

Delegated Report

Planning Ref: 25/01163/CONDIT
Applicant: Mr Rana Bath
Ward: Ratby, Bagworth, and Thornton



Hinckley & Bosworth
Borough Council

Site: 14 Station Road, Ratby

Proposal: Application to vary condition 2 of planning permission 23/00950/HOU, amendment to approved landscaping.

1. Recommendations

1.1. Grant planning permission for the variation of 23/00950/HOU subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.
- 2.2. In this case, planning permission for application 23/00950/HOU granted an approval of full planning permission for the remodelling of existing dwelling including a two storey rear extension, single storey side extension, roof extensions with attic accommodation and front porch (re-submission of 21/01482/HOU).
- 2.3. The application seeks to vary the approved plans under condition 2 of the original approval (23/00950/HOU) to incorporate a patio area to the rear of the site. The application has been subject to various alterations and negotiations, given the unacceptable level of works carried out without planning permission. In addition, as part of the application process, the applicant had originally applied to remove condition 6 relating to the removal of Permitted Development rights, however, this was deemed to not be appropriate and as such the description of development has changed and condition 6 shall remain in effect.

3. Description of the Site and the Surrounding Area

- 3.1. The application dwelling is located within the settlement boundary of Ratby at the end of a row of dwellings on the south side of Station Road, towards the south of the village. The dwelling is set back from Station Road by approximately 27 metres, whereas the immediate neighbouring dwellings to the east (numbers 16-22) are sites in a linear form approximately 10m back from the street.
- 3.2. The property itself has benefitted from a significant amount of alterations, approved under 23/00950/HOU. There is a large, front garden area with an access to the front

and rear of the dwelling. The rear garden and land ownership is extensive, extending beyond the settlement boundary of Ratby. The dwelling is bound by residential dwellings to the east and north, Ratby Town Cricket Club and Pavilion to the west, and open countryside to the south. The application site sits on slightly elevated ground (approximately 0.5m) compared to neighbouring No. 16 Station Road.

4. Relevant Planning History

23/00950/HOU

Remodelling of existing dwelling including a two storey rear extension, single storey side extension, roof extensions with attic accommodation and front porch (re-submission of 21/01482/HOU).

Planning permission

31/03/2023

21/01482/HOU

Remodelling of existing dwelling including a two storey rear extension, single storey side extension, roof extensions with attic accommodation and front porch

Planning permission

13/01/2023

21/01118/OUT

Removal of garage to the existing dwelling and erection of two three bedroom 2 storey dwellings with gardens

Refused

22/12/2022

20/0004/FUL

Demolition of existing garage and installation of 2 new residential dwellings in the rear garden of 14 Station Road

Refused

Appeal Dismissed

17/03/2020

5. Publicity

- 5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 5.2. In this instance, the application has been publicised by a site notice being posted within the vicinity of the site and letters issued to neighbours.
- 5.3. Two letters of objection have been received which raise the following concerns:
 - Loss of privacy
 - Retrospective nature of application

6. Consultation

6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.

6.2 There have been no responses from the following consultants:

- Ratby Parish Council

6.3 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 7: Key Rural Centres

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (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) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4 Other Relevant Guidance:

- Good Design Guide (2020)

8. Appraisal

8.1. In accordance with Planning Practice Guidance (NPPG), there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part of the permission. The operative part of the planning permission being the description of the development.

- 8.2. Section 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) and the Site Allocations and Development Management Policies DPD (2016).
- 8.3. The application seeks to vary the original permission, to amend the landscaping plans to allow for a patio area to the rear of the site. The principle of development within the site has been established and is therefore acceptable in principle.
- 8.4. Therefore, the key issues in respect of this application are:
- Design and impact upon the character of the area
 - Impact on neighbouring amenity
 - Previously imposed conditions

Design and Impact upon the Character of the Area:

