

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL UNDER SECTION 78

Grounds of Appeal prepared for Mr Andrew Reid against the refusal of application 24/00654/FUL by Hinckley & Bosworth Borough Council for conversion of existing garage into a separate dwelling and alterations (Resubmission of 23/00666/FUL) 502 Coventry Road, Hinckley, Leicestershire, LE10 0NJ.

Application 24/00654/FUL was received by the LPA 2nd July 2024 and refused by notice dated 26th November 2024.

January 2025

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Main Issue

1. The appeal proposal was reported to the 19th November 2024 Planning Committee with an officer recommendation of approval and the Committee Report is included within the appeal documents for ease of reference alongside the supplementary late items, printed committee minutes and decision notice. Members of the Planning Committee chose to disregard the professional officer advice and overturn the recommendation of approval to one of refusal as stated in the printed committee minutes below:

“24/00654/FUL - 502 Coventry Road, Hinckley

Application for conversion of existing garage into separate dwelling and alterations (resubmission of 23/00666/FUL).

Councillor W Crooks left the meeting at 7.24pm.

Notwithstanding the officer’s recommendation that permission be granted, members felt that the proposed use would be detrimental to the visual amenity. It was moved by Councillor Lynch and seconded by Councillor Bray that permission be refused for this reason. Upon being put to the vote, the motion was CARRIED and it was

RESOLVED – permission be refused due to the proposed development being detrimental to visual amenity.”

2. The appellant attended the Planning Committee meeting on the 19th November 2024 and after the vote was taken, could not recall members specifically formulating the exact wording for the reason of refusal so it could be formally recorded via the Chair and the attending member of Democratic Services. The decision notice was issued a week later on the 26th November 2024, and appears to expand upon the vague and general reference to “visual amenity” stated within the formal printed minutes, to include the below:

“By virtue of its location and siting, the conversion of the existing garage into a dwelling in this site specific location is contrary to the wider urban grain and consequently does not preserve or enhance the character of the area. The development does not represent good design that preserves or enhances the character of the area. These adverse impacts are compounded by the removal of the existing gates and hedgerow to facilitate the site access, which increase the visual prominence of the development within the street scene. These factors result in a significant adverse impact on the character of the area that is contrary to, and in conflict with, Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), Section 12 of the National Planning Policy Framework (December 2023) and the Good Design Guide (2020). Ultimately, the adverse impacts of this scheme significantly and demonstrably outweigh the benefits of the development.”

Material Considerations

3. The starting point for the determination of any proposal remains the Development Plan, and Section 38(6) of the Planning and Compulsory Purchase Act 2004 confirms this statutory requirement and the NPPF (2024) reiterates the approach where 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 consideration in planning decisions and where planning applications conflict with an

up-to-date plan, development permission should not usually be granted unless other material considerations indicate otherwise.

4. The NPPF identifies three dimensions to sustainable development giving rise for the planning system to perform the roles below:

“an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.”

5. Furthermore, LP policy should follow the approach of the presumption in favour of sustainable development where such development should be approved without delay. On this basis the Government is committed to ensuring the planning system supports all sustainable development.

6. On the 30th July 2024, the Deputy Prime Minister wrote to all local authority Leaders and Chief Executives in England stating:

“Underpinning plan making – at the strategic and local level – must be suitably ambitious housing targets. That is why we have confirmed today that we intend to restore the standard method as the required approach for assessing housing needs and planning for homes, and reverse the wider changes made to the NPPF in December 2023 that were detrimental to housing supply.

But simply going back to the previous position is not enough, because it failed to deliver enough homes. So, we are also consulting on a new standard method to ensure local plans are ambitious enough to support the Government’s commitment to build 1.5 million new homes over the next five years. The new method sees a distribution that will drive growth in every corner of the country.”

7. Currently the policies the LPA relies upon are contained within 2009 Core Strategy and the Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016). The NPPF was updated on 12th December 2024 alongside the NPPG that revised the standard method for calculating the local housing need assessment and as a consequence, the LPA are unable to demonstrate a 5YHLS, which is one of the key circumstances for the engagement of the ‘tilted’ balance as per Paragraph 11(d).

8. In addition, the Emerging Local Plan for 2020-41 has been consulted upon at Regulation 18 draft stage, with the consultation period ending in September 2024. The latest Local Development Scheme (LDS) outlines further public consultation on the submission Draft Plan (Regulation 19) in 2025. At this stage given its early stage of preparation the Emerging Local Plan is attributed no weight when determining this appeal.

