

Delegated Report

Planning Ref: 23/00615/FUL

Applicant: Mr Petty

Ward: Ratby Bagworth And Thornton



Hinckley & Bosworth
Borough Council

Site: Land Rear of 237 Main Street, Thornton, Coalville

Proposal: Erection of new single storey dwelling

Recommendations

1.1. **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

Planning application description

- 2.1. This application seeks full planning permission for the erection of a single storey 3 bedroomed dwelling on land to the rear of 237 Main Street, Thornton. The proposed dwelling would be an L shaped dwelling with a front gable on its eastern end and integral garage on its western end.
- 2.2. Proposed materials would match neighbouring dwellings.

Description of the site and surrounding area

- 3.1. The application site is located within the settlement boundary of Thornton. The area is characterised by primarily residential development of varying size and design which are located to the east, south and west of the application site. To the east of the application site is the Grade I listed St Peter's Church. To the north of the application site is an area of woodland planting. Immediately adjacent to the west of the application site is a parcel of land which has been hard landscaped but has no authorised use.
- 3.2. The application site comprises a piece of land currently forming the extended garden area to the rear of no. 237 Main Street. The area has been left to become overgrown.
- 3.3. There is a public right of way running along Church Lane and the edge of St Peter's Church yard leading down to Thornton Reservoir. Vehicular access is from Church Lane.
- 3.4. Thornton is located within the National Forest.

4.0 Relevant planning history

17/00010/OUT

- Erection of detached dwelling (Outline- all matters reserved)- Approved

19/01212/OUT

- Erection of detached dwelling (Outline- all matters reserved)- Approved

22/00792/FUL

- Proposed construction of two storey dwellinghouse- Approved

5.0 Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.
- 5.2. No letter of representation has been received.

6.0 Consultation

- 6.1. No comments were received from Bagworth and Thornton Parish Council
- 6.2. No objections were received from:
- LCC Highways (1 Condition)
 - HBBC Drainage
 - HBBC Waste
 - HBBC Pollution

Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 10: Key Rural Centres within the National Forest
 - Policy 19: Green space and Play Provision
- 7.2. Site Allocations and Development Management Policies DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- Good Design Guide (2020)
 - National Design Guide (2019)

Appraisal

- 8.1. Key Issues
- Assessment against strategic planning policies
 - Design and impact upon heritage assets
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety
 - Drainage/Pollution
 - Obligations
 - Planning Balance

Assessment against strategic planning policies

- 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. 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.
- 8.3. Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.4. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS), was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024. The Replacement Local Plan is therefore delayed. Therefore little weight can be given to this.
- 8.5. The Core Strategy (CS) sets out the settlement hierarchy for the Borough. The application site is located within the settlement boundary of Thornton, a key rural centre as identified in Policy 7 of the Core Strategy. Policy 7 supports housing development within settlement boundaries that provides a mix housing types and tenures. Furthermore, there is extant planning history on the site for a single dwelling which is a material consideration and fall back position. The application is therefore considered to be acceptable in principle subject to the detailed matters discussed below.

Housing Land Supply

- 8.6. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 8.7. Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. However, at a recent appeal (application ref: 21/01131/OUT, appeal Ref: APP/K2420/W/22/3301735, determined 4 January 2023) the Council signed a Statement of Common Ground which updates the monitoring position. On this basis, the Council have agreed that the 5 year housing land supply currently stands at 4.76 years, as of 1st April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National

Planning Policy Framework (NPPF) whereby 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.

- 8.8. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers: “where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless: i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear 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”
- 8.9. Footnote 8 in the NPPF states that the application of this approach “includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”.
- 8.10. Therefore, currently the ‘tilted’ balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.11. Development on this site would contribute to the housing land supply the provision of 1 dwellings within the settlement boundary of Thornton is considered to be a benefit of the proposal and weighs in favour of the scheme.

Design and impact upon heritage assets

- 8.12. Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.13. The Good Design Guide outlines that built development on infill sites should be of similar footprint, plot position and layout to the wider context, allowing sufficient space between buildings and not adversely impacting upon the prevailing grain of development.
- 8.14. The application site is located on land to the rear of No. 237 Main Street with access from Church Lane. The location of a new dwelling to the rear of No. 237 would constitute backland development. Church Lane itself comprises two storey cottages abutting the road on its eastern side, with two large detached dwellings on the western side (Lychgate Cottage and The Manse). Similarly, Lychgate Cottage and The Manse which sit north west of the application site are built at the back of no.231 and 223a Main Street. Set within the turning head at the end of Church Lane, the two properties front a shared driveway which would be shared with the application site.

