

Delegated Report

Planning Reference: 25/00184/CONDIT
Applicant(s): Alice Clark
Ward: Twycross, Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Application Site: Garden Cottage, 4A Brookside Place, Sheepy Magna

Proposal: Application to vary condition 2 of planning permission 16/00183/CONDIT to provide ancillary accommodation above the garage. Replace Drg No. 9312.21b with Drg No. 9854-01

Case Officer: Sullivan Archer (Senior Planning Officer)

1. Recommendations

1.1. **Grant planning permission for the variation of 16/00183/CONDIT** 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 permissions 14/00857/FUL and 16/00183/CONDIT granted full planning permission for the provision of a detached dwelling and associated detached garage at Garden Cottage, 4A Brookside Place, Sheepy Magna.
- 2.3. This Section 73 Application seeks planning permission for the variation of Condition 02 (Approved Plans) of planning permission 16/00183/CONDIT to enable the development to provide ancillary accommodation above the detached garage. No amendments are proposed to the main dwelling.
- 2.4. The amended design of the garage increases the width and depth of the property by 0.3m from 5.7m to 6m in each direction. The proposal also increases the ridge height of the structure by 2.2m from 3.8m to 6m, and the eaves height by 0.4m from 2.2m to 2.6m. The front elevation of the building now features two dormers and a conservation-style rooflight, and an access staircase has been provided to the western side elevation of the structure.
- 2.5. The detached garage is constructed with plain concrete roof tiles and an oak frame with cedar featheredge weatherboarding.

3. Description of the Site and the Surrounding Area

- 3.1. The 0.14-acre application site is located close to the centre of, and within the identified settlement boundary of, Sheepy Magna to the rear of 26 Twycross Road ('B4116'). This area of Sheepy Magna is wholly residential in character and features a variety of two-storey, gable-fronted dwellings that are constructed with a red or buff brick finish. The site is accessed via a short cul-de-sac from Brookside Place that serves the residential property, Garden Cottage, within the site, and a selection of flat roofed functional garages and associated parking. The site itself is flat and level, but it is set down from Brookside Place.
- 3.2. Garden Cottage is a two-storey, four-bedroom, 8.1m high gable-ended property that is constructed in red brick and benefits from a detached timber double garage, which was originally referred to as a 'cart hovel.' The dwelling was approved as a three-bedroom property via planning application 14/00857/FUL, but the design of the property was amended via planning application 16/00183/CONDIT.
- 3.3. Planning application 16/00183/CONDIT created a fourth bedroom, replaced the windows serving the approved en-suite and dressing room with a window to serve the new bedroom, replaced a door with a window on the ground floor of the southern elevation, increased the width of the bi-fold doors on the ground floor on the southern elevation, omitted a first-floor window in the southern roof plane, relocated the cart hovel further east, and created a bin storage area.

4. Relevant Planning History

4.1 16/00183/CONDIT

- Variation of condition 2 of planning permission 14/00857/FUL to replace a door with a window, increase the width of bi-fold doors, omit first floor window, add a window to bedroom 4 and minor changes to site entrance
- Permitted
- 07.06.2016

4.2 14/00857/FUL

- Erection of a dwelling (revised proposal)
- Permitted
- 19.12.2014

4.3 13/00031/PP

- Erection of two dwellings
- Dismissed
- 04.03.2013

4.4 13/00794/FUL

- Erection of two dwellings
- Refused
- 13.11.2013

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 sending out letters to local residents.
- 5.3. One member of the public objected to the development due to their concerns that the proposal shall generate additional traffic utilising the site entrance. The member of the public also referred to the refusal of a previous planning application for two dwelling within the site (13/00794/FUL) and the damage construction traffic utilising the access into the site has previously caused on their property. No further responses have been received.

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 In this instance, the Local Planning Authority consulted Sheepy Parish Council, the Environment Agency, Leicestershire County Council as the Local Highway Authority (LHA), and the Council's Drainage, Pollution and Waste Officers.
- 6.3 Sheepy Parish Council objected to the development on design grounds as the proposal is not compliant with Policy S8 of the Sheepy Parish Neighbourhood Plan (2022). The Parish Council highlighted that the height of 'Cart Hovel' has increased by 49% from 4m to 5.95m and that the development may result in overlooking to the rear elevations of the properties along Highfield Close from the access stairs to the ancillary accommodation.
- 6.4 There have been no objections from the following consultees:
- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
 - HBBC's Pollution Officer
 - The Local Highway Authority (LHA)
- 6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 12: Rural Villages

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 Sheepy Parish Neighbourhood Plan 2018 – 2035 (SPNP) (2022):

- Policy S8: Design
- Policy S15: Car Parking and New Housing Development

7.4 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (2024)

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 ('the description') of the permission.

