

Delegated Report

Planning Ref: 23/00517/FUL

Applicant: Mr & Mrs Cvetkovic

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 30 Barton Road Market Bosworth Nuneaton

Proposal: Proposed replacement dwelling

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning application description

2.1. This planning application seeks full planning permission for a replacement, two-storey, detached, four-bedroom dwelling at 30 Barton Road, Market Bosworth.

2.2. The replacement dwelling externally measures 19.3m in width x 13.8m in depth, with a total footprint of 212.9sqm. The main element of the property utilises a hipped roof with two equally sized gable-fronted roofs on either end of the principal elevation and one smaller gable-ended pitched roof in the centre of the principal elevation. On the rear elevation, the main property incorporates three gable-ended pitched roofs that are all similar in size.

2.3. The ridge height of the main roof and the two gable-fronted roofs on the principal elevation, and the three gable-fronted roofs on the rear elevation is 7.7m, and the eaves height of these roof structures is 4.2m. The smaller glazed gable-fronted roof on the principal elevation has a ridge height of 6.1m, and an eaves height to match the main roof. The development also features two bay windows on its principal elevation. Attached to the southern elevation of the scheme is a one-and-a half-storey garage that utilises a hipped roof and a dormer window on the principal elevation. The ridge height of the garage's hipped roof and dormer window is 6.1m, and the eaves height is 3.4m and 4.2m respectively.

2.4. To facilitate this development, the proposed ground floor is set 350mm lower than the current ground floor. The garage is also set down by a further 0.2m.

2.5. The development is constructed with red brick and red clay tiles.

3. Description of the site and surrounding area

3.1. The 1,200sqm application site is to the north of, and within the identified settlement boundary of, the Stand Alone Key Rural Centre, Market Bosworth. The site is accessed via Barton Road, which is an adopted and classified 'C' road that is subject to a 30mph speed limit, and currently comprises a 1960s brick and tile bungalow that sits centrally within the site.

3.2. The existing dwelling externally measures 14.8m in width x 8.7m in depth, with a total footprint of 241.2sqm. This excludes the lean to and outbuilding that are attached to the property which have a footprint of 59.1sqm and protrude 6.8m further than the rear elevation of the property.

3.3. The residence is constructed with a hipped roof, which has a ridge height of 6m, and an eaves height of 2.4m. On either side of the principal elevation, the hipped

roof has two gable-fronted roofs that have a ridge height of 4.9m, and an eaves height to match the main roof. The property utilises a red brick finish and red tiles.

- 3.4. At this section of Barton Road, the character of the street scene is wholly residential. There are several residential properties to the north and west of the site, but beyond these is several spinneys and open countryside respectively. To the east of the site is Kennel Spinney and a scheduled monument. To the south of the site is further residential properties and the town centre of Market Bosworth.
- 3.5. Barton Road is lined with trees and features properties of varying styles and finishes that predominantly utilise a red brick finish and are set back from the highway. The dwellings on the east side of Barton Road are set higher up than the highway and are a mixture of bungalows and two-storey dwellings.
- 3.6. The adjacent property, 28 Barton Road, received planning permission via 20/01307/HOU for the remodelling of their existing property to include an increased roof ridge height by 1.4m to 7.9m, first floor, and one-and-a-half storey extensions to the front, side, and rear of the dwelling.

4. Relevant planning history

4.1 N/A.

5. Publicity

- 5.1 The application has been publicised by sending out letters to local residents.
- 5.2 One objection has been received for the application. A member of the public has objected to the scheme as there is a covenant on the land that restricts the roof height of the property to a bungalow.

The Planning Officer notes that, whilst a covenant may be in place on the land, these legal agreements are separate and independent matters from planning. Therefore, restrictive covenants are not considered to be a material planning consideration and they are not superseded by any grant of planning permission.

- 5.3 No further responses have been received.

6. Consultation

6.1 Market Bosworth Parish Council have objected to this planning application on the following grounds:

- A recent Housing Needs Survey from the Parish has identified a need for more bungalows rather than large houses.
- Overdevelopment of the site.
- The development negatively changes the character of the street scene.