- 8.15 Due to the existing detached dwellings set back from Main Street, located behind those fronting the main thoroughfare, it is considered that a dwelling on the application site would complement the prevailing character of the surrounding area. As above the principle of development has already been accepted.
- 8.16 The dwelling would be single storey and L shaped in plan with the garden area to the front of the dwelling similar in layout to the previously approved scheme. The single storey design would differ from the surrounding, predominantly two storey character of dwellings but not in a harmful manner as it would be subordinate to the surrounding form. The design is reasonably traditional with bricks and roof tiles to match the surrounding dwellings. The openings would appear more modern and don't appear to reflect the surrounding character, but not to the extent they would be harmful given the building is set back from the road with landscaping to the front and similar extant planning consent.
- 8.17 Policies DM11 and DM12 of the SADMP seek to protect and enhance the historic environment. Development proposals which affect the setting of a listed building will only be permitted where it is demonstrated that the proposals are compatible with the significance of the building and its setting. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on the Local Planning Authority when determining applications for development which affects a listed building or its setting to have special regard to the desirability of preserving the listed building's setting and any features of special architectural and historic interest which it poses.
- 8.18 The application site is located within the vicinity of the Grade I listed St Peter's Church. The immediate setting of the church is confined to the churchyard allowing full appreciation of the significance of the building but it is visible from various locations in the surrounding area which is considered to be its wider setting. The application site has been historically used as an orchard and has always been separate from the defined curtilage of the churchyard. There is no direct relationship between the application site and the church and churchyard. Therefore, the application site makes no contribution to the significant of the listed building.
- 8.19 It is considered that due to the single storey design, the orientation and the scale of the proposed dwelling it would not either impact on the wider setting of the listed building.
- 8.20 The details of the proposed materials are also considered acceptable. Therefore, it is considered that the proposed development would complement the character within the existing street scene and therefore would comply with Policy DM10, DM11, DM12 of the SADMP.

Impact upon neighbouring residential amenity

- 8.21 Policy DM10 of the adopted SADMP requires that the amenities of the occupiers of proposed developments would not be adversely affected by activities within the vicinity of the site.
- 8.22 The proposed dwelling is located to the west of The Manse and Lychgate Cottage and to the rear of nos. 237 and 239 Main Street.
- 8.23 Due to the location of the application site to the side of The Manse and Lychgate Cottage there are no windows serving habitable rooms which face the application site. Additionally no window is proposed for the front facing gable end with only side

facing windows proposed for this bedroom. The site is not adjacent to the private rear amenity spaces of these dwellings. It is not considered the proposed would have an adverse impact on the amenity of the occupiers.

- 8.24 The boundary of the application site is located 21m from the rear elevations of No's 237 and 239 Main Street. Due to the separation between the dwellings and the proposed it is considered the development would not have an adverse impact on the amenity of the occupiers.
- 8.25 The amenity of the occupiers of No 227 Main Street to the west of the application site would not be adversely impacted by the proposed dwelling due to the separation distance and orientation of the existing dwelling.
- 8.26 The application site measures approximately 380sq m. The size of the site is considered sufficient to accommodate this dwelling and the required associated external spaces including amenity space for the future occupiers are satisfactory.
- 8.27 It is considered that a dwelling is in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 8.28 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the adopted SADMP requires new development to provide an appropriate level of parking provision.
- 8.29 The Local Highway Authority advice is that, in its view, the impacts of the development on highway safety would not be unacceptable, and when considered cumulatively with other developments, the impacts on the road network would not be severe. Based on the information provided, the development therefore does not conflict with paragraph 111 of the National Planning Policy Framework (2021), subject to the conditions and/or planning obligations outlined in this report.
- 8.30 Church Lane is an adopted, unclassified carriageway subject to a 30mph speed limit enforced by street lighting and a 7.5t weight restriction. The LHA note that the carriageway is a quiet residential road with on-street parking and as such speeds are likely to be significantly less than the 30mph speed limit. Church Lane forms the route of Public Right of Way (PRoW) Footpath R80. Footpath R80 extends north east from Church Lane through the grounds of St. Peter's Church. The LHA do not consider that the proposed development would affect the PRoW. The LHA note that the site access will connect to an already in-situ unadopted extension of the turning head which serves No. 1 and No. 3 Church Lane. Whilst the LHA note that these access locations have not been detailed on the submitted drawings, the LHA consider that vehicles will manoeuvre at a slow speed and that intervisibility between the accesses is considered achievable.
- 8.31 The vehicular access is an existing dropped kerb off Highfields which is proposed to be extended. The proposed access to serve this dwelling and no. 37 would be approximately 9 metres in width. The driveway is also existing however it will be relayed and include SUDs. The proposed parking spaces would be approximately 6m x 2.5 metres and two off street parking spaces would be provided. This complies with LCC Highways Design guidance.
- 8.32 Therefore the proposal would comply with policies DM17 and DM18 of the SADMP.

Other matters

- 8.33 A Condition regarding construction hours and delivery times will be added to any permission, if granted.

