

Applicant: Mr and Mrs Marshall

Proposal: Change of use of agricultural land to domestic garden

Site: Land to the rear of Holly Tree Cottage, Sheepy Magna, Atherstone CV9 3RT

Date: September 2024

- 1.1 This planning statement is submitted in support of the planning application made to Hinckley and Bosworth Borough Council for the proposed change of use of agricultural land to domestic garden on land to the rear of Holly Cottage, Twycross Road, Sheepy Magna, Atherstone CV9 3RT.

The site

- 2.1 The application site relates to a parcel of land located to the rear of Holly Cottage, Twycross Road in Sheepy Magna. The site is located outside of the settlement boundary of Sheepy Magna and is agricultural land.
- 2.2 The site is owned and managed by the applicants and in recent years has been planted with trees to create a young woodland. The applicants keep bees on the land. Access is achieved from the rear garden of the applicant's residential property, Holly Cottage.
- 2.3 The site is bound to the north and west by agricultural fields; to the east lies Holly Cottage and existing residential properties along Twycross Road; and, to the south are the established residential curtilages of properties at Nos. 14 and 12 Rodney Gardens.
- 2.4 The application site is not within a Conservation Area nor is it associated with a listed building.
- 2.5 The site is situated within a Flood Zone 1 on the Environment Agency's flood maps for planning.

The application

- 3.1 Change of use of agricultural land to domestic garden. There are no buildings or structures proposed.

The Development plan

- 5.1 In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 an application for planning permission should be determined in accordance with the development plan unless other material considerations indicate otherwise.
- 5.2 The development plan relevant to the determination of this application is comprised of the adopted Core Strategy 2009, the Site Allocations and Development Management Policies DPD 2016 and the made Sheepy Parish Neighbourhood Plan 2019.

Core Strategy

- Sheepy Magna is identified as a Rural Village in the spatial hierarchy

Site Allocations and Development Management Policies DPD

- The site is situated outside of but contiguous with the identified settlement boundary for Sheepy Magna as shown on allocations map.
- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM10: Development and Design

Sheepy Parish Neighbourhood Plan

- S1 – Countryside

Assessment

Principle of development:

- 6.1 The application relates to the change of use of the land from agricultural use to domestic garden to serve Holly Tree Cottage. The site lies outside the development boundary and is therefore in an area of open countryside, which Policy DM4 seeks to protect.
- 6.2 Policy DM4 of the Site Allocations and Development Management Policies DPD adopted July 2016 (SADMP) seeks to safeguard the countryside from unsustainable development to protect its intrinsic value, beauty, open character and landscape character. It sets out that development in the countryside will be considered sustainable where it falls within the types listed and where it meets specific criteria, including that it does not have a significant adverse effect on the characteristics it seeks to protect. As the change of use of land to garden does not fall within the specific exceptions listed, it conflicts with Policy DM4 in that regard.
- 6.3 Policy S10 of the SPNP confirms that, outside the Sheepy Magna settlement boundary, permission for housing development will be limited to:
- a. Land allocated for residential development at Hornsey Rise Memorial Home; or
 - b. Rural worker accommodation; or
 - c. Replacement dwellings; or
 - d. The re-use and/or adaption of redundant rural buildings; or
 - e. Other circumstances as set out in Paragraph 80 of the NPPF [now 84]; or
 - f. Exception site affordable housing.

The change of use does not fall within the exceptions listed above. However it is worth noting that Policy S1 of the SPNP states that householder development may be considered sustainable in countryside locations.

6.4 Whilst the principle of development does not meet with the exceptions set out under DM4 and S10 of the development plan there are, other material planning considerations that support the grant of planning permission in this instance. These are:

1. 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.
2. The neighbouring properties at Nos 12 and 14 Rodney Gardens have each established planning permission to extend their domestic gardens to meet with the western boundary of the application site.

The change of use of the agricultural land to domestic garden at 12 Rodney Gardens was allowed under planning appeal APP/K2420/W/23/3317828 following the refusal of application 22/00916/FUL. Since the appeal was allowed planning permission was then granted by the LPA for No 14 Rodney Gardens to change the use of agricultural land to domestic garden. Both of these gardens extend to the same depth as the current application site.

In considering the appeal the Inspector concludes at paragraphs 8, 9 and 10 of the decision:

“The site is visible in localised views from the rear of the adjoining residential properties and the nearby access track, as well as the adjoining agricultural land and buildings. The size and layout of the garden reflects that of the rear garden at the adjoining property at No 14. Despite its size, the site benefits 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. Having regard to these matters, the use of the land as garden has a negligible effect on the qualities of the open countryside setting.

I note the Council's concern regarding the potential for the siting of domestic paraphernalia, such as furniture, play equipment, hard surfacing or ponds in connection with the use of the land as garden, which would be more difficult to control. Nonetheless, in the event that this does occur, any such paraphernalia would be likely to be small scale and would not be permanent fixtures.

Furthermore, permitted development rights for any incidental building, or enclosure, swimming, or other pool as well as walls, fences and other means of enclosure can be controlled by planning condition. Subject to a suitably worded condition removing such

rights the development would not give rise to any tangible harm to the visual qualities or open character of the rural area.

For the foregoing reasons, I find that the proposal does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside. As such, it does not harm the character and appearance of the area."

6.5 The application site meets with the established depth of the gardens for Nos 12 and 14 Rodney Gardens. The wooded character of the application site means that it has an even greater degree of containment in the wider rural context than the neighbouring sites. The use of the land for garden purposes would not have any noticeable effect on the quality of the open countryside. The proposal does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.

6.6 Therefore, whilst conflict with the development plan has been identified, there is no planning harm and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 other material planning considerations suggest that planning permission can be supported.

Impact upon Residential Amenity:

6.7 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.

6.8 The development does not consist of any new buildings or extensions and therefore is not considered to have any adverse impacts on neighbouring residential amenity. The use of the land for domestic garden space incidental to the enjoyment of the residential property is a compatible land use and would provide a benefit to the occupiers of Holly Tree Cottage.

6.9 There is not conflict with Policy DM10 of the SADMP with reference to residential amenity.

Landscaping:

6.10 There are no changes proposed to the existing landscaping and biodiversity of the site.

Access and Parking:

6.11 The garden is accessed by the occupiers of Holly Tree Cottage from the existing rear garden. There are no changes to the existing access arrangements and no additional car parking is required.

6.12 *Overall conclusions:*

Planning permission can be supported.