

Delegated Report

Planning Ref: 23/00533/FUL

Applicant: Ms Jennifer Marvin

Ward: Ratby Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Site: Church Side 3 Church Hill Bagworth Leicestershire

Proposal: Erection of one dwelling – previously approved under ref 20/00412/FUL

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report.

2. Planning application description

2.1. This application seeks full planning permission for the erection of a two storey, three-bedroom detached house within the curtilage of an existing dwelling. The proposed dwelling has an irregular footprint with a maximum width of approximately 9 metres and a maximum depth of approximately 15.1 metres, an eaves height of 4.8 metres and a ridge height of approximately 7.6 metres. An identical application was approved in 2020 under reference 20/00412/FUL.

2.2. Access to the site is via the existing residential driveway located at the end of a cul-de-sac which is partly un-adopted (Church Hill). Two parking spaces for both the existing and proposed dwelling would be provided within an existing detached car port in the north corner of the site with turning space on the existing driveway. Several existing outbuildings would be demolished to enable construction of the dwelling. A new 1.8-metre-high close boarded timber fence is proposed to separate the application plot from the retained garden of the host dwelling.

3. Description of the site and surrounding area

3.1. The site measures approximately 750 square metres (excluding the access) and is located within the settlement boundary of Bagworth to the west side of an existing part 2 storey/part 1½ storey dwelling known as Church Side, 3 Church Hill. It comprises part of the extensive garden serving the host dwelling and contains several single storey ancillary outbuildings and landscaped areas.

3.2. There are residential properties to the east and north of the site, a grassed paddock in the applicant's ownership to the south and an agricultural field to the west. The western boundary is defined by hedgerow including tall trees.

4. Relevant planning history

01/00185/REM

- Erection of one dwelling
- Approval of reserved matters
- 04.05.2001

98/00076/OUT

- Erection of dwelling
- Outline planning permission
- 08.04.1998

20/00412/FUL

- Erection of one dwelling
- Approved
- 28.07.2020

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 comments have been received

6. Consultation

- 6.1. No objection has been received from:
- Leicestershire County Council (Minerals)
HBBC Environmental Health (Pollution)
HBBC Environmental Health (Drainage)
Leicestershire County Council (Highways)
- 6.2. No objection subject to conditions has been received from:
- HBBC Street Scene Services (Waste)
- 6.3. No response has been received from:
- Severn Trent Water Limited
Bagworth and Thornton Parish Council

7. Policy

- 7.1. Core Strategy (2009)
- Policy 7: Key Rural Centres
 - Policy 10: Key Rural Centres within the National Forest
 - Policy 19: Green Space and Play Provision
 - Policy 21: National Forest
- 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 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) (2018)
 - 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
- Infrastructure contributions
- Other issues

Assessment against strategic planning policies

- 8.2 Paragraph 2 of the National Planning Policy Framework (NPPF) (2019) 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.
- 8.3 Paragraph 11 of the NPPF and Policy DM1 of the adopted Site Allocation and Development Management Policies Development Plan Document (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 confirms 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.
- 8.4 The relevant development plan documents in this instance consist of the adopted Core Strategy (2009) and the adopted Site Allocations and Development Management Policies Development Plan Document (2016) (SADMP).
- 8.5 Policy 10 of the adopted Core Strategy seeks to allocate land for the development of a minimum of 60 new homes at Bagworth. Notwithstanding this, the site lies within the settlement boundary of Bagworth where residential development is generally acceptable in principle subject to all other planning matters being satisfactorily addressed and the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure. Therefore, the application should be determined in accordance with Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.6 The consideration under Paragraph 11 (d) is weighed in the balance of the merits of any application and considered with the policies in the Site Allocations and Development Policies DPD and the Core Strategy which are attributed significant weight as they are consistent with the Framework.

Design and impact upon the character of the area

- 8.7 Policy DM10 of the adopted SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally.
- 8.8 The site is located at the end of a cul-de-sac and the proposed dwelling would be set to the west and rear of the host dwelling. By virtue of its siting and notwithstanding its two-storey scale, the proposal would have no significant visual impact on the existing Church Hill street scene. The existing hedgerow and trees to the west boundary which are to be retained would also partly screen the development from the agricultural field and countryside beyond to the west. The two-storey design includes architectural detailing such as subordinate gable projections, brick plinth, arched brick headers, fenestration and exposed rafters at eaves level that reflect details of the host dwelling. Subject to the use of suitable external materials in the construction of the new dwelling to ensure an acceptable appearance, which can be secured through the imposition of a condition, the proposal would complement the character

of the surrounding area. The proposed finished floor level is to be the same as that of the host dwelling to ensure visual harmony.

- 8.9 The proposed layout includes the provision of satisfactory private amenity space of well excess of 80 square metres (as suggested in the Good Design Guide) for both the host and proposed dwellings. Two off-street parking spaces and turning space would also be provided for each of the dwellings.
- 8.10 By virtue of the proposed layout, scale, levels, and design, and subject to the use of appropriate external materials, retention of hedgerows and new boundary treatments where necessary to divide the plot, which can be secured through conditions, the proposed scheme would complement the character of the surrounding area. The proposal would therefore be in accordance with Policy DM10 of the adopted SADMP and the adopted Good Design Guide.

