

**Delegated Officer Report
Planning (Development Management)**

**Planning Ref: 24/00749/FUL
Applicant: Jude Lobo
Ward: Hinckley**



**Hinckley & Bosworth
Borough Council**

Site: 49 to 53 Derby Road, Hinckley

Proposal: Division of one dwelling (49 to 53 Derby Road) into 2 dwellings

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 application seeks full planning permission for the division of one dwelling, 49 to 53 Derby Road, Hinckley. No extensions are proposed.
- 2.2. The existing property is a 6 bed dwelling. No. 49 to 51 would be combined into a 3 bed dwelling. No. 53 Derby would also be a 3 bed dwelling. The total site area is 223 sqm.
- 2.3. The existing dwelling would be divided internally with no extensions proposed. No. 49- 51 would have a living room, kitchen, lounge, study and bathroom on the ground floor with 3 bedrooms, 2 en-suite and a bathroom proposed for the 1st floor. No. 53 would have an entrance hall, bedroom, living room, kitchen, utility room and shower/ toilet on the ground floor & 2 en-suite bedrooms on the 1st floor.
- 2.4. Amended plans were received on 30.08.2024 which created an area to the rear of the site for bin and bike storage for both proposed dwellings. This would be accessed from a side door on New Street. An existing window on the rear elevation of the living room area for No. 49 – 51, is to be removed and blocked up.
- 2.5. A dropped kerb is proposed at the front of the site on Derby Road with space being provided for 1 vehicle.
- 2.6. Final elevation plans were received on 14.10.2024. The window for bedroom 3 of No. 53 was changed to the streetside rather than the existing window which overlooks the rear amenity area and will be blocked up.

3. Description of the Site and Surrounding Area

- 3.1. The site relates to a 2 storey detached 6 bed dwelling with an overall site area of 223 sqm. The dwelling is on the corner of Derby Road & New Street with a small rear garden area and a front garden area laid entirely with hardstanding. The rear amenity area is accessible from New Street. A 1m high picket fence forms the front and side boundary of No 49- 51.
- 3.2. The site is located within a mainly residential area within the settlement boundary of Hinckley but there are also a number of business' such as a café, a restaurant & a convenient store within 25m of the site. The surrounding area has dwellings of varying ages, designs and sizes, with some history of backland development in the area.

4. Relevant Planning History

None relevant

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents. As a result of the publicity no letters of representation have been received.

6. Consultation

- 6.1. No objection has been received from:
Environmental Health (Pollution)
HBBC Drainage
- 6.2. LCC Highways- refer to standing advice

7. Policy

- 7.1. Core Strategy (2009)
- Policy 1: Development in Hinckley
 - Policy 16: Housing Density, Mix and Design
- 7.2. Site Allocations and Development Management Policies (SADMP) DPD (2016)
- Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3. National Planning Policies and Guidance
- National Planning Policy Framework (NPPF) (2023)
 - Planning Practice Guidance (PPG)
- 7.4. Other relevant guidance
- Good Design Guide (2020)
 - Leicestershire Highway Design Guide (LHDG) (2022)
 - National Design Guide (2019)
 - Technical Housing Standards – Nationally Described Space Standards (2015)

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
 - Drainage
 - Ecology
 - Other matters

Assessment against strategic planning policies

- 8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) (2023) states 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 consideration in determining applications. 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, development permission should not usually be granted unless other material considerations indicate otherwise.
- 8.3. The site is located within the urban area of Hinckley as shown on the Core Strategy Key Diagram. Hinckley is defined as a sub-regional centre in policy 1 of the Core Strategy, and where the majority of development should be focused. The site is not part of an allocation or designation in the development plan.
- 8.4. The Council has published an updated 5yr housing land supply calculation on 29th July. This updates the 5yr housing land supply position from March 2023 to March 2028 and demonstrates a 5.6yr supply of housing, with a surplus supply of 145 dwellings over the five year period.
- 8.5. For decision taking, a 5yr housing land supply is a material consideration in all relevant applications for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of relevant housing policies in the Core Strategy, in accordance with paragraph 11d) of the NPPF, the Council should still grant permission for housing unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF taken as a whole.
- 8.6. The development is located within the settlement boundary of Hinckley, in a sustainable location. As such, there is a presumption in favour of sustainable development in accordance with Policy DM1 of the SADMP, and Policy 1 of the adopted Core Strategy. Therefore, the proposal is considered to be acceptable in principle, 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

- 8.7. Policy DM10 requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, mass, design, materials and architectural features.
- 8.8. The pattern of development in the area is characterised by a mix of plot and dwelling sizes, layouts and individually designed properties (predominantly terraced) as well as existing forms of back land commercial and residential development. This has resulted in a mixed and irregular development grain, although the building line along Derby Road is quite regular. The proposed would not extend the existing dwelling but would divide it internally to provide two 3 bed dwellings. No external changes to the existing building are proposed, apart from removing an existing window on the rear elevation of the lounge for No. 49-51 & removing an existing window for bedroom 3 of No. 53 that overlooks the rear garden area and adding a window for the same bedroom but one that faces the street.

