

Delegated Report

Planning Ref: 23/00980/FUL

Applicant: Mr Kind

Ward: Earl Shilton



Hinckley & Bosworth
Borough Council

Site: Threeways, 31 Breach Lane, Earl Shilton, Leicester

Proposal: Proposed new dwelling on land to the rear of 31 Breach Lane and associated parking, access and vehicular crossover

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 planning permission for the erection of new dwelling on land to the rear of 31 Breach Lane and associated parking, access and vehicular crossover.
- 2.2. Amended plans were received on 08 February 2024. The proposed dwelling would be a chalet bungalow with 2 en-suite bedrooms in the roof area, an integral garage on its northern side and an amenity area on its southern side of approx. 90sqm. The proposed would have a ridge & eave height of 6.6m & 3m respectively (a reduction of approx. 0.5m from the original proposal). The bungalow would have a depth of approx. 6.7m and a length of 16m. The proposed would also have a front facing gable end with a ridge height of 6m & a front facing pitch roof dormer window.
- 2.3. The dwelling would be finished in rendered walls with upvc doors & windows under a tiled roof. Sliding doors have been moved from the western end of the southern elevation to the eastern end.
- 2.4. A total of 3 on-site parking spaces are proposed which consists of 1 in the integral garage and 2 at the front of this.
- 2.5. Amended plans were also received on 13.02.2024 which propose 2m high close board wooden fencing for the northern boundary.

Description of the site and surrounding area

- 3.1. The site measures approximately 355 square metres and would have a 26 metre frontage onto Equity Road East. The existing boundary along Equity Road East is a 2.5m high mature hedgerow. The site currently comprises part of the rear garden area for No. 31. There is an existing access to Equity Road East but this access would remain part of No. 31 with a new access proposed for the new dwelling. No. 3 to the north is a bungalow. The northern boundary of the site consists of a 1.5m high closed boarded fence. The surrounding area is residential and comprises a variety of scales, designs and styles with a mix of red brick and render, including gable fronted bungalows within the vicinity of the site and frontage parking.
- 3.2. **Relevant planning history**
- None relevant

Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
 - 5.2. A site notice was also posted within the vicinity of the site.
 - 5.3. Letters of representation was received from one property objecting to the proposal for the following reasons:
 - Amended plans do little to allay the overall impact to a neighbouring property
 - The length of the proposed has been reduced by approx. 3m
 - The proposed still stretches almost 16m along the boundary of this neighbouring garden
 - The issues around the height and proximity of the proposed property still remain, as do the proposed bi-fold doors on the southern wall, the windows in the living areas on rear wall, it is simply too impactful.
 - The colossal size and proximity to a neighbours eastern boundary is simply overwhelming and overbearing
 - The proposed is only 1.75m from the common boundary with No. 29
 - The proposed will overshadow this neighbours garden, depriving it of light.
 - The bi fold doors on the southern elevation will be too close (14m) to the rear elevation of No. 29 resulting in a loss of privacy
 - The proposed velux windows at the rear will add to this loss of privacy
 - The rear windows, due to proximity and floor height will offer direct views into this neighbours garden.
- It is considered the above points of objection are dealt with in the body of this report & amendments made

Consultation

- 6.1. No response from the following:
 - Earl Shilton Town Council
 - HBBC Waste
- 6.2. No objections from the following:
 - LCC Highways, a note to applicant has been provided
 - HBBC Drainage, a note to applicant has been provided
 - HBBC Environmental Services

Policy

- 7.1. Core Strategy
 - Policy 2: Development in Earl Shilton
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.4. Earl Shilton and Barwell Area Action Plan
 - Policy 22 Design

- 7.5. 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 the character of the area
 - Impact upon neighbouring residential amenity
 - Impact upon highway safety

Assessment against strategic planning policies

8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) states that planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise and that the NPPF is a material consideration in determining applications. 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.

8.3 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.

8.4 The development plan in this instance consists of the adopted Core Strategy (2009), Earl Shilton and Barwell Area Action Plan (2014) and the adopted Site Allocations and Development Management Policies (SADMP) DPD (2016).

8.5 The spatial distribution of growth across the Borough during the plan period 2006-2026 is set out in the adopted Core Strategy. This identifies and provides allocations for housing and other development in a hierarchy of settlements within the Borough. The application site is located within the settlement boundary of Earl Shilton. Earl Shilton has good access to facilities, services, employment and sustainable modes of transport. Policy 2 of the Core Strategy seeks to support development within the settlement boundary of Earl Shilton and therefore new residential development is considered to be acceptable in-principle within the settlement boundary, subject to satisfying all other relevant policies and material planning considerations.

8.6 Footnote 8 of Paragraph 11 of the NPPF states that the housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites. Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 4.89 years of deliverable housing on 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.

