

Delegated Report

Planning Ref: 24/01108/FUL
Applicant: Mr And Mrs Smith
Ward: Twycross Sheepy & Witherley
Site: The Old Barn, Drayton Lane, Fenny Drayton
Proposal: Erection of agricultural building



Hinckley & Bosworth
Borough Council

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. The proposal seeks the erection of an agricultural building. The building is proposed to have a depth of 16.6m and a width of 8.1m, it is functional in design with brick to the lower half and metal cladding to the roof and upper parts of the elevations. The building is located within relative proximity to The Old Barn, Drayton Lane, Fenny Drayton.

3. Description of the site and surrounding area

- 3.1. The proposed site is located adjacent to The Old Barn, Drayton Lane, Fenny Drayton. The site is located within the countryside, set away from Drayton Lane significantly, and is surrounded by agricultural fields. The site is accessed by an existing track, and is well screen from public vantage points by existing and mature hedgerow and trees.

4. Relevant planning history

16/01110/HOU

Conversion of existing garage to form ancillary living accommodation
Planning Permission
06.02.2017

5. Publicity

- 5.1. The application has been publicised by posting a site notice within the vicinity of the site.
- 5.2. No responses have been received.

6. Consultation

- 6.1. HBBC Pollution: No objections.
- 6.2. LCC Minerals: No comments to make.
- 6.3. Witherley Parish Council: No objections.
- 6.4. HBBC Drainage: No objections.
- 6.5. LCC Highways: No objections.
- 6.6. LCC Ecology: No objections subject to conditions.

7. Policy

7.1. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM2: Delivering Renewable Energy and Low Carbon Development

- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interests
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.2. **Core Strategy (2009)**

- No relevant policies

7.3. **National Planning Policies and Guidance**

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

7.4. **Other relevant guidance**

- Good Design Guide (2020)
- National Design Guide (2019)

8. **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
- Biodiversity Net Gain

Assessment against strategic planning policies

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. Paragraph 2 of the NPPF also identifies that the NPPF is a material planning consideration in planning decisions. 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, permission should not usually be granted unless other material considerations indicate otherwise.

8.3. The development plan in this instance consists of the Core Strategy (2009) and the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016).

8.4. The application site is located within the countryside. Policy DM4 states that to protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development.

8.5. According to Policy DM4 of the SADMP, development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or

- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or diversification of rural businesses; or
- c) It significantly contributes to economic growth, job creation and/or
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 -Enabling Rural Worker Accommodation.

8.6. The proposal is for the erection of an agricultural building within the countryside. It is acknowledged that this form of development does not satisfy the criteria outlined within the Policy. However, an application of this nature is not unfounded in the agricultural setting, and whilst it does not strictly comply with the Policy it is considered that the design and nature of the building would be compatible with the countryside and would not cause detriment to the intrinsic value and beauty of the countryside. Furthermore as an agricultural building in an agricultural setting the proposal would not be unsustainable.

Design and impact upon the character of the area

- 8.7. Policy DM2 of the SADMP seeks to ensure that all reasonable steps have been included to avoid or mitigate any adverse impacts, including visually, of renewable energy installations in developments.
- 8.8. Policy DM4 of the SADMP seek to protect the intrinsic value, beauty, open character and landscape character of the countryside.
- 8.9. 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. Policy DM10 also seeks to safeguard the amenity of future occupiers of the development.
- 8.10. The application proposes the erection of an agricultural building within the site. The overall design of the proposal is considered acceptable and is agricultural in its nature. The design includes a brick and metal cladding exterior, which is common in this type of unit. The proposal also includes solar panels to the roof of the unit.
- 8.11. The development is located within the existing site of The Old Barn, and is set significantly away from the highway. The site benefits from a high degree of screening through mature hedgerows and mature trees to the site boundary and within the site. The proposal is not considered to be visible from public vantage points and as such would have no visual detriment or detrimental impacts to the character of the area or countryside.
- 8.12. The proposal is therefore considered to be in accordance with Policies DM2, DM4 and DM10 of the SADMP,

Impact upon neighbouring residential amenity

- 8.13. 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. The policy also states that the amenity of the occupiers of the proposed development would not be adversely affected by activities within the vicinity of the site.
- 8.14. The proposed development is not located within close proximity to neighbouring dwellings, but is in a reasonable distance to the host dwelling of The Old Barn. Given the agricultural nature of the site and the existing activities relating to agriculture it is considered that the proposal would have a minimal impact on the

residents of the host dwelling, and would not cause detrimental impacts to neighbouring amenity. As such the proposal is considered to be in accordance with Policy DM10 of the SADMP,

Impact upon highway safety

- 8.15. Policies DM17 and DM18 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety and requires new development to provide an appropriate/justified level of parking provision.
- 8.16. The proposal does not propose any additional access points to the development nor any additional parking, LCC Highways have been consulted on the application and have confirmed that they are satisfied that the proposed unit would not cause an intensification in the site and therefore have no objections.
- 8.17. The development is not considered to cause detrimental impacts to highway safety nor vehicle parking and as such it is considered that the proposal is in general accordance with Policies DM17 and DM18 of the SADMP.

