

Delegated Report

Planning Ref: 23/00246/CONDIT
Applicant: Dale Hoggott
Ward: Burbage Sketchley & Stretton



Hinckley & Bosworth
Borough Council

Site: 1 Windsor Place Burbage Hinckley

Proposal: Variation of condition 11 of planning application 19/01105/FUL and 21/00101/CONDIT. Amendment to parking layout.

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission.
- 2.2. In this case, planning permission for application 19/01105/FUL and 21/00101/CONDIT granted full planning permission for the partial demolition and change of use of an existing building to two dwellings (Plots 1 and 2) at 34 Windsor Street, Burbage, and the erection of four new dwellings (Plots 3, 4, 5, and 6) to the rear of 34 Windsor Street. The four dwellings to the rear of 34 Windsor Street are now referred to as Windsor Place. Development began on site on 01 August 2021.
- 2.3. Plots 1 and 2 were two semi-detached, two-bedroom and three-bedroom properties, Plot 3 was a detached two-storey, three-bedroom property, and Plots, 4, 5, and 6 were two-storey, three-bedroom, terraced residences.
- 2.4. Plots 1 and 2 were converted into one detached, two-storey, four-bedroom dwelling via planning application 20/01298/FUL. This dwelling is now referred to as 34 Windsor Street. Within planning permission 21/00101/CONDIT, Plot 3 became a two-and-a-half-storey, four-bedroom dwelling, and Plots 4, 5, and 6 became two-and-a-half-storey three-bedroom properties.
- 2.5. It is noted that within this application Plot 3 of the original 2019 planning permission is referred to as Plot 1, and Plots 4, 5, and 6, are referenced as 2, 3, and 4 within this current application. Plot 3 was also referenced as Plot 4 within the 2021 Section 73 Application. To avoid confusion, the properties are referenced as they were within the original 2019 planning permission within this report.
- 2.6. This application seeks planning permission for the variation of Condition 11 of planning permission 21/00101/CONDIT to enable the development to revise the parking layout for the site. This Section 73 Application provides 12 parking spaces in order to provide two off-street parking spaces for Plots 4, 5, 6 and 34 Windsor Street, and four off-street parking spaces for Plot 3.
- 2.7. On 29 March 2023, the Applicant confirmed that there is no garage proposed within this application, but a garage located on the parking spaces of CP1 and CP2 is something that will be sought in a separate future application.

3. Description of the site and surrounding area

- 3.1. The application site is located within the settlement boundary of Burbage and on the north side of Windsor Street within a designated district/local centre that contains a mix of uses including residential (Use Class C3), retail uses, professional offices, and an Indian restaurant (Use Class E), as well as two public houses and two hot food takeaways (Sui Generis Use Class).
- 3.2. There are two-storey residential properties interspersed with commercial uses to the south of the application site, a Public Footpath, U77, (Wesley Walk) and a two-storey detached chip shop with accommodation above and a residential garden to the southwest, two-storey semi-detached dwellings and a terrace of bungalows on the northeast side of the site.
- 3.3. Access into the site is to the west of 34 Windsor Street, which leads to the four new dwellings. An additional existing residential dwellinghouse, St. Johns, is located to the north of these new properties and is also accessed via this access. The site is enclosed by a mix of hedgerows and a variety of fencing.
- 3.4. The application site 'L'-shaped and measures approximately 1,600sqm to the rear of 34 Windsor Street, which was formerly a public house. 34 Windsor Street, and Plots 4, 5, and 6 have been constructed, but Plot 3 is still in development.
- 2.8. Plots 4, 5, and 6 are constructed with a brick finish, but Plot 3 is fully rendered. 34 Windsor Street is also white rendered on the front elevation, but the rear of the property features a brick finish on the first floor and white render on the ground floor. The rear garden of 34 Windsor Street is enclosed by 2m high white rendered boundary wall.
- 2.9. Within the 2019 planning permission, 12 off-street parking spaces were provided for all six dwellings, which is intended to provide two parking spaces for each dwelling. The Local Highway Authority (LHA) had no objections to the development, subject to conditions.
- 2.10. Planning permission 20/01298/FUL removed the two parking spaces adjacent to 34 Windsor Street, which the LHA highlighted did not comply with the Leicestershire Highway Design Guide (LHDG) because a minimum of three off-street vehicle parking spaces are required for a four-bedroom property. Nevertheless, the LHA accepted that the shortfall was due to the proposal being situated on a private, unadopted road, and it was considered unlikely that the vehicles would park on the public highway when visiting the development.
- 2.11. Section 73 Application, 21/00101/CONDIT, only makes reference to the remaining ten off-street parking spaces. It was acknowledged by the LHA that there was a shortfall in off-street parking spaces within the development, however, as the LHA had previously accepted a shortfall of spaces within the site within planning application 20/01298/FUL, the LHA were willing to accept the short fall in this site-specific instance. However, the LHA cautioned the Applicant as any further shortfall of parking spaces would rise to concerns regarding parking demand and would require an evidenced approach and potential management procedures in order to permit future relaxations.

