noted from satellite imagery, and from views heading north along Twycross Road, the historic field patterns of these two sites are different and located in different positions.

- 8.22 The current proposal extends residential uses into a new arable field beyond the identified settlement boundary of Sheepy Magna, which is considered to result in significantly greater harm on this side of Twycross Road than it is in relation to the siting of 1 Cotton Fell. Therefore, the relationships of these two sites with the identified settlement boundary of Sheepy Magna aren't comparable in these site-specific circumstances.
- 8.23 The impact of the development can be reduced through the removal of Permitted Development Rights from the application site to prevent the provision of any incidental building, pools or means of enclosure. However, this does not address the detrimental impacts of severing an area of agricultural land from its wider arable field, which positively contributes to the rural setting of the surrounding area, and the subsequent significant adverse impacts of domesticating this land for residential purposes.
- 8.24 Although it is appreciated that there are limited views of the application site, this is not considered to be sufficient to justify the significant adverse impacts of the domestication and detrimental change in character of the countryside. In addition, the visual prominence of the change of use has been heightened through the site's new field gate access onto Twycross Road.
- 8.25 By virtue of these factors, the development is considered to result in significant harm to the rural character of the surrounding area, the Sheepy Magna and Surroundings LSA, the Sence Lowlands LCA, and the intrinsic value, beauty, open character, and landscape character of the designated countryside. Therefore, the proposal is contrary to, and in conflict with, Policy S8 of the SPNP and Policy DM4 of the SADMP, and Chapters 12 and 15 of the NPPF.

Impact upon Residential Amenity

- 8.26 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.
- 8.27 The scheme does not include the provision of any built form and therefore the proposal is not considered to result in any significant adverse impacts to residential amenity in the immediate vicinity of the site in accordance with Policy DM10 of the SADMP.

Impact upon Parking Provision and Highway Safety

- 8.28 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.

- 8.29 All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)) (2024).
- 8.30 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.31 Whilst the existing access onto the site does not appear to have been used for a number of years, the Local Highway Authority confirmed that it could be re-opened at any time to serve the field at any time. On the basis that the proposal serves a garden and that the host dwelling has an existing driveway and shared access, it is considered unlikely that the access would be in regular or daily use, nor that the proposal increases the need for off-street parking within the local area. Therefore, the proposal is not considered to have a material impact on highway safety or the road network and complies with Policies DM17 and DM18 of the SADMP.

Planning Balance

- 8.32 Paragraph 7 of the NPPF states that the purpose of the planning system is to contribute to the achievement of sustainable development. The three overarching objectives of sustainable development (economic, social, and environmental) are detailed within Paragraph 8 of the NPPF. Therefore, in accordance with Paragraph 11 of the NPPF, planning decisions should apply a presumption in favour of sustainable development.
- 8.33 However, Paragraph 12 of the NPPF confirms 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.
- 8.34 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.
- 8.35 In light of this, and due to the age of relevant housing policies within the adopted Core Strategy, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered in accordance with Footnote 8 and Paragraph 11 of the NPPF.
- 8.36 For decision-taking, Paragraph 11(d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

- ii. 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, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.
- 8.37 In situations where the ‘tilted’ balance applies to applications involving the provision of housing, Paragraph 14 of the NPPF confirms that the adverse impacts of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
- (a) The neighbourhood plan became part of the development plan five year or less before the date on which the decision is made; and
 - (b) The neighbourhood plan contains policies and allocations to meet its identified housing requirement (see Paragraphs 69 to 70 of the NPPF).
- 8.38 Sheepy Parish Neighbourhood Plan (SPNP) was adopted in 2022, and Paragraph 5.7 of this Neighbourhood Plan confirms that the Sheepy Parish do not have an unmet need of housing within the Plan Period up to 2036. Therefore, Paragraph 14 of the NPPF applies and the adverse impacts of allowing development that conflicts with the Neighbourhood Plan is likely to significantly and demonstrably outweigh its benefits.
- 8.39 The development is considered to sever an area of agricultural land that positively contributes to the rural setting of the surrounding area from its wider arable field. The proposed conversion of this site into residential garden land therefore represents the encroachment of urbanising and domestic features into the designated countryside. These impacts are considered to result in significant harm to the rural character of the surrounding area, the Sheepy Magna and Surroundings LSA, the Sence Lowlands LCA, and the intrinsic value, beauty, open character, and landscape character of the designated countryside.
- 8.40 By virtue of these factors, the proposal is contrary to, and in conflict with, Policy S8 of the SPNP and Policy DM4 of the SADMP, and Chapters 12 and 15 of the NPPF. This harm attracts significant weight in the planning balance.
- 8.41 Whilst it is acknowledged that the increased private outdoor amenity space created by the proposal may provide a social benefit for the occupants of Paddock View, this benefit is associated with one dwelling is modest and it is not considered to provide any benefit to the public, nor maintain or enhance the local community. Therefore, the adverse impacts of the development are considered to significantly and demonstrably outweigh the benefits of the proposal. As a result, the development is recommended for refusal in accordance with Paragraphs 14 and 139 of the NPPF.

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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is refused.

11. Recommendation

11.1 **Refuse planning permission** subject to:

- Planning reasons detailed at the end of this report.

11.2 **Reasons**

1. The proposal represents the encroachment of urbanising and domestic features into the designated countryside. These impacts result in significant harm to the rural character of the surrounding area, the Sheepy Magna and Surroundings Landscape Sensitivity Area, the Sence Lowlands Landscape

Character Area, and the intrinsic value, beauty, open character, and landscape character of the designated countryside. By virtue of these factors, the proposal is contrary to, and in conflict with, Policy S8 of the Sheepy Parish Neighbourhood Plan (2022), Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), and Chapters 12 and 15 of the National Planning Policy Framework (2024). These adverse impacts of the development are considered to significantly and demonstrably outweigh the benefits of the proposal.

a. **Notes to Applicants**

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 03.02.2025)
 - Planning Statement (submitted: 03.02.2025)
 - Site Plan dwg no PL01 (submitted: 03.02.2025)