8.7 The housing policies are therefore considered to be out-of-date and therefore paragraph 11(d) of the NPPF is triggered and 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 a material consideration to weigh in

the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless considerations indicate otherwise. The tilted balance of Paragraph 11d) of the NPPF is engaged, irrespective of the housing land supply figure, which is a product of the age of the plan and the out-of-date evidence base it relies upon. The Core Strategy plans for a minimum requirement of 9,000 dwellings over a 20 year period between 2006-2026, this equates to 450 dwellings per annum. This figure was derived from the East Midlands Regional Plan and was considered the 'end point' for housing need requirements for that period. The Site Allocations and Development Management Policies DPD is also based upon these requirements in terms of the allocations it makes and the settlement boundaries it fixes. The Standard Methodology set by government currently identifies a requirement for Hinckley and Bosworth Borough Council of 444 dwellings per annum as of 1st April 2021. However the Core Strategy requirement is the 'starting point' for need; the end point has not yet been assessed and the allocations to meet it / the new settlement boundaries will not be confirmed until the publication of the new Local Plan, which will cover the plan period of 2020-2039.

- 8.8 As such paragraph 11(d) of the NPPF is engaged and a 'tilted balance' assessment must be made. This must take into account all material considerations and any harm which is identified. All material considerations must be assessed to allow this balance to be made.
- 8.9 In principle however, the proposed dwelling would be sited in a sustainable location, within the settlement boundary and in compliance with the aforementioned policies of the development plan.

Design and impact upon the character of the area

- 8.10 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.11 The residential area is predominantly characterised by a wide variety of dwellings fronting Breach Lane & Equity Road which have long rear gardens projecting to the rear. However, there are 2 detached 2 storey dwellings fronting onto Equity Road, directly opposite the site, with smaller plots and smaller garden areas. These 2 detached dwellings were a later addition in what was once garden area for No. 33 Breach Lane.
- 8.12 Although the proposed chalet bungalow would introduce built form to an otherwise undeveloped rear garden and change the character and appearance of the site, by virtue of its siting at the end of the rear garden with three existing bungalows directly to the north it is considered that there would be no significant harm to the overall character of the surrounding area.
- 8.13 Overall, the proposed would provide satisfactory space for a new dwelling of appropriate size to complement neighbouring properties along with adequate amenity areas for both the existing and proposed dwellings. Given the size of the site the proposed layout would be considered suitable to respect the existing grain of development as are the proposed materials.
- 8.14 The proposed dwelling would have a traditional appearance that takes design cues from the surrounding area, which has a mixed character and appearance. The feature gable end is similar to No. 8 Equity Road East. The pitched roof design of neighbouring properties would be carried across onto the proposed new dwelling, helping it to

harmonise with the surrounding area. Traditional pitched roof detached dwellings with a feature gable end are a common feature of Equity Road East, in close proximity to the site.

- 8.15 The proposed development would result in the loss of a non tpo'd apple tree. A condition would ensure a similar tree as the one being removed will be planted in the garden area to the south of the proposed bungalow. It is not considered the loss of the existing apple tree would be detrimental to the character of the area. The existing mature hedgerow along Equity Road East is to be retained.
- 8.16 The development of the site for a new dwelling would complement the character of the surrounding area and the proposal would therefore be in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.17 Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings.
- 8.18 The proposed new dwelling would achieve satisfactory separation distances to neighbouring properties that would avoid any significant adverse overbearing impacts in accordance with the HBBC Good Design Guide. These separation distances would be combined with satisfactory boundary treatments consisting of a 2m high close boarded timber fence on the western, northern & southern boundary, which would protect the privacy and amenity of neighbouring properties and future occupiers of the site from any significant loss of privacy or overlooking. Additional landscaping will be conditioned along this southern and western boundary which will further limit potential of overlooking and any loss of privacy.
- 8.19 It is not considered that the additional vehicle movements would result in any adverse noise impacts upon the occupiers of neighbouring dwellings on Equity Road East.
- 8.20 Sufficient amenity space would be provided serving the existing and future occupiers of the properties. Proposed rooflights on the western roof slope would be obscure glazed by condition. The bi fold doors have, as a result of amended plans, been moved to the eastern side of the southern elevation away from No. 29, now 16m to the southwest at its nearest point. No doors or windows are proposed for the northern elevation which would help protect the amenity of neighbours in No. 3.
- 8.21 There would be approx. 1.7m gap between the dwelling and northern boundary, in general accordance with the HBBC Good Design Guide, in the spirit of good neighbourliness. This is considered similar to the separation distances between other dwellings along Equity Road East and is considered sufficient with the sun being at its highest point in the sky directly to the south. Due to the natural movement of the sun from east to west any overshadowing of the garden area of No. 29 directly to the west would be limited to the early morning and to the northern extend of this properties garden with the remainder of the garden unaffected with regards to light by the development. The development would result in additional built form and a degree of enclosure to the northern part of the garden of no.29 but the property has a large garden and the height of the dwelling (which has been

reduced through amendments to the proposal) and hipped nature of the roof would minimise this to an acceptable level.