The Parish Council have recommended that any development on the site should sit within the existing boundary line and an archaeological survey must be carried out if development is permitted.

The Parish Council have suggested that as the scheme is contrary to the housing need identified within a recent Housing Needs Survey, then it is not considered to be sustainable development. This is not the case, and the sustainability of the site is assessed further in this report.

- 6.2 There have been no objections from the following consultants:
- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
 - HBBC's Environmental Services' Pollution Officer
 - HBBC's Waste Management Officer (subject to conditions)
 - Leicestershire County Council's Archaeological Team (subject to conditions)
 - LCC Ecology
- 6.3 The Local Highway Authority make no comment on the application and refer to standing advice.
- 6.4 No further responses have been received.

7. Policy

7.1 Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 11: Key Rural Centres Stand Alone

7.2 Site Allocations and Development Management Policies (SADMP) DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM10: Development and Design
- Policy DM13: Preserving the Borough's Archaeology
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Market Bosworth Neighbourhood Plan

- Policy CE1: Character and Environment

7.4 National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5 Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- Market Bosworth Neighbourhood Plan (2015)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8 Appraisal

8.1 The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

Principle of Development

- 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, and that the NPPF is a material planning consideration in planning decisions.

- 7.2 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the adopted 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. 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.
- 7.3 The current Development Plan consists of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016). 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.
- 7.4 Both the adopted Core Strategy and the SADMP are over 5 years old, and Paragraph 33 of the NPPF states that policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years and should then be updated as necessary. Therefore, this report sets out the relevant adopted Core Strategy and SADMP policies and refers to the NPPF and notes any inconsistencies between them.
- 7.5 The development is within the identified settlement boundary of Market Bosworth, and therefore the development is considered to be within a sustainable location for development. As a result, the development is considered to be acceptable in principle and complies with Policy DM1 of the SADMP, and Policies 7 and 11 of the adopted Core Strategy, subject to the assessment of all other material considerations. Other material considerations are set out within the next sections of the report.

Design and Impact upon the Character of the Area

- 7.6 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.
- 7.7 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.
- 7.8 Policy CE1 (Character and Environment) of the Market Bosworth Neighbourhood Plan (MBNP) seeks to ensure that all new development within Market Bosworth is in keeping with its character area in regard to scale, layout and materials to retain local distinctiveness and to create a sense of place. Any development within Character Area D should pay particular regard to the existing rooflines. Innovative or outstanding design will be supported if it raises the overall quality of the Character Area.
- 7.9 The application site is identified as being within Character Area D (Suburban residential) within the MBNP, which is characterised by:
- Detached and semi-detached, two storey dwellings.
 - Long open aspect front gardens providing a sense of openness.

- Wide, open aspect grassed verges at road entrances.
 - Public open spaces dividing housing.
 - Well proportioned, uniform plots with properties set back from the pavement.
 - Garages and Driveways.
- 7.10 The replacement dwelling is 4.5m wider and 5.1m deeper than the existing property. Nevertheless, the scheme represents a 28.3sqm reduction in total footprint, which increases to 57.4sqm if the attached lean-to and outbuilding are included in the overall footprint of the site.
- 7.11 At its deepest, the scheme protrudes 4.1m further to the rear than the existing rear elevation of 30 Barton Road. However, the single storey element of the existing property is removed, which protruded 2.6m further than the newly proposed rear elevation. As a result of this, and the fact that the rear elevation cannot be seen from the highway, this is not considered to result in any harm to the character of the surrounding area.
- 7.12 In addition, the proposal extends 2.5m further to the southern site boundary further than the existing dwelling, and 1.8m further forward than the principal southern elevation. Given the fact that 32 Barton Road is set forward from this application site and the proposal's set back from the highway, the scheme's slight encroachment further forward than the existing building line is not considered to result in any significant adverse harm to the character of the area.
- 7.13 In terms of scale and massing, the replacement dwelling increases the height of existing dwelling by 1.7m to 7.7m. However, the Applicant intends to drop the ground level of the site by 0.35m, which reduces this increase in height to 1.25, and a total height of 7.35m. Given the fact that there is variety of scales and massing along Barton Road, and the adjacent property 28 Barton Road has a roof ridge height of 7.9m, it is considered that the scheme is proportionate to the varied scales and massings of dwellings in the vicinity of the application site.
- 7.14 To conclude, whilst the replacement dwelling is of an increased scale and mass in comparison to the existing bungalow, due to its central position within the plot and in a similar position to the existing building line, the replacement dwelling is not considered to have an adverse visual impact on the character and appearance of the wider area, which includes the setting of the Market Bosworth Conservation Area, and the approach to the Conservation Area from the north along Barton Road. In addition, by virtue of its distance from the highway, its design, scale, massing, and use of matching materials, the development is considered to be in accordance with Policy CE1 of the MBNP, Policy DM10 of the SADMP, Policies 7 and 11 of the adopted Core Strategy, and the Good Design Guide.