8.2. The principle of the development has already been established through the earlier grant of the extant planning permissions on the site. Therefore, the key issues in respect of this application are:

- Design and impact upon the character of the area
- Impact upon residential amenity
- Other Issues
- Conditions

Design and Impact upon the Character of the Area

- 8.3 Paragraph 140 of the NPPF confirms that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme; for example, through changes to approved details such as the materials used.
- 8.4 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.
- 8.5 Policy S8 of the SPNP requires development proposals to be designed with evident care as to respond positively to the character of the area, demonstrably respond to the features of its setting, work with the scale, form, and character of the location, and make a positive contribution to the street-scene.
- 8.6 The Good Design Guide also confirms that where possible, roof extensions should be located on the rear of properties to minimise their potential impact on the street scene. Whilst dormer windows can be appropriate in certain situations, these will be considered in the context of their impact upon the character of the building and on neighbours' amenity and they should reflect the window pattern of the dwelling. Ultimately, the Good Design Guide highlights that dormers to the front of properties will only be acceptable where this is a prevailing feature of the surrounding context.
- 8.7 Page 44 of the Good Design Guide confirms that every application will be assessed on its own merits depending on the individual characteristics of the site.
- 8.8 The proposal is still utilised in association a residential use, which preserves the character of the area. Whilst the amendments to the scheme increase the width and depth of the development by 0.3m, this is not considered to result in any significant adverse impacts to the character of the surrounding area. The proposal also utilises the same materials as previously approved within 16/00183/CONDIT, which is considered to preserve the character of the area.
- 8.9 The proposed amendments increase the height of the development by 57.9% to 6m. Whilst this represents a relatively large increase to the height and massing of the property, the structure is still smaller than, and experienced as subordinate to, the host dwelling, which reduces the scheme's impact on the character of the surrounding area.
- 8.10 In addition, the western boundary of the site is over 41m from the cul-de-sac's confluence with Brookside Place. The development is set 10.7m further east into the site and the front elevation of the property is set back from the main views along the cul-de-sac by 2.4m. Given the above, although the detached garage has increased in height, this increased height, and massing is not considered to result in any unacceptable significant adverse impacts to the character of the area in these site-specific circumstances.

- 8.11 However, the scheme includes roof dormers, which are not a prevailing feature of the character of the surrounding area. Therefore, the provision of dormers on the front elevation of the property in this location is contrary to the Good Design Guide. Whilst the provision of dormers in this site does not complement or enhance the character of the area in these site-specific circumstances, every application will be assessed on its own merits depending on the individual characteristics of the site in accordance with the Good Design Guide.
- 8.12 Given the scheme's visual subordination to the host dwelling, its siting and set back within the site, and its location within the wider area, the development is not considered to result in an unacceptable level of harm to the character of the area to the extent that requires amendment to the development or the refusal of the application in these site-specific circumstances.
- 8.13 In summary, the amendments to the massing and height of the development are considered to preserve the character of the surrounding area. Although the introduction of dormers into the development does not complement or enhance the existing character of the area, this impact is not considered to cause any unacceptable harm to the character of the surrounding area to the extent that requires amendments to the proposal or refusal of the planning application in these site-specific circumstances. Therefore, the development is considered to be acceptable in accordance with Policy S8 of the SPNP and Policy DM10 of the SADMP.

Impact upon Residential Amenity

- 8.14 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.
- 8.15 Policy S8 of the SPNP confirms that development proposals should be designed with evident care as to show appropriate regard for the amenities of neighbouring properties including daylight/sunlight, privacy, air quality, noise, and light pollution.
- 8.16 The Good Design Guide requires the way buildings to relate to each other, and their orientation and separation distances, to provide and protect acceptable levels of amenity. 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.
- 8.17 Notwithstanding this, these separation distances are the minimum standards that are required, and every application will be assessed on its own merits depending on the individual characteristics of the site such as orientation, ground levels, window positions, garden size, and shape.

- 8.18 Fenestration is only proposed on the front elevation facing the host dwelling. Therefore, the proposal is not considered to result in any loss of privacy or overlooking impacts to neighbouring properties. However, there is only 9.8m between the development and the host dwelling. To prevent any adverse impacts to residential amenity or the character of the surrounding area, a planning condition can be utilised to restrict the use of the property to be ancillary to the host dwelling.
- 8.19 The proposal is 10.7m east of the rear boundary of 6 Brookside Place. Based on the ordnance survey map within the Location Plan submitted as part of 14/00857/FUL, the rear elevation of 6 Brookside Place is 26.9m to the west of this shared boundary. This exceeds the minimum separation requirements of the Good Design Guide. 6 Brookside Place is also separated from the development by its single storey garage at the rear of its garden. In light of the above, the proposal is not considered to result in any significant adverse impacts to the residential amenity of 6 Brookside Place.
- 8.20 Based on the ordnance survey map within the Location Plan submitted as part of 14/00857/FUL, the rear elevation of 15 Highfield Close is 13.5m north of the property's shared boundary with the application site. The structure is 0.6m south of this shared boundary and slopes away from the shared boundary for a further 3m before reaching its 6m height. This creates a separation distance of 17.1m between the two-storey massing of the proposal and the rear elevation of 15 Highfield Close, which exceeds the requirements of the Good Design Guide. Given the above, by virtue of the siting of the proposal and the proposed roof design of the development, the scheme is not considered to result in any significant adverse impacts to the residential amenity of 15 Highfield Close due to loss of light or overbearing impacts.
- 8.21 Based on the ordnance survey map within the Location Plan submitted as part of 14/00857/FUL, the eastern boundary of the site is 19.8m from the elevations of Vine Cottage, 26 Twycross Road. This exceeds the minimum separation distances required by the Good Design Guide and therefore the proposal scheme is not considered to result in any significant adverse impacts to the residential amenity of Vine Cottage due to loss of light or overbearing impacts.
- 8.22 In light of the above, the proposal is not considered to result in any significant adverse impacts to neighbouring residential amenity and the development remains compliant with Policy S8 of the SPNP and Policy DM10 of the SADMP.