- 8.5. 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.
- 8.6. The key variation from the plans relates to the patio area to the rear of the dwelling. The application is retrospective, and significant works have occurred at the site. Throughout the application may variations have occurred to the proposed plans, to ensure that a reasonable quality of design can be achieved.
- 8.7. The final proposed plans relate to a raised patio area, protruding out of the rear of the dwelling. The raised patio includes steps down to the lower land level at the south of the site. The land levels to the east and north of the site, which have been raised without planning permission shall return to the original land levels. A fence structure has also been proposed locate on the raised patio to reduce any neighbouring amenity issues.
- 8.8. Whilst the raised patio remains sizeable, it is proportionate to the size of the wider rear amenity area. It is considered that through the various amendments the application has now achieved a standard which would not warrant refusal of planning permission, and given the location of the development, it is not considered that the patio area would create any detrimental impacts to the character of the area, and as such the development is in accordance with Policy DM10 of the SADMP.

Impact upon neighbouring amenity

- 8.9. Policy DM10 of the SADMP seeks to ensure that development would not have significant adverse effect upon the privacy or amenity of nearby residents and occupiers of adjacent buildings, and the amenity of the occupiers of the proposed

development would not be adversely affected by activities within the vicinity of the site.

8.10 The proposal under this application was originally unacceptable in terms of its impact on neighbouring residential amenity, and through the original neighbour objections owing to the loss of privacy and overlooking due to the nature of the raised patio area and the change in levels between the site and neighbouring No. 16 Station Road. Through negotiations, the patio has now been located further away from the neighbouring boundary, with land levels closest to the eastern boundary returned to the original land levels, and a 1.8m fence structure erected on the raised patio area. These amendments result in the impact on neighbouring residential amenity, in terms of loss of light, loss of privacy and overbearing impacts, being mitigated.

8.11 Therefore, the application and the development remain compliant with Policy DM10.

Previously Imposed Conditions:

8.12 Permission granted under Section 73 takes effect as a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. A new permission sits alongside the original permission, which remains intact and unamended. It is open to the Applicant to decide whether to implement a new permission or the one originally granted.

8.13 Therefore, in accordance with PPG, a Section 73 Decision Notice should set out all the conditions imposed on the new permission, and, for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.

8.14 Planning permission **23/00950/HOU** was subject to 6 conditions.

8.15 Time cannot be extended or altered for Section 73 applications and, as such, Condition 1 (Time) needs to refer to the original 3-year time scale for implementation of the development.

8.16 Condition 2 of the approval relates to the formerly approved plans, this has been altered in the conditions outlined at the end of this report to reflect the variations made within the application.

8.17 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. No additional conditions are considered to be necessary.

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 granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation

11.1 **Grant planning permission for the variation of 23/00950/HOU** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. The development hereby approved shall not be carried out otherwise than in complete accordance with the submitted application details, received by the Local Planning Authority as follows:

Plans received under application 23/00950/HOU:

- Existing/Planning - Drawing Ref: DSA-21116-EXT-PL-01-J received by the local planning authority on 05.09.2023.

Plans received under application 25/01163/CONDIT:

- Sketch Scheme- Existing, Proposed Floor Plans, Elevations, Site Location Plan, Drg No. 21116 - DSA - ZZ - GF - DR - A - 300 Rev P01
- Sketch Scheme - Existing, Proposed Floor Plans, Elevations, Section Site Location Plan Drg No. 21116-DSA-ZZ-XX-DR-A-301 Rev P06

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 materials to be used on the external elevations of the proposed extension and alteration shall accord with the approved plan - Drawing Ref: DSA-21116-EXT-PL-01-J received by the local planning authority on 05.09.2023.

Reason: To ensure that the development has a satisfactory external appearance in accordance with Policies DM10, DM11 and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Notwithstanding the submitted details, all the proposed roof light windows in the side (east) roof elevation shall be constructed with a cill height of a minimum of 1.7 metres above the floor level of the room in which the window is installed.

Reason: To ensure the development does not have a detrimental impact upon the privacy and residential amenity of any neighbouring properties in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. On the side (east) elevation, the windows on the ground floor (serving a bathroom) and first floor (serving a hallway) shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and bottom hung. Once so provided the windows shall be permanently maintained as such 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).

5. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E; of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and reenacting 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).

a. **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 building.control@blaby.gov.uk or call 0116 272 7533.