Biodiversity Net Gain

- 8.18 Policy DM6 seeks to ensure that on site features are retained or included which safeguard and enhance biodiversity.
- 8.19 No preliminary ecological appraisal accompanies this planning application. However, given only a relatively short section of low quality, highly managed modified grassland will be removed and the majority of site comprises hardstanding which is suboptimal for protected and priority species, a full ecological appraisal is considered unnecessary. It is noted that the site lies within 100m of a pond which may have potential to support great crested newt. While the proposed development will remove a portion of grassland, the BNG Technical note indicates this is regularly mowed to short sward as a lawn, therefore sub-optimal for great crested newts. As such, likelihood of impact to great crested newts is low and precautionary methods are advised to safeguard great crested newts. These should include maintaining suboptimal conditions for great crested newt through avoidance of storing materials on site which may provide artificial refugia, avoidance of plant tracking on habitat outside of the proposed red line boundary and maintaining the regular mowing of the lawn to short sward.
- 8.20 The development is not exempt from mandatory Biodiversity Net Gain (BNG). The statutory framework for BNG has been designed as a post-permission matter to ensure that the biodiversity gain objective of achieving at least a 10% gain in biodiversity value will be met for development granted planning permission. Once planning permission has been granted, a 'Biodiversity Gain Plan' must be submitted and approved prior to the commencement of this development. However the PPG is clear that BNG is not just a post-permission matter that it is a material consideration and that when determining a planning application LPAs need to consider whether the BNG condition is capable of being discharged successfully through the imposition of conditions and/or a legal agreement.
- 8.21 The relevant BNG metric was submitted as part of this proposal which indicated a net gain of over 10%. LCC Ecology have confirmed that they are satisfied with the proposal, the BNG scheme is considered to be feasible and can be provided for on site. BNG proposals to date include the planting of native trees along the track verge as you enter the site.

- 8.22 As above the application will be subject to the standard, mandatory BNG 'pre-commencement condition', in addition to that a condition is required seeking a 30-year Habitat Management and Monitoring Plan (HMMP) to evidence how the proposed habitats will be created, managed to the condition stated and monitored for the relevant 30 year period.
- 8.23 Subject to the mandatory BNG condition and condition requiring the HMMP the LPA are satisfied the proposal will achieve over 10% BNG and that this will be created and managed for the relevant period. In addition no onsite features would be lost as a result of the development, the proposal therefore also complies with Policy DM6.
- 8.24 Additionally LCC Ecology have requested a CEMP to be conditioned to ensure that biodiversity in safeguard through the construction process.

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. It is considered that the proposal has limited impacts on the character of the area and countryside, neighbouring amenity and highways safety. The proposal therefore complies with Policies DM2, DM6 DM10, DM17, DM18 of the SADMP. Whilst the proposal does not strictly comply with the criteria of acceptable development in the countryside, it is an agricultural building in an agricultural setting which is considered to be sustainable development.

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, as follows:

Site Location Plan Drg No. 24/89 10B
Proposed Site Plan Drg No. 24/89 07D
Proposed Plans / Elevations / Sections / Roof Plan - Scheme 01 Drg No. 24/89 03A

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 development shall accord with the approved materials detailed within the application form.

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

4. No development shall take place (including ground works or vegetation clearance) until a Landscape Plan covering 30 years has been submitted to, and approved in writing by, the Local Planning Authority. This can take the form of a Habitat Management and Monitoring Plan (HHMP) and should include the following details:

- Description and evaluation of the features to be created and managed indicating planting schedules, species lists, and planting strategy including best practice guidance on appropriate spacing for planting trees; and
- Aims and objectives of management; and
- Appropriate management options for achieving aims and objectives; and
- Prescriptions for management actions; and
- Work schedules; and
- Species/ seed mixes to be planted/sown; and
- Ongoing monitoring and remedial measures.

The development hereby permitted shall then be implemented in strict accordance with the details of the approved Landscape Plan.

Reason: In order to protect the biodiversity and wildlife on site to accord with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. No development shall take place until a Construction Environmental Management Plan for biodiversity (CEMP: Biodiversity) is submitted to in writing and approved by the Local Planning Authority. The CEMP shall include precautionary measures of working to safeguard great crested newts and protection of retained adjacent habitat including establishment of root protection areas around retained hedgerows and trees which may overlap with the site.

Reason: In order to protect the biodiversity and wildlife on site to accord with Policy DM6 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. Your attention is drawn to the below **Biodiversity Net Gain** note on page 3 and 4 of this Decision Notice which explains that the development is subject to the statutory "biodiversity gain condition". A Biodiversity Gain Plan needs to be submitted to and approved in writing by Hinckley and Bosworth Borough Council prior to commencement of development.