Other Issues

- 8.23 The application benefits from a parking area in front of and to the side of the detached garage, which is considered to support the provision of a minimum of three off-street parking spaces based on the off-street parking dimension requirements of the Leicestershire Highway Design Guide (LHDG). This complies with the LHDG's required quantum of off-street parking for dwellings with more than three bedrooms. A planning condition can restrict the use of the property to be ancillary to the host dwelling to prevent any intensification of the use of the site and its associated vehicular site access and parking facilities.

- 8.24 Leicestershire County Council as the Local Highway Authority confirmed that the proposal did not have a material impact on the public highway.
- 8.25 In light of the above, the development is not considered to result in any unacceptable impacts to highway safety or the provision of off-street parking within the site. Therefore, the proposal remains compliant with Policies DM10, DM17 and DM18 of the SADMP, and Policies S8 and S15 of the SPNP.

Conditions

- 8.26 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.
- 8.27 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.
- 8.28 Planning permission 16/00183/CONDIT was subject to seven conditions.
- 8.29 Works began on site on 01 February 2016 and therefore Condition 01 (Time) does not need to be reinstated.
- 8.30 Condition 02 (Approved Plans) needs amending to refer to the revised plans.
- 8.31 The host dwelling has been constructed and therefore Condition 03 (External Materials) is no longer required. However, Condition 03 needs to be re-instated and amended to include the external materials of the detached garage to ensure a satisfactory external appearance to the development.
- 8.32 Condition 04 (Landscaping) was discharged on 17 March 2017. Condition 05 (Landscaping Implementation) required these approved soft landscaping details to be maintained for five years from the date of planting. This time period has now elapsed and therefore both conditions can be removed from the planning application.
- 8.33 Conditions 06 (Access Surfacing) and 07 (Parking and Turning Facilities) need to be amended to remove the reference of prior to the first occupation of the dwelling. However, these facilities are still required and therefore the conditions remain reasonable and necessary in the interests of highway safety.
- 8.34 A new planning condition is required to restrict the use of the property to be ancillary to the host dwelling to prevent any adverse impacts to residential amenity or to the character of the surrounding area.

- 8.35 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. One additional condition is considered to be necessary to protect the character of the area and residential amenity.

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, subject to one additional planning condition.

11. Recommendation

- 11.1 **Grant planning permission for the variation of 16/00183/CONDIT** subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons

1. 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:

- External Works and Garage, Elevations, Floor Plans, Drg No. 9854.01 (submitted: 27.02.2025)
- Location Plan (submitted: 29.08.2014)
- Plans and Elevations-Amended, Dwg No- 9312.40 (submitted: 25.02.2016)
- Topographical Survey (submitted: 29.08.2014)

Reason: To ensure a satisfactory form of development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy S8 of the adopted Sheepy Parish Neighbourhood Plan (2022).

2. The exterior of the detached garage hereby permitted shall be constructed with plain concrete roof tiles and an oak frame with cedar featheredge weatherboarding.

Reason: To ensure a satisfactory form of development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy S8 of the adopted Sheepy Parish Neighbourhood Plan (2022).

3. The access drive shall be maintained with a hard bound material surfacing for a distance of at least five metres behind the highway boundary at all times.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the National Planning Policy Framework (2024).

4. The car parking and turning facilities detailed within External Works and Garage, Elevations, Floor Plans, Drg No. 9854.01 (submitted: 27.02.2025) shall be retained and available for this purpose in perpetuity.

Reason: To ensure that adequate off-street parking and turning 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 Development Plan Document (2016) and the National Planning Policy Framework (2024).

5. The ancillary accommodation within the detached garage hereby approved shall only be used for purposes ancillary the residential accommodation of the dwelling known as Garden Cottage, 4A Brookside Place, Sheepy Magna, and shall not be occupied, sold or leased or let, on a permanent or temporary basis, as an independent unit of residential accommodation at any time.

Reason: To ensure that the property is not occupied as an independent unit of residential accommodation, which may have additional impacts on the area in accordance with Policies DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy S8 of the adopted Sheepy Parish Neighbourhood Plan (2022).

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.