Impact upon Residential Amenity

- 7.15 Paragraph 130(f) of the NPPF requires planning policies and decisions to ensure that developments create places that are safe, inclusive and accessible, and which promote health and well-being, with a high standard of amenity for existing and future users.
- 7.16 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.

- 7.17 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 7.18 The Good Design Guide recommends that a principal window to a habitable room should ideally be no less than 8m from the blank side of a single storey neighbouring property, rising to 14m for a two-storey property. In addition, the separation distance between two principal windows to habitable windows should be a minimum of 21m. However, the Good Design Guide also states that, "An exception to this rule is in an urban location where it may be acceptable to have a reduced distance where issues of amenity and overlooking are dealt with by good design."
- 7.19 There are no windows on the first floor of the southern side elevation, which faces towards 28 Barton Road of the replacement dwelling. In addition, 28 Barton Road is set further back than the rear elevation of the development by 3.5m, and therefore the scheme is not considered to result in any overlooking, loss of privacy, loss of light or overbearing impacts to either dwelling.
- 7.20 The rear elevation of the existing dwelling is in line with the rear elevation of 32 Barton Road. The proposal extends the rear elevation of the dwelling at two-storey by 1.5m for a width of 4.4m. As a result of this, the development is not considered to result in any loss of light or overbearing impacts to 32 Barton Road.
- 7.21 However, there are two windows on the ground floor and one roof light on the northern side elevation of the scheme that face 32 Barton Road. On the other hand, there are no windows on the southern side elevation of 32 Barton Road and therefore it is not necessary to require the two windows on the ground floor to be obscure glazed in the interests of residential amenity. As the roof light on the first floor is for the bathroom of the replacement dwelling, this will be required to be obscure glazed, and this is secured via planning condition.
- 7.22 To comply with the Good Design Guide, two-bedroom houses must also provide a minimum of 80sqm of private outdoor amenity space with a minimum length of 7m.
- 7.23 The development is considered to provide a sufficient quantity of private outdoor amenity space in accordance with the Good Design Guide.
- 7.24 By virtue of these factors and the fact that there have been no objections to the scheme, the proposal does not result in any adverse overbearing or overshadowing impacts or any overlooking or loss of privacy to the neighbouring properties and therefore is considered to be in accordance with Policy DM10 of the SADMP and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 7.25 Paragraph 110 of the NPPF states that it should be ensured that safe and suitable access to the site can be achieved for all users. Paragraph 111 of the NPPF outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 7.26 Section 9 of the NPPF promotes sustainable transport. Paragraph 124(c) of the NPPF states that planning decisions should support development that makes efficient use of land, when taking into account, “The availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use.”
- 7.27 Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highway authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 7.28 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 7.29 The development widens the entrance drive to 4.2m, which exceeds the access width requirements for a single dwelling within Figure DG20 of Part 3 of the LHDG.
- 7.30 In accordance with Paragraph 3.151 of Part 3 of the Leicestershire Highway Design (LHDG), the development requires the provision of three off-street parking space for a four-bedroom dwellinghouse.
- 7.31 The development provides a double garage that internally measures 6m x 6.3m, which is compliant with the dimension requirements of Paragraph 3.200 of Part 3 of the LHDG. It is considered that additional off-street parking and turning facilities can be achieved on the drive within the application site, and therefore the application site is considered to be compliant with Paragraph 3.151 of Part 3 of the LHDG.
- 7.32 By virtue of these factors, it is considered that there is adequate off-street parking for the replacement dwelling and that the proposal does not create an unacceptable impact on highway safety or the road network. Therefore, the scheme is regarded as in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

