

Delegated Report

Planning Ref: 23/00297/FUL
Applicant: Mrs Andrea Haralambous
Ward: Hinckley Trinity



Hinckley & Bosworth
Borough Council

Site: 151 Wykin Road Hinckley Leicestershire

Proposal: Change of use to C3 (residential) and erection of a two storey building containing two flats

1. Recommendations

- 1.1. **Refuse planning permission** subject to:
- Planning reasons outlined at the end of this report.

2. Planning application description

- 2.1. This planning application seeks full planning permission for the change of use of Sui Generis (previously Use Class A5) land to Use Class C3 (Residential) to facilitate the provision of two, two-bedroom flats within a two-storey residential property at 151 Wykin Road, Hinckley. A new access is also proposed to the site via Henry Street.
- 2.2. The development externally measures 9m in width x 8.3m in depth, with a total footprint of 74.5sqm. The scheme utilises a hipped roof with a roof ridge height of 7.3m, and an eaves height of 4.7m. A canopy porch is also provided over the two front doors to the flats, which has a maximum height of 3.2m. The property is constructed with rendered walls, plain roof riles and dark grey uPVC double glazed windows to match the adjacent properties.

3. Description of the site and surrounding area

- 3.1. The 347.4sqm application site is currently a vacant corner plot on the confluence of Wykin Road, to the northern boundary of the site, and Henry Street, to the western boundary of the site, within the identified settlement boundary of Hinckley. The plot currently consists of grassland and a small area of existing hardstanding towards the south-western corner of the site.
- 3.2. The application site appears to have been previously developed because the plot has received planning permission for the change of use from a grocers shop to a shop for the sale of hot food via planning permission 83/00909/4. However, a subsequent planning application, 94/00305/FUL, for the erection of a hot food takeaway/restaurant and dwelling was refused for its impact on neighbouring residential amenity as well highway and pedestrian safety concerns. Based on historic satellite imaging, the site has been vacant since at least 1999.
- 3.3. The application site comprises open space with residential properties surrounding the site. The properties near the site, such as along Henry Street and Wykin Road, are predominantly two-storey, semi-detached dwellings that are fully rendered and utilise hipped roofs. Bay windows on the on the principal elevations are also common. However, there are further variations of style and design along Wykin, and the brick finished properties along Gainsborough Avenue and Knapton Close to the north are visible from the application site.

4. Relevant planning history

94/00305/FUL

- Erection of hot food takeaway/restaurant and dwelling
- Refused
- 25.05.1994

83/00909/4

- Change of use from grocers shop to shop for the sale of hot food
- Permitted
- 20.12.1983

5. Publicity

5.1 The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site.

5.2 No 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 Environmental Services' Pollution Officer
- HBBC's Waste Management Officer (subject to conditions)

6.2 The Local Highway Authority requested further information regarding the new access to fully assess the highway impact of the development. This information was provided on 14 June 2023, and the LHA were formally re-consulted. The Planning Officer discussed the application with the LHA on 20 June 2023, who stated that they would require further information regarding the new access' pedestrian and vehicular visibility splays.

6.3 No further responses have been received.

7. Policy

7.1 Core Strategy (2009)

- Policy 1: Development in Hinckley

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 DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 National Planning Policies and Guidance

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

7.4 Other relevant guidance

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)
- 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
- Housing land supply
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety
- Planning balance

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.

8.2 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.

8.3 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.

8.4 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.

8.5 The development is within the identified settlement boundary of Hinckley, 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 Policy 1 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.

Housing Land Supply

- 8.6 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- 8.7 Paragraph 11(d) of the NPPF states that planning decisions should apply a presumption in favour of sustainable development where there are no relevant Development Plan policies, or the policies which are most important for determining the application are out-of-date. Footnote 8 of Paragraph 11 of the NPPF highlights that housing policies are considered to be out-of-date where local planning authorities cannot demonstrate a five-year supply of deliverable housing sites.
- 8.8 Using the standard method as outlined by the Ministry of Housing, Communities & Local Government (MHCLG), Hinckley and Bosworth Borough Council are able to demonstrate 4.89 years of deliverable housing on 01 April 2022. In addition, 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.
- 8.9 Given the above and the change in the housing figures required for the Borough, the 'tilted' balance in Paragraph 11(d) of the NPPF is triggered.
- 8.10 Paragraph 11 (d) of the NPPF requires planning permission to be granted unless:
- i. The application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
- 8.11 Section 5 of the NPPF requires planning policies and decisions to deliver a sufficient supply of homes to support the Government's objective of significantly boosting the supply of homes without unnecessary delay.
- 8.12 Paragraph 78 of the NPPF states that planning policies should be responsive to local circumstances and support housing developments that reflect local needs, and Paragraph 69 of the NPPF states that small and medium sized sites, such as windfall sites, can make an important contribution to meeting the housing requirements of an area. Paragraph 79 of the NPPF states that, to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
- 8.13 The development is for two, two-bedroom flats, and therefore Policy 15 (Affordable Housing) and Policy 16 (Housing Density, Mix and Design) of the adopted Core Strategy are not applicable for this scheme.