Principle of development

9. As noted within the DAS, the appeal scheme was a resubmission following the refusal of application 23/00666/FUL as referred to in the description of development. The NPPF seeks to protect communities from inappropriate development, but not to curtail development where it accords with Local Plan policy. Planning policies and decisions should no longer attempt to impose architectural styles, however it is proper to seek to promote or reinforce local distinctiveness and reflect the existing built form.

10. Regarding the above, the delegated report associated with application 23/00666/FUL that was submitted prior to the current appeal submission via the former free go states:

“The development converts a residential outbuilding into a residential dwelling within an area characterised by residential dwellings. The proposal makes very limited alterations to the external appearance of the existing structure, which preserves the character of the area. Therefore, the change of use is not considered to cause any significant adverse impacts to the character of the area.”

11. In terms of material considerations, the former delegated report associated with application 23/00666/FUL, confirms the principle of the conversion and that the existing built form preserves the character and visual appearance of the area, and the current appeal proposal was specifically resubmitted on this basis. Paragraph 8.14 of the current committee report is consistent in this regard as reflected below:

“To summarise, due to the limited alterations to the external appearance of the existing structure, the change of use is not considered to result in a significant adverse impact to the character of the surrounding area and compliant with Policy DM10 of the SADMP, subject to conditions.”

12. On the basis of no objection from the relevant statutory consultees and the officer recommendation of approval, significant weight should be given to the case of ***Shadwell Estates v Breckland DC [2013]*** that states:

“a decision-maker should give the views of statutory consultees... “great” or “considerable” weight. A departure from those views requires “cogent and compelling reasons.”

13. In this specific instance, the decision makers were members of the Planning Committee following a “call in” request made by Cllr Pendlebury after a series of email exchanges with the case officer Sullivan Archer. This email exchange was secured via a freedom of information request and is included in Appendix 1.

14. The publication of the formal minutes of the Planning Committee meeting add little substance to the reason of refusal and how members actually came to the final decision beyond, ***“permission be refused due to the proposed development being detrimental to visual amenity”***. The seeming lack of objective analysis, detailed debate and logical reasoning behind the reason of refusal, it is considered the professional officer opinion and the manner of the thorough and indepth analysis of the specific material considerations of the appeal scheme, the professional officer assessment and conclusion remains correct where the committee report states:

“8.12 However, the proposal makes very limited alterations to the external appearance of the existing structure. The views of the structure are also diminished due to its size and scale, and the building is located behind well-established vegetation on its western boundary. The existing garage is also not in a predominant corner plot

location as this location is occupied by the adjacent flats' refuse collection point along its southern boundary. Therefore, the site is only experienced as in subservience to the host dwelling and the Danelaw Court flats.

8.13 No details of boundary treatment have been provided and the Proposed Block Plan suggests the removal of 7m of existing hedgerow along the western boundary of the site. Nevertheless, the details of landscaping and boundary treatments can be secured via planning condition.

8.14 To summarise, due to the limited alterations to the external appearance of the existing structure, the change of use is not considered to result in a significant adverse impact to the character of the surrounding area and compliant with Policy DM10 of the SADMP, subject to conditions."

15. It is considered members of the planning committee in reaching their decision have not provided cogent or compelling reasons to substantiate the reason of refusal, particularly given the appeal building is existing as is the point of access. On this basis the appeal proposal can only be viewed as an acceptable feature within the established street scene, where it was previously granted permission by the LPA via application 20/01203/FUL on the 3rd February 2021.

16. The application was called in to Planning Committee by a Ward Councillor on access and design grounds following discussions with the case officer within the appropriate time frame in accordance with the Council's Constitution, according to paragraph 5.3 of the committee report. The Inspector is invited to consider if the email exchange included in Appendix 1 between the case officer and Ward Councillor was potentially prejudicial to the final decision made by members on the evening of the 19th November 2024, where the Formal Minutes record it was Cllr Stuart Bray (Leader of the Council) who seconded the motion to refuse the appeal scheme.

17. These concerns were directly drawn to the attention of Chris Brown the Head of Planning and Stuart Bray the Leader of the Council in an email dated Tuesday 19th November 2024 at 09.27am as included in Appendix 1. However, despite the request in the interest of transparency, the email trail has remained unavailable on Public Access.

18. Notwithstanding this, the appellant will naturally respond accordingly where appropriate once the LPA Statement of Case is received. However, it is respectfully requested the appeal is allowed on the basis members of the Planning Committee have failed to provide cogent and compelling reasons to substantiate the reason of refusal with particular reference to the previous planning history of the site.