Obligations

- 8.34 Policy DM3 of the adopted SADMP requires development to contribute towards the provision and maintenance of necessary infrastructure to mitigate the impact of additional development on community services and facilities. Policy 19 of the adopted Core Strategy seeks to address existing deficiencies in the quality, quantity and accessibility of green space and children's play provision within settlements.
- 8.35 The request for any planning obligations (infrastructure contributions) must be considered alongside the requirement contained within the Community Infrastructure Levy Regulations 2010 (CIL). The CIL Regulations confirm that where developer contributions are requested they need to be necessary to make the development acceptable in planning terms, directly related and fairly and reasonably related in scale and kind to the development proposed.
- 8.36 The public amenity space within the accessibility standards to the application site is Highfields Amenity Green Space (reference THO10) which has quality score of 60% in the Open Space and Recreation Study (2016). Below the target quality score of 80%.
- 8.37 Any requested infrastructure contribution for public play and open space facilities would need to be necessary to make the development acceptable in planning terms and therefore CIL compliant.
- 8.38 However, in this case, the proposal is for only one additional dwelling which would not have any significant impact on existing play and open space facilities. The development is considered to be acceptable in planning terms without any contribution and therefore the contribution would not be CIL compliant in this case. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

Planning Balance

- 8.39 The site is located within the settlement boundary of Thornton where new residential development is considered to be sustainable subject to all other material considerations. The proposed residential development would therefore comply with adopted strategic planning policy Policy 7 of the Core Strategy.
- 8.40 As referred to in paragraph 8.7 the council is unable to demonstrate a five year housing land supply. Therefore this application should be determined against paragraph 11(d) of the NPPF whereby 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.
- 8.41 The NPPF in paragraph 8 identifies three overarching and interdependent objectives to sustainable development – the economic, social and environmental objectives. In this case, the proposal would provide a small contribution to the social role through the provision of one additional dwelling and a small contribution to the economic role through the construction of the development and future ongoing occupation of the dwellings supporting local services.
- 8.42 The application site comprises a piece of land currently forming the extended garden area to the rear of no. 237 Main Street. The area has been left to become overgrown. The siting, scale and design of the proposed dwelling is considered to compliment

the character of the area and surrounding dwellings. It would also have no adverse impact upon the nearby heritage asset, the residential amenity of any neighbouring dwellings and would have no impact upon highway safety. Therefore the proposal would comply with Policy DM1, DM10, DM11, DM12, DM17 and DM18 of the SADMP.

- 8.43 The application does not conflict with any of the policies set out within the Local Plan (2006-2026), therefore it is considered that there would not be significant or demonstrable adverse impacts that would outweigh the relatively small social and economic benefits and the presumption in favour of sustainable development. Therefore, no material considerations indicate that a decision should be made other than in accordance with the Development Plan.

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).

Conclusion

- 10.1. The proposal is within the settlement boundary of Thornton. The siting, scale and design of the proposed dwelling is considered to compliment the character of the area and surrounding dwellings. It would also have no adverse impact upon the residential amenity of any neighbouring dwellings and would have no impact upon highway safety. Therefore the proposal would comply with Policy DM1, DM10, DM11, DM12, DM17 and DM18 of the SADMP (2016) and Policies 7 and 19 of the Core Strategy (2009). Therefore this application is recommended for approval for the reasons below.

Recommendation

- 11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

- 11.2 **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Site Location Plan Drg No: 102 23 P EX 000
- Proposed Elevations Drg No: 102 23 P PR 004
- Proposed Floor Plans Drg No: 102 23 P PR 002
- Proposed Floor Plans Drg No: 102 23 P PR 001
- Proposed Block Plan Drg No: 102_23_P PR 000
- Proposed Parking Plan Drg No: 102 23 P PR 006
- Proposed Street Elevations Drg No: 102 23 P PR 003
- Proposed Landscape Plan Drg No: 102 23 P PR 005. All received by the Local Planning Authority on 20th June 2023.

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

3. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the Proposed Site Layout Plan (drawing reference BES 102_23_P_PR_006). 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 (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with policies DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (2021).

4. No development shall take place until a scheme makes adequate provision for waste and recycling storage of containers and collection across the site which has been submitted to and approved in writing to the Local Planning authority. The details should address accessibility to storage facilities and confirm adequate space is provided at the adopted highway boundary to store and service wheeled containers.

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

5. Site preparation and construction as well as delivery times shall be limited to the following hours;
Monday – Friday 07:30 – 18:00
Saturday 08:00 – 13:00
No working on Sundays and Bank Holidays

Reason: To protect neighbouring amenity during the construction process in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11.3 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 buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
3. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
4. Access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).
5. A Public Right of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980.
6. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works.
7. If the developer requires a Right of Way to be temporarily diverted, for a period of up to six months, to enable construction works to take place, an application should be made to networkmanagement@leics.gov.uk at least 12 weeks before the temporary diversion is required.
8. Any damage caused to the surface of a Public Right of Way, which is directly attributable to the works associated with the development, will be the responsibility of the applicant to repair at their own expense to the satisfaction of the Local Highway Authority.