- 8.14 Whilst the provision of two flats within this application site is unlikely to be a significant benefit to the housing land supply within the Borough, given the Council's failure to deliver a five-year supply of land for housing, it is considered that moderate weight should be given to the provision of the proposed dwellings.

Design and Impact upon the Character of the Area

- 8.15 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.
- 8.16 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.
- 8.17 The Good Design Guide advises that corner plots play an important role in within the street scene and it is important to recognise that overdevelopment of these plots can create an oppressive quality which can lead to a significant change in the prevailing character of a place.
- 8.18 The development utilises matching materials and a similar roof style to that of the properties within the surrounding area, which preserves the character of the surrounding area. However, the development does not include a bay window on its principal elevation, which is a common feature of the design of properties along Wykin Road and Henry Street.
- 8.19 Of greater importance though is the unsympathetic siting close to Wykin Road such that the development is very visually prominent from Wykin Road and Henry Street. This is reinforced by the fact that it is 8.9m forward of the principal elevations of 147 and 149 Wykin Road, and 3.6m in front of 153 Wykin Road. Ultimately, it is considered that this prominence in comparison to the other properties along Wykin Road and Henry Street is incongruous to the character of the siting and the layout of the area.
- 8.20 The incongruous nature of the development is also seen by the fact that the design of the property is significantly, and uncharacteristically, deeper than the adjacent properties. This issue is exacerbated by the visual prominence of the development on a corner plot. Furthermore, the northern elevation of the proposal, which faces the highway, is a two-storey blank elevation. This blank elevation is considered to be demonstrative of poor design, which is heightened by the site's visual prominence in the street scene.
- 8.21 To summarise, corner plots play an important role within the character of the street scene. The development is considered to feature poor design that is seen through: its large two-storey blank elevation that faces the highway; its uncharacteristic depth in comparison to the other properties in the surrounding area; and the incongruous prominence of the development due to its projection of almost 9m in front of the principal elevation of the adjacent neighbouring property, 149 Wykin Road. All these issues are exacerbated by the application's site position within a corner plot that is already highly visible to the street scene. Consequently, it is considered that the development results in significant adverse harm to the character of the surrounding area, contrary to, and in conflict with Policy DM10 of the SADMP, Section 12 of the NPPF, and the Good Design Guide.

Impact upon Residential Amenity

- 8.22 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.
- 8.23 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.
- 8.24 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.
- 8.25 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.”
- 8.26 The provision of two, two-bedroom dwellings within an existing residential area is not considered to result in any significant adverse light or noise pollution impacts to neighbouring residential amenity.
- 8.27 In addition, no windows are proposed on the northern or southern side elevations, and therefore the development is not considered to result in any overlooking or loss of privacy impacts to 96 Henry Street. Although there is a window on the ground floor of the northern side elevation of 96 Henry Street, the scheme is 5.5m north of this side elevation, and this window is not considered to be a primary window to a habitable room. Given the above, this development is not considered to result in a significant adverse impact upon the residential amenity of 96 Henry Street by virtue of the limited potential impact to the property’s secondary side window.
- 8.28 There are also no windows on the western side elevation of 149 Wykin Road, and therefore the development does not result in any overlooking or loss of privacy to the adjacent neighbouring property to the east. However, the side elevation 149 Wykin Road represents a two-storey blank elevation that could impact the residential amenity of the future occupiers of the scheme. Whilst the property is less than 9m from this two-storey blank side elevation, which is contrary to the requirements of the Good Design Guide, this is not considered to result in any significant adverse harm to the future occupiers of the development due to the siting of the property within the application site.
- 8.29 To protect the residential amenity of the future occupiers of the development, the windows to the bathrooms on the front elevation of the property on both floors are obscure glazed, which is secured via planning condition.