4. Relevant planning history

23/00033/HOU

- Proposed detached garage
- Withdrawn
- 08.02.2023

21/01387/DISCON

- Application to discharge conditions 3 (archaeology), 4 (SuDS) attached to planning permission 21/00101/CONDIT
- Split Decision – Discharge of Conditions
- 07.04.2021

21/00835/DISCON

- Application to discharge conditions 3 (archaeology) attached to planning permission 21/00101/CONDIT
- Split Decision – Discharge of Conditions
- 25.11.2021

21/00529/DISCON

- Application to discharge conditions 4 (SUDs), 5 (levels), 6 (landscaping scheme) and 7 (materials) attached to planning permission 21/00101/CONDIT
- Split Decision – Discharge of Conditions
- 27.09.2021

21/00444/DISCON

- Application to discharge condition 7 (boundaries) attached to planning permission 20/01298/FUL
- Discharged
- 14.05.2021

21/00101/CONDIT

- Variation of condition 2 of planning permission 19/01105/FUL to amend siting, floor plans and elevations of plots 3-6
- Permitted
- 06.04.2021

20/01298/FUL

- Change of use of Bulters House from pub to a dwelling (partial resubmission of 19/01105/FUL)
- Permitted
- 02.02.2021

19/01105/FUL

- Partial demolition and change of use of existing building to two dwellings and erection of four new dwellings to the rear
- Permitted
- 28.11.2019

5. Publicity

5.1. The application has been publicised by sending out letters to local residents.

5.2. Three members of the public have responded to the planning application.

- 5.3. Two members of the public have objected to the application on the following grounds:
- Site access concerns
 - Layout concerns
 - Dangerous on-street parking adjacent to the site access
- 5.4. One member of the public has also raised concerns that the plans do not represent a true reflection of the site. Another member of the public has expressed concerns regarding parking difficulties as a consequence of the building construction overflow.
- 5.5. It is noted by the Planning Officer that the access benefits from an extant planning permission and is not affected by this planning application. In addition, the concerns in relation to building construction parking and on-street parking adjacent to the site are existing situations that are not impacted or consequences of the current proposal, and therefore these concerns are not regarded as material considerations within this Section 73 Application.
- 5.6. No further responses have been received.

6. Consultation

- 6.1. There have been no objections from the following consultants:
- Hinckley & Bosworth Borough Council (HBBC)'s Drainage Officer
 - HBBC's Pollution Officer
 - HBBC's Waste Management Officer
 - Leicestershire County Council's Ecology Team
 - Leicestershire Highway Authority (LHA)
- 6.2. Burbage Parish Council objects to the application because it is considered that the car parking spaces were better laid out as originally planned. The Parish Council suggest that parking spaces 1 and 2 would not be able to be accessed if spaces 3 and 4 were in use in the proposed layout.
- 6.3. The Planning Officer notes that the four parking spaces that Burbage Parish Council have highlighted are associated with Plot 3.
- 6.4. No further responses have been received.

7. Policy

- 7.1. Core Strategy (2009)
- Policy 4: Development in Burbage
 - Policy 19: Green Space and Play Provision
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM3: Infrastructure and Delivery
 - Policy DM6: Enhancement of Biodiversity and Geological Interest
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM11: Protecting and Enhancing the Historic Environment
 - Policy DM13: Preserving the Borough's Archaeology
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
 - Policy DM22: Vitalising District, Local, and Neighbourhood Centres

7.3. Burbage Neighbourhood Plan (2020) – Examination Version

- Policy 1: Settlement Boundary
- Policy 2: Design and Layout
- Policy 4: Parking

7.4. National Planning Policies and Guidance

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

7.5. Other relevant guidance

- Burbage Village Design Statement (BVDS)
- Good Design Guide (2020)
- Leicestershire Highway Design Guide
- National Design Guide (2019)
- Open Space and Recreational Facilities Study (2016)

8. Appraisal

8.1. The principle of development, siting and design of the proposed extensions and alterations have already been established through the earlier grant of the extant planning permission on the site. As this application only involves the alteration of the development's materials, the key issue in respect of this application is therefore:

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

Design and impact upon the character of the area

8.2 Policy DM10 requires new development to complement or enhance the character of the surrounding area with regards to scale, layout, density, mass, design, materials, and architectural features.