Impact upon neighbouring residential amenity

- 8.11 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 and that the amenity of the future occupiers of proposed development would not be adversely affected by activities in the vicinity of the site.
- 8.12 The proposed dwelling is set back to the rear and side of the host dwelling such that it would extend 10.8 metres beyond the rear elevation of the host dwelling at two storey height and a further 4.3 metres at single storey height. The position and extent of the new dwelling is likely to result in a degree of overshadowing to part of the garden of the host dwelling. However, the proposed dwelling would be located almost 6 metres to the west of the host dwelling and by virtue of the separation distance would not result in any significant adverse overbearing impacts on the host dwelling. There is a first-floor window in the east side elevation of the proposed dwelling facing the rear garden of the host dwelling. Subject to the use of a non-opening and appropriately obscurely glazed bathroom window (secured by condition) the proposal would not result in any loss of privacy to the occupiers of the host dwelling from overlooking. A new close boarded timber fence of 1.8 metres in height is proposed to separate the respective gardens and could also be secured by condition to protect the privacy and amenity of the occupiers of the host and proposed dwellings.
- 8.13 The only other dwelling in proximity to the proposal is 2 Church Hill which lies to the north. The proposed front elevation windows of the proposed dwelling would face towards the rear garden of 2 Church Hill but by virtue of the separation distance of almost 20 metres to the boundary and the existing 1.8-metre-high timber panel fencing along the garden boundary, the proposal would not result in any significant adverse overbearing impacts or loss of privacy from overlooking to the neighbouring occupiers.
- 8.14 The proposal would not result in any significant adverse impacts on the privacy or amenity of any neighbouring properties, would provide satisfactory separation distances to existing neighbouring properties in accordance with the adopted Good Design Guide and would therefore be in accordance with Policy DM10 of the adopted SADMP.

Impact upon highway safety

- 8.15 Policy DM17 of the adopted SADMP states that development proposal will be supported where they demonstrate that there is not a significant adverse impact upon highway safety. Policy DM18 requires new development to provide an appropriate level of parking provision to serve the development proposed.

- 8.16 Notwithstanding that Church Hill is un-adopted the proposed access would be satisfactory to serve one additional dwelling without any significant adverse impact on highway safety. Satisfactory access, parking (two spaces each) and turning would be provided within the site to serve both the host and proposed dwellings. LCC Highways has assessed the scheme and considers that the proposal would have satisfactory access as Church Hill is of sufficient width to allow two vehicles to pass at its junction with the public highway and is hard bound. The Local Highway Authority therefore raise no objections. A condition has been recommended to secure the provision and retention of the proposed parking and turning areas to serve both dwellings.
- 8.17 The proposed scheme would provide satisfactory access, parking and turning to serve both dwellings and would therefore be in accordance with Policies DM17 and DM18 of the adopted SADMP.

Other issues

- 8.18 Notwithstanding that Church Hill is un-adopted, there are clearly arrangements in place to collect refuse and recycling materials from all the existing properties on the road and there is adequate space at the boundary of the site with Church Hill to provide a collection point for refuse and recycling bins for the host and proposed dwelling therefore a condition to require the submission of further details for prior approval is considered to be unnecessary in this case.
- 8.19 A condition to require the proposed development to include the upgrading of the existing poor surface condition of the access road would not be reasonable or meet the tests for the imposition of planning conditions.

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. 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.

- 10.2. The housing policies in the adopted Core Strategy and the adopted SADMP are now considered to be out of date as they focused on delivery of a lower housing requirement than required by the up-to-date figure. The Council also cannot demonstrate a 5-year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 10.3. The application site is within the settlement boundary of Bagworth where residential development is generally acceptable in principle subject to all other planning matters being satisfactorily addressed. By virtue of the layout, scale, design and subject to satisfactory external materials and boundary treatments the proposed scheme would complement the character and appearance of the surrounding area and would not result in any significant adverse impacts on the privacy or amenity of any neighbouring properties, nor highway safety. The proposed scheme would be in accordance with Policy 10 of the adopted Core Strategy and Policies DM1, DM10, DM17 and DM18 of the adopted SADMP and the overarching principles of the NPPF (2019).
- 10.4. Paragraph 11 of the NPPF states that that any harm identified should be significant and demonstrably outweigh the benefits of the scheme. Given that no harm has been identified, the proposal is found to be sustainable development and is therefore recommended for full planning permission subject to conditions.

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, Block Plan, Proposed Site Plan, Proposed Floor Plans and Proposed Elevations Drawing No. ND.23.182.01 Rev A received by the local planning authority on 2nd September 2023.

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. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwelling hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

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

4. The dwelling hereby permitted shall be constructed in accordance with the approved finished floor level on Proposed Site Plan Drawing No. ND.23.182.01 Rev A received by the local planning authority on 2nd September 2023.

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

5. The development hereby permitted shall not be occupied until the new 1.8-metre-high close boarded timber fence has been constructed along the eastern boundary of the application plot in accordance with details shown on approved Proposed Site Plan Drawing No. ND.23.182.01 Rev A received by the local planning authority on 2nd September 2023. The fence shall thereafter be permanently retained in such form at all times thereafter.

Reason: To protect the amenities and privacy of occupiers of the adjoining property and in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Notwithstanding the submitted details prior to first occupation of the dwelling hereby permitted, the first-floor bathroom window on the east side elevation of the dwelling hereby permitted facing Church Side, 3 Church Hill, Bagworth shall be non-opening and fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and once so provided shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of the neighbouring dwelling from potential overlooking in accordance with Policy DM10(a) of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. The development hereby permitted shall not be occupied until such time as off-street car parking provision with turning facilities has been provided and hard surfaced in accordance with Proposed Site Plan Drawing No. ND.23.182.01 Rev A received by the local planning authority on 2nd September 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 and turning provision is made to reduce the possibility of the proposed development leading to on-street parking problems locally (and to enable vehicles to enter and leave the site in a forward direction) in the interests of highway safety and in accordance with Policy DM17 and Policy DM18 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2019).

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. The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance or, alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor.
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).