- 8.30 To support the residential amenity of the future occupiers of the scheme, proposals for two-bedroom, single storey dwellings should provide a minimum of 61sqm of floor space and 2sqm of built-in storage in accordance with the Technical Housing Standards (THS).
- 8.31 The scheme provides 57.1sqm of floorspace, which includes 1sqm of built-in storage, for the ground floor flat, and 60.1sqm of floorspace, which also includes 1sqm of built-in storage for the first floor flat. Therefore, neither flat provides sufficient internal floorspace or built-in storage to comply with the requirements of the THS.
- 8.32 To comply with Paragraphs 10(d) and 10(e) of the THS, double bedrooms need to provide at least 11.5sqm of floor space that are at least 2.75 wide. This requirement reduces to a floorspace of 7.5sqm and a width of 2.15m for single bedrooms within Paragraphs 10(c) and (d) of the THS.
- 8.33 None of the bedrooms comply with the floorspace required for a double bedroom, and only the larger bedroom on the first floor exceeds the width requirement of Paragraph 10(e). Whilst all four bedrooms are in accordance with the minimum floorspace of a single bedroom, it is noted that the smallest bedroom on the ground floor does not comply with the minimum width of a single bedroom either.
- 8.34 Whilst it is acknowledged that the Technical Housing Standards are afforded limited weight in terms of the NPPF as well as the emerging Local Plan, by virtue of the lack of compliance with the THS, the development is not considered to safeguard the amenity of the future occupiers of the development, which is contrary to Paragraph 130 of the NPPF.
- 8.35 To comply with the Good Design Guide, two-bedroom houses must also provide a minimum of 60sqm of private outdoor amenity space with a minimum length of 7m.
- 8.36 At its deepest, the property provides private outdoor amenity space with a length of 8.2m, which reduces to 6.1m towards the south of the property. In spite of this, the proposal provides over 80sqm of private outdoor amenity space, given the overall footprint and some of the private outdoor amenity space's compliance with the Good Design Guide, in these site-specific circumstances, the scheme is considered to safeguard the amenity of the future occupiers of the development.
- 8.37 By virtue of these factors and the fact that there have been no objections to the scheme, the proposal does not result in any significant adverse impacts to the residential amenity of neighbouring properties. However, the development is not considered to provide sufficient internal floorspace to safeguard the amenity of the future occupiers of the scheme, contrary to Paragraph 130 of the NPPF, and the Good Design Guide.

Impact upon Parking Provision and Highway Safety

- 8.38 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.

- 8.39 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)).
- 8.40 Policy DM18 of the SADMP requires developments to demonstrate an adequate level of off-street parking provision.
- 8.41 Wykin Road and Henry Street are both adopted and unclassified roads that are subject to a 30mph speed limit. The Local Highway Authority confirm that there have been no Personal Injury Collisions in the previous five years on Henry Street or within the vicinity of the junction of Henry Street and Wykin Road. Ultimately, it is considered that the development of two dwellings does not have a significant adverse impact on highway safety or the road network within the local area in these site-specific circumstances.
- 8.42 In accordance with Figure DG17, an access for two dwellings should have a minimum effective width of 4.25m for at least the first five metres from the public highway. If the access is bounded by a wall, fence, hedge, line of trees or other similar obstruction on one side, then an additional 0.5m of width must be added to the parking space; this increases to 1m if the parking space is bounded on both sides.
- 8.43 Contrary to Figure DG17 of Part 3 of the LHDG, the Applicant has proposed an access with a width of 3.5m, which is bound by a fence to the south.
- 8.44 For an access on a road subject to a 30mph speed limit, vehicular visibility splays of 43m in both directions from a setback distance of 2.4m are required from the carriageway. To accord with Figure DG4 of the LHDG. Due to the location of the site, pedestrian visibility splays of 2m x 2m are also required on either side of the access.
- 8.45 The Applicant has provided 2m x 2m pedestrian visibility splays within the existing public footpath rather than within the application site. Nevertheless, following a site visit by the Planning Officer, it is confirmed that these visibility splays are possible from the proposed access.
- 8.46 The new access can also demonstrate vehicular visibility splays exceeding 43m in a southerly direction, but not in a northern direction towards Henry Street's confluence with Wykin Road. However, the Local Highway Authority note that there is a road junction to the north of the proposed access and therefore it is unlikely that vehicles travelling from Wykin Road will do so at the maximum permitted speed of 30mph. As a result of this, the vehicular visibility splay to the north of the new site access is likely to be acceptable within this site-specific circumstance.
- 8.47 To accord with Paragraph 3.151 of Part 3 of the LHDG requires one off-street vehicle parking space is required to accommodate a two-bedroom dwelling.
- 8.48 The Applicant proposes the provision of one off-street vehicle parking space for each two-bedroom dwelling, which is in accordance with Paragraph 3.151 of Part 3 of the LHDG. The dimensions of these parking spaces are also in accordance with Paragraph 3.165 of Part 3 of the LHDG.