8.3 The heritage interest of the site is in relation to 34 Windsor Street only, which is a local heritage asset. The proposal is to amend the parking provision to the rear of the property, which is not considered to have any material effect upon the significance of the asset in accordance with Policies DM10, and DM11 of the SADMP.

8.4 Given the fact that the alterations to the existing parking and turning facilities within Windsor Place are to the rear of 34 Windsor Street and are not visible from the highway, the application is not considered to result in a significant adverse impact to the character of the surrounding area in accordance with Policy DM10 of the SADMP, and the Good Design Guide

Other issues

8.5 The development is for the revision of a parking layout, and therefore the development is not considered to result in any significant adverse impacts on residential amenity in accordance with Policy DM10 of the SADMP.

8.6 The proposal is not considered to have an impact on the Public Footpath U77 (Wesley Walk).

8.7 The Local Highway Authority (LHA) have confirmed that the proposed parking layout and turning spaces are in accordance with Paragraphs 3.165 (Dimensions)

and Figure D13 (Turning) of Part 3 of the Leicestershire Highway Design Guide (LHDG).

- 8.8 Following discussion with the Local Highway Authority, and given the site is accessed via a 22m private drive, it is considered that any concerns with the layout of the off-street parking is an internal car parking management issue. The LHA also note that there are Traffic Regulation Orders (TROs) in place adjacent to the site access in the form of yellow lines and time limited car parking to deter indiscriminate parking. Therefore, the application is not considered to have a significant adverse impact on highway safety or off-street vehicle parking provision within the site in accordance with Policies DM10, DM17 and DM18 of the SADMP.

Conditions

- 8.9 Planning permission 19/01105/FUL was subject to 13 conditions, but Condition 12 was removed via Section 73 Application, 21/00101/CONDIT. A time limit condition is not needed as development has commenced.
- 8.10 Condition 02 (Approved Plans) needs amending to refer to the new parking layout and turning facilities within the site. This is to ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the SADMP
- 8.11 Condition 03 (Archaeology) was partially discharged via planning application 21/00835/DISCON and partially discharged again via planning application 21/01387/DISCON. On 20 April 2022, it was confirmed by Leicestershire County Council's Archaeology Team that the deposition of the archaeological archive and artefact collection as detailed within Section 9 of the Applicant's Written Scheme of Investigation (WSI) is still required to discharge the condition. The Applicant was informed of this on 30 March 2023.
- 8.12 On 10 May 2023, the Applicant provided an Archaeological Strip, Map & Sample Excavation document, which stated that the digital archive arising from the work will be deposited with the Archaeology Data Service (ADS), and the physical archive will be deposited with the Leicestershire Museum Service. On 16 May 2023, the Applicant confirmed via emails with the Leicestershire County Council's Museums' Collection and Learning Team's Archaeology Curator that the archives were deposited with Leicestershire Museums in May 2022. Therefore, Condition 03 of planning permission 19/01105/FUL can be fully discharged.
- 8.13 Condition 04 (SuDS) was discharged following planning application 21/01387/DISCON.
- 8.14 Condition 05 (Levels), Condition 06 (Landscaping), and Condition 07 (Material Samples) were discharged via application 21/00529/DISCON.
- 8.15 Although Condition 06 (Landscaping) was discharged, a planning condition to ensure compliance with the approved plans, C6 Landscaping Site Layout Drg 1491 Sheet No 3 (submitted: 22.09.2021) is required to ensure that the development has a satisfactory external appearance, to protect the residential amenity of neighbouring properties and the future occupiers of the site in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and in the interests of protecting and enhancing Public Rights of Way and access in accordance with paragraph 98 of the National Planning Policy Framework (2019).