- 8.9. Therefore, it is judged that the proposal would not severely impact on the character of the area and would assimilate well with the existing grain of built development.
- 8.10. In summary, it is not considered that the proposal would severely disrupt the character or pattern of the area and the design would not have a significant visual impact. The proposal would therefore comply with policy DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 8.11. Policy DM10 of the adopted SADMP requires that the amenities of the occupiers of proposed developments would not be adversely affected by activities within the vicinity of the site.
- 8.12. According to the minor changes proposed to the existing site, the proposed development would not have any significant overlooking, overbearing or overshadowing impacts upon the occupants of the existing host dwelling or neighbouring dwellings, subject to the use of appropriate boundary treatments which could be secured by condition.
- 8.13. The host property currently has an approx. 40sqm rear garden space. This is to be divided in 2 with approx. 20sqm for each dwelling and a common area used for bin and bike storage. This amenity does not meet the required amenity for a 3 bed dwelling but as it's an existing dwelling in a sustainable location close to parks it is considered acceptable. However, given the depth of the rear garden area it is considered appropriate to remove permitted development rights for both dwellings to ensure their amenity is protected in the future.
- 8.14. Overall, the proposal would have an acceptable impact on residential amenity in accordance with policy DM10 of the SADMP.

Impact upon highway safety

- 8.15. Policy DM17 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety. Policy DM18 of the adopted SADMP requires new development to provide an appropriate level of parking provision.
- 8.16. According to the proposed floor plans, the proposed dwellings would each accommodate three bedrooms. According to LCC design guidance, this requires off-street parking provision for a minimum of two vehicles for each dwelling. Only 1 on site parking space is proposed but due to the sustainable location of the site and the fact that the existing 6 bed has no onsite parking provision the proposed is considered an improvement and is acceptable. The proposed access would require an additional kerb to be dropped along the highway and this would need to be applied for separately.
- 8.17. The proposed development would therefore cause no adverse impacts upon highways safety in accordance with Policy DM17 and DM18 of the SADMP.

Drainage

- 8.20. Policy DM7 of the adopted SADMP requires that development does not create or exacerbate flooding.

- 8.21. The site is located within flood zone 1 indicating there is a low risk of flooding in the area. The application site does not exceed the thresholds requiring a site-specific FRA and is not in an area identified as being a critical drainage area.
- 8.22. HBBC Drainage have no objection to the proposal. Therefore, the application is considered to be acceptable in accordance with Policy DM7 of the SADMP.

Ecology

- 8.23 Policy DM6 of the SADMP states that development proposals must demonstrate how they conserve and enhance features of nature conservation and geological value.
- 8.24 No ecological information has been submitted with the proposal as the proposal relates to the change of use of the property with no external changes other than fencing. As the site is in a swift nest area classification a condition will also be added for a swift bird box to be added to a suitable part of each dwelling. An informative will also be added regarding nesting birds.
- 8.25 The site is exempt under from providing BNG as the development does not impact a priority habitat and impacts less than 25 square metres (e.g. 5m x 5m) of non-priority onsite habitat (such as modified grassland) or 5m for non-priority onsite linear habitats (such as native hedgerows).
- 8.26 As such the proposal is considered to be acceptable with respect to ecological matters and in accordance with Policy DM6 of the SADMP.

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. Policy DM1 of the SADMP provides a presumption in favour of sustainable development. Also, the site is located within the settlement boundary of Hinckley with good access to shops and local facilities. The principle of the development is therefore acceptable.
- 10.2. The proposal would not be out of character with the pattern of development in the area and the proposed design of each dwelling would create a harmonious development in accordance with policy DM10 of the SADMP.
- 10.3. The revised proposal would have a minimal impact on residential amenity or visual amenity in accordance with policy DM10 of the SADMP. In addition, the proposal would not have an unacceptable impact on parking, or highway safety in accordance with Policies DM17. Subject to conditions the development would conserve/enhance ecological assets.

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 received 02.08.2024

Proposed Site Block Plan received on 04.10.2024

Proposed Floor Plans received 08.10.2024

Proposed Elevations Drg. 'Sheet number 4' received on 14.10.2024

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

3. No part of the development hereby permitted shall be occupied until such time as 2.0 metre by 2.0 metre pedestrian visibility splays have been provided on both sides of the access with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway and, once provided, shall be so maintained in perpetuity.

Reason: In the interests of pedestrian safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies Development Plan Document and the National Planning Policy Framework (2023).

4. Prior to first occupation of each dwelling, space shall be provided for the parking of a vehicle associated with No. 49- 51 in accordance with Proposed Site Block Plan. Thereafter the onsite parking provision shall be kept available for such use(s) in perpetuity.

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 DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document and the National Planning Policy Framework (2023).

5. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-D 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 approved 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).

6. Prior to occupation of the approved development full details of ecological enhancements on the site in the form of a suitably placed swift bird box for each dwelling shall be submitted to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved ecological enhancement scheme.

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

11.3. 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) Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
- 3) 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).

- 4) The applicant is advised that, notwithstanding this planning permission, to facilitate the proposed extended access a separate application must also be made, prior to any works within the public highway commencing, to the Local Highway Authority (Leicestershire County Council) for a vehicle crossover (dropped kerb) permit. Further details of the requirements can be found at: <https://www.leicestershire.gov.uk/roads-and-travel/cars-and-parking/vehicle-accessdropped-kerbs>. The applicant should also note that the approval of planning permission does not guarantee permission for the required works permit.
- 5) Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore, building demolition and significant alteration should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.