- 8.22 The southern side wall of the proposed dwelling would be 16m from the rear of the neighbouring property No. 29 and at an angle to it. Due to good design, suitable boundary conditions & additional landscaping it is considered this neighbour's amenity would be protected. The distance to the rear elevation of No. 31 would be over 20m and for the same reasons as above the amenity of No. 31 would not be detrimentally affected. No first floor windows are proposed in the first floor of the southern elevation.
- 8.23 The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP in regard to residential amenity.

Impact upon highway safety

- 8.24 Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 requires new development to provide an appropriate/justified level of parking provision.
- 8.25 3 parking spaces have been provided for the proposed 2 bed dwelling. As Highways have not objected to the proposed & sufficient off street parking space has been provided, the development is not considered to have a severe adverse impact upon highway safety, in accordance with Policies DM17 and DM18 of the SADMP and the provisions of the NPPF.

Infrastructure contributions

- 8.26 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.
- 8.27 However, in this case the proposal is for only for two modest sized dwellings, which would not have any significant impact on the quality of the existing play and open space facilities. The development is considered to be acceptable in planning terms without any contribution and therefore any contribution request would not be CIL compliant. Therefore, notwithstanding Policy DM3 of the adopted SADMP and Policy 19 of the adopted Core Strategy, no contribution has been pursued in this case.

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).

Planning Balance and Conclusion

9.5 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.

9.6 The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focussed on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the 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.

9.7 The application site is in a sustainable urban location within the settlement boundary of Earl Shilton within a reasonable distance of services and facilities where residential development is generally acceptable in strategic planning policy terms, and as such would not conflict with the spatial policies of the development plan which has significant weight in favour of the scheme.

9.8 By virtue of the size of the plot, its relationship to neighbouring properties and satisfactory scale & appearance the proposed development of 1 new dwelling would complement the pattern, character and appearance of the surrounding area and would not give rise to any significant adverse impacts on the privacy or amenities of the occupiers of any neighbouring properties or highway safety.

9.9 The proposal is therefore considered to be in accordance with Policies 2 and 19 of the adopted Core Strategy and Policies DM1, DM10, DM17 and DM18 of the adopted SADMP, and Policy 22 of the ESBAAP together with the overarching principles of the NPPF and is therefore recommended for approval subject to conditions.

Recommendation

9.10 **Grant planning permission** subject to:
Planning conditions outlined at the end of this report

9.11 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 Plan - Drg. No. Ref 'Planning 01 Rev C' - received 08/02/2024

Location Plan & Access Drg Ref 'Planning 02 Rev C' received 13/02/2024

Proposed Floor Plans & Elevations - Drg. No. Ref 'Planning 01 Rev C' – received 08/02/2024

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 materials to be used on the external elevations of the proposed dwelling shall accord with the proposed materials as listed in the submitted application form.

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

4. The development hereby permitted shall not be occupied until such time as off street car parking has been provided and hard surfaced in accordance with drawing reference number Planning 01 Rev C- received 08/02/2024. 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 Policy DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD (2016) and the National Planning Policy Framework (2023).

5. The dwelling shall not be occupied 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 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).

6. Site preparation and construction 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).

7. The rooflights and windows on the western elevation shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and shall be non-openable. Once so provided the window(s) shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

8. Prior to any above ground development a scheme of soft landscaping works, for the site, including an implementation scheme, shall be submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs 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 the development has a satisfactory external appearance in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. Prior to first occupation of the dwelling boundary fences shall be erected in accordance with approved drawing 'Location Plan & Access Drg Ref 'Planning 02 Rev C' received 13/02/2024'. Thereafter the fences shall be retained and maintained in perpetuity.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

10. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A, B, C, D; of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement or other alteration to the dwelling shall be carried out unless planning permission for such development has been granted by the Local Planning Authority.

Reason: 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).

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. 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.

3. The collection point for domestic recycling, garden waste and refuse is from the adopted highway boundary. Please refer to the following downloads on the website.

http://www.hinckleybosworth.gov.uk/downloads/file/2952/wheeled_bin_information_for_developers_and_planning_officers

https://www.hinckleybosworth.gov.uk/downloads/file/4647/wheeled_bin_and_container_policy_updated_march_2018

Please note that our policy states that all recycling and refuse services take place from the boundary with the public highway

4. Notwithstanding planning consent, the Applicant would still need to apply to the LHA for a Vehicle Access (dropped kerb) permit before undertaking any works. Further details of the requirements can be found at <https://www.leicestershire.gov.uk/roads-and-travel/cars-and-parking/vehicle-access-dropped-kerbs>.

The Applicant should note that the approval of planning permission does not guarantee permission for the required permit.

Planning Permission does not give you approval to work on the public highway. Therefore, prior to carrying out any works on the public highway you must ensure all necessary licences/permits/agreements are in place. For further information, please telephone 0116 305 0001. It is an offence under Section 148 and Section 151 of the Highways Act 1980 to deposit mud on the public highway and therefore you should take every effort to prevent this occurring.

5. 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.

Any proposed 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).