- 8.49 To summarise, given the scale of the development, the provision of two dwellings is not considered to have a significant adverse impact on highway safety or the road network within the local area.

Planning Balance

- 8.50 The Council cannot demonstrate a 5-year housing land supply and the housing policies in the adopted Core Strategy and the housing policies of the adopted SADMP are considered to be out of date as they focused on delivery of a lower housing requirement than is now required. It is necessary therefore to consider that the 'tilted' balance in paragraph 11(d) of the NPPF applies and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.51 The development is in a sustainable location within the identified settlement boundary of Hinckley, and the provision of one additional dwelling, in principle, is not considered to result in a significant adverse impact on the character of the surrounding residential area.
- 8.52 However, the scheme is considered to represent poor design that is very visually prominent within the street scene and ultimately results in significant adverse harm to the character of the application site and the surrounding area.
- 8.53 Nevertheless, it is acknowledged that there are potential social benefits from the scheme such as providing one dwelling towards the Borough's housing land supply, which may also include economic benefits within the construction of the dwelling and the future occupant's opportunity to act as new customers and employees for local businesses and services. It is considered that these benefits are offered moderate weight within the planning balance. However, these benefits when associated with a singular dwelling are modest and are not considered to maintain or enhance the local community. In addition, there are no planning benefits such as affordable housing or essential infrastructure provision as identified within Paragraph 12.13 of the SADMP.
- 8.54 To summarise, it is ultimately considered that the benefits of this proposed dwelling do not outweigh harm that is caused by the poor design of this development. Therefore, the development is considered to be contrary to, and in conflict with, Policy DM10 of the SADMP, Policy 1 of the adopted Core Strategy, Section 12 of the NPPF and the Good Design Guide.

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 not considered to be compliant with the relevant national and local policy as it:

- Is not an appropriate scale and design.
- Has an adverse impact upon the character and appearance of the area.
- Has a significant adverse impact upon the amenity of future occupiers.

10.2 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 **Refuse planning permission** subject to:

- Planning reasons outlined at the end of this report.

11.2 Reasons

1. The development is considered to be of poor design, which is evident by: its large two-storey blank elevation that faces the highway; its uncharacteristic depth in comparison to the other properties in the surrounding area; and the incongruous prominence of the development due to its projection of almost 9m in front of the principal elevation of the adjacent neighbouring property, 149 Wykin Road. All these issues are exacerbated by the application's site position within a corner plot that is already highly visible to the street scene. Consequently, it is considered that the development results in significant adverse harm to the character of the surrounding area. Ultimately, it is considered that the benefits of this proposed dwellings do not outweigh harm that is caused by the poor design of this development. Therefore, the scheme is contrary to, and in conflict with Policy DM10 of the SADMP, Section 12 of the NPPF, and the Good Design Guide.
2. The development is not considered to provide sufficient internal floorspace to safeguard the amenity of the future occupiers of the scheme, contrary to Paragraph 130 of the NPPF, and the Good Design Guide.

a. Notes to Applicant:

1. The application has been determined in accordance with the following submitted details:
 - Application Form (submitted: 27.03.2023)
 - Design & Access Statement (submitted: 27.03.2023)
 - Existing Block Plan (O2A-2246) (submitted: 15.06.2023)

- Planning Statement (submitted: 27.03.2023)
- Proposed Access (05A-2246) (submitted: 15.06.2023)
- Proposed Block Plan (03D-2246) (submitted: 15.06.2023)
- Proposed Drainage Strategy (04B-2246) (submitted: 15.06.2023)
- Proposed Floor Plans and Elevations (01C-2246) (submitted: 15.06.2023)
- Site Location Plan (01A-2246) (submitted: 15.06.2023)