9 Equality implications

- 9.4 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.
- 9.5 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.
- 9.6 There are no known equality implications arising directly from this development.
- 9.7 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

10.4 The proposed development is considered to be compliant with the relevant national and local policy as it:

- Is an appropriate scale and design
- Does not have an adverse impact upon the character and appearance of the area
- Retains over 80sqm of rear amenity space
- Does not have a significant adverse impact upon the amenity of neighbours
- Does not have a significant adverse impact upon highway safety
- Provides sufficient vehicle parking spaces for off-street parking

10.5 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission to be granted, subject to the imposition of appropriate conditions.

11 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 received by the Local Planning Authority as follows:
 - Existing Floor Plans and Elevations 01 (submitted: 26.05.2023)
 - Proposed Floor Plans and Elevations 04 (submitted: 26.05.2023)

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. Notwithstanding the provisions of Article 3, Schedule 2, Part 1, Classes A, AA, B, C, D, and E 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 protect the character of the surrounding area and 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).

4. In accordance with the recommendations within Section 5 of the Applicant's Bat Survey (submitted: 17.07.2023), a minimum of one hole nesting bird box and one bat box should be incorporated into the structure of the new building itself, or if this is not possible, wooden boxes should be located on the outside of the building post-development.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. With the exception of demolition, no development shall take place/commence until the necessary programme of archaeological work has been completed. The programme will commence with an initial phase of trial trenching to inform a final archaeological mitigation scheme. Each stage will be completed in accordance with a Written Scheme of Investigation (WSI), which has been submitted to, and approved by, the Local Planning Authority in writing. For land that is included within the WSI, no demolition/development shall take place other than in accordance with the agreed WSI, which shall include the statement of significance and research objectives, and:
 - The programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works.
 - The programme for post-investigation assessment and subsequent analysis, publication & dissemination, and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

Reason: To advance the understanding of, and safeguard the significance of an area of archaeological interest that is adjacent to a Scheduled Monument in a manner proportionate to its importance in accordance with Policies DM11 and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraph 205 and Section 16 of the National Planning Policy Framework.

6. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations on the dwellings hereby permitted have been deposited with, and approved in writing by, the Local Planning Authority, and the scheme shall be implemented in accordance with those approved materials.

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).

7. The development hereby permitted shall not be first used until such time as the 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 by, 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 support the policies within the Wheeled Bin and Container Policy (updated March 2018) and to ensure that there is adequate provision of waste and recycling storage so that the amenity of the occupants of the proposed development are not adversely affected in accordance with Hinckley and Bosworth Borough Council's Wheeled Bin and Contained Policy (updated March 2018), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Section 46 of the Environmental Protection Act 1990.

8. The roof light on the northern side elevations of the replacement that faces 32 Barton Road, which is utilised as one of the Jack-and-Jill bathroom for two of the bedrooms on the northern side of the property shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and 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).

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 buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. The Written Scheme of Investigation (WSI) must be prepared by an archaeological contractor acceptable to the Local Planning Authority. To demonstrate that the implementation of this Written Scheme of Investigation has been secured, the Applicant must provide a signed contract or similar legal agreement between themselves and their approved archaeological contractor. The Historic and Natural Environment Team, as advisors to the Local Planning Authority, will monitor the archaeological work, to ensure that the necessary programme of archaeological work is undertaken to the satisfaction of the Local Planning Authority.
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 soakaways will be subject to the approval of the Building Control Surveyor.
4. Any 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. Hinckley & Bosworth Borough Council's recycling and refuse collection services are from the boundary to the adopted highway. It will be the

responsibility of the occupiers to ensure that all containers/wheeled bins are brought to the collection point.

6. If bats are discovered at any time during processes involved with the development, work should cease immediately, and the advice of a licensed ecologist should be sought.