- 8.16 Condition 08 (Contaminated Land) is necessary until the completion of the development to ensure that risks from land contamination to future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the SADMP.
- 8.17 The site access is not altered within this Section 73 Application, and therefore Condition 09 (Access) and Condition 10 (Visibility) does not require amendment. However, these two conditions are still reasonable and necessary in the interests of highway safety in accordance with Policy DM17 of the SADMP, and Paragraphs 108 and 110 of the NPPF.
- 8.18 Condition 11 (Parking and Turning) needs amending to refer to the new internal layout of the site. This condition remains reasonable and necessary 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 18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).
- 8.19 Condition 12 (Opaque Glazing) was removed within Section 73 Application, 21/00101/CONDIT as the secondary window was removed from the application.
- 8.20 Condition 13 (PD Removal) remains necessary to safeguard the amenities of neighbouring properties in accordance with Policy DM10 of the SADMP.
- 8.21 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. The proposed development is considered to be compliant with Policies DM1, DM10, DM17 and DM18 of the SADMP, Policy 1 of the adopted Core Strategy and relevant National Policy as it:

- Does not have an adverse impact upon the character and appearance of the area.
- Does not have a significant adverse impact upon the amenity of neighbours.
- Does not affect the sufficient provision of off-street vehicle parking.

10.2. 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** subject to:

- Planning conditions outlined 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:

- Floor Plans, Elevations, Plots 1-3, Drg No. 1491 1 (submitted: 26.01.2023)
- Floor Plans, Elevations, Plot 4 Drg No. 1491 2 (submitted: 26.01.2023)
- Proposed Block Plan (submitted: 29.03.2023)
- Site Location Plan (submitted: 16.03.2023)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM6 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016).

2. The development shall then be carried out in full accordance with the approved landscaping scheme and implementation programme, C6 Landscaping Site Layout Drg 1491 Sheet No 3 (submitted: 22.09.2021). 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, to protect the residential amenity of neighbouring properties and the future occupiers of the site in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and in the interests of protecting and enhancing Public Rights of Way and access in accordance with paragraph 98 of the National Planning Policy Framework (2019).

3. If during development, contamination not previously identified is found to be present at the site, no further development shall take place until an addendum to the scheme for the investigation of all potential land contamination is submitted in writing to and approved in writing by the local planning authority which shall include details of how the unsuspected contamination shall be

dealt with. Any remediation works so approved shall be carried out prior to the first dwelling being occupied.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on Proposed Block Plan (submitted: 29.03.2023) have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

5. No part of the development hereby permitted shall be occupied until such time as vehicular visibility splays of 2.4 metres by 43 metres have been provided at the site access. These shall thereafter be permanently maintained with nothing within those splays higher than 0.6 metres above the level of the adjacent highway footway.

Reason: To afford adequate visibility at the access to cater for the expected volume of traffic joining the existing highway network, in the interests of general highway safety, and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

6. The development hereby permitted shall not be occupied until such time as off-street car parking and turning provision has been provided, hard surfaced and demarcated in accordance with Proposed Block Plan (submitted: 29.03.2023). Thereafter the on-site parking and turning provision shall be permanently so maintained at all times thereafter.

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 18 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

7. Notwithstanding the provisions of Schedule 2, Part 1 Classes A - E inclusive 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 dwellings hereby permitted 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 buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Application forms to discharge conditions and further information can be found on the planning portal website www.planningportal.gov.uk
3. Planning Permission does not give you approval to work on the public highway. To carry out off-site works associated with this planning permission, separate approval must first be obtained from Leicestershire County Council as Local Highway Authority. This will take the form of a major section 184 permit/section 278 agreement. It is strongly recommended that you make contact with Leicestershire County Council at the earliest opportunity to allow time for the process to be completed. The Local Highway Authority reserve the right to charge commuted sums in respect of ongoing maintenance where the item in question is above and beyond what is required for the safe and satisfactory functioning of the highway. For further information please refer to the Leicestershire Highway Design Guide which is available at <https://resources.leicestershire.gov.uk/lhdg>
4. Prior to construction, measures should be taken to ensure that users of the Public Right(s) of Way are not exposed to any elements of danger associated with construction works. The Public Right(s) of Way must not be re-routed, encroached upon or obstructed in any way without authorisation. To do so may constitute an offence under the Highways Act 1980. The Public Right(s) of Way must not be further enclosed in any way without undertaking discussions with the Highway Authority (0116) 305 0001.
5. The applicant/developer's attention is drawn to the recommendations within the submitted Preliminary Ecological Appraisal and Preliminary Bat Roost Assessment by Bernwood ECS Limited (dated 18 March 2019 -Issue: 3).
6. The applicant/developer is advised that the collection of waste and recycling materials is taken from the adopted public highway not private land.