

Delegated Report

Planning Ref: 24/00655/FUL
Applicant: Mrs Gemma Robinson
Ward: Twycross Sheepy & Witherley



Hinckley & Bosworth
Borough Council

Site: 14 Rodney Gardens Sheepy Magna
Atherstone

Proposal: Change of use of agricultural land to domestic garden

1. Recommendations

- 1.1. **Grant planning permission** subject to:
- Planning conditions detailed 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 agricultural land to domestic garden to the east of 14 Rodney Gardens, Sheepy Parva. The agricultural land subject to this change of use extends across the entire width of the host dwelling's plot and has a depth of 92.4m.
- 2.2. This application is retrospective, and the change of use occurred between April and May 2022.

3. Description of the Site and the Surrounding Area

- 3.1. The agricultural land is located to the east of 14 Rodney Gardens is outside of the identified settlement boundary of Sheepy Magna in the designated open countryside. To the north of the agricultural land is a small area of woodland, and beyond this is open agricultural fields. To the east and southeast of the land is the host dwelling and other residential properties within the identified settlement boundary of Sheepy Magna. To the south of the land is domestic garden associated with 12 Rodney Gardens, which was allowed at appeal following the refusal of planning permission 22/00916/FUL. Beyond this garden are further open agricultural fields. The land is separated from an agricultural farm to the west by more open agricultural fields.
- 3.2. The site is bounded by 1.4m post and rail timber fencing

4. Relevant Planning History

- 4.1 **19/00484/NOMAT**
- Non-material amendment to planning permission 16/00865/CONDIT for elevation changes to Plots 13 and 23
 - Permitted

- 04.06.2019

4.2 **17/00485/CONDIT**

- Variation of Condition 1 of planning permission 16/00865/CONDIT for substitution of house type to Plot 13
- Permitted
- 26.04.2019

4.3 **16/00865/CONDIT**

- Variation of Condition 2 of planning permission 14/00136/FUL for substitution of house types to Plots 10, 11, 13, and 23
- Permitted
- 21.02.2017

4.4 **14/00136/FUL**

- Erection of 24 new dwellings
- Permitted
- 11/08.2016

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 Sheepy Parish Council have objected to the planning application because the land is located outside of the identified settlement boundary of Sheepy Magna in the designated countryside and is therefore contrary to Policies S1 (Countryside) and S10 (Housing Development) of the Sheepy Parish Neighbourhood Plan (SPNP) (2022).
- 6.2 The Parish Council also highlighted that the application site is likely to impact a badger sett.
- 6.3 The County Council's Ecology Team did not object to the planning application. The Ecology Team consulted the Leicestershire and Rutland Environmental Records Centre (LRERC) for existing protected species data and designated sites within the locality, which may incur potential impacts from the development proposal. Leicestershire County Council confirmed that no protected species or designated sites were identified within the locality.
- 6.4 Leicestershire Badger Group did not comment on the planning application.
- 6.5 No further responses have been received.

7. Policy

7.1 Core Strategy (2009):

- Policy 12: Rural Villages

7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM4: Safeguarding the Countryside and Settlement Separation
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Sheepy Parish Neighbourhood Plan 2018 – 2035 (SPNP) (2022):

- Policy S1: Countryside
- Policy S5: Ecology and Biodiversity
- Policy S8: Design
- Policy S10: Housing Development

7.4 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (LHDG) (2022)

8. Appraisal

8.1. The key issues in respect of this application are therefore:

- Principle of development
- Design and impact upon the character of the area
- Impact upon residential amenity
- Impact upon parking provision and highway safety

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.
- 8.3 The current Development Plan consists of the adopted Core Strategy, the adopted Site Allocations and Development Management Policies Development Plan Document (SADMP), and the adopted Sheepy Parish Neighbourhood Plan (SPNP) (2022). In accordance with Paragraph 225 of the NPPF, due weight should be given to existing policies according to their degree of consistency with the NPPF.
- 8.4 Policy DM4 of the SADMP, which states that the Council will protect the intrinsic value, beauty, open character, and landscape character of the countryside from unsustainable development. Policy DM4 of the SADMP only considers development in the countryside sustainable where:
- (a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
 - (b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
 - (c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
 - (d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
 - (e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.
- 8.5 To support this, Policy S10 of the SPNP confirms that, outside the Sheepy Magna settlement boundary, permission for housing development will be limited to:
- (a) Land allocated for residential development at Hornsey Rise Memorial Home; or
 - (b) Rural worker accommodation; or
 - (c) Replacement dwellings; or
 - (d) The re-use and/or adaption of redundant rural buildings; or
 - (e) Other circumstances as set out in Paragraph 80 of the NPPF [now 84]; or
 - (f) Exception site affordable housing.
- 8.6 Therefore, the proposed development does not relate to, or comply with, any of the criteria above in either Policy DM4 of the SADMP or Policy S10 of the SPNP, but this does not mean that the development is not sustainable.

- 8.7 Importantly, Policy DM4 of the SADMP also requires that development meets five further requirements to be considered as sustainable development. These are discussed in detail further in the report.
- 8.8 For example, Policy S1 of the SPNP states that householder development may be considered sustainable in countryside locations.
- 8.9 Given the above, the Council considers that the proposal is offered no support by Policy DM4 of the SADMP. As such, the application does not accord with Development Plan Policy and is unacceptable 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

- 8.10 Policy DM4(i) of the SADMP states that development in the countryside will be considered sustainable where it does not have a significant adverse effect on the intrinsic value, beauty, open character, and landscape character of the countryside.
- 8.11 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.
- 8.12 Policy S8 of the SPNP requires development to work with the scale, form, and character of the location and make a positive contribution to the street scene.
- 8.13 It is noted that the change of use of the agricultural land to domestic garden at 12 Rodney Gardens immediately to the south of 14 Rodney Gardens was allowed at appeal against the refusal of planning application 22/00916/FUL. This area of land extends to the exact same depth as the land within this proposal and had a width that covered the entire width of 12 Rodney Gardens like this proposal covers the entire width of 14 Rodney Gardens.
- 8.14 The site is visible in localised views from the rear of the adjoining residential properties and the nearby access track, as well as the adjoining agricultural land and buildings. The size and layout of the garden reflects that of the rear garden of the adjoining property at 12 Rodney Gardens. Despite its size, the site benefits from a considerable degree of containment in the wider rural context as a consequence of its position in relation to the adjoining gardens to the south and the mature woodland to the north. This relationship serves to reduce the effect of the change of use in terms of significant visual encroachment into the surrounding agricultural land. Having regard to these matters, the use of the land as garden has a negligible effect on the qualities of the open countryside setting.
- 8.15 Permitted development rights for any incident building, or enclosure, swimming or other pool, as well as walls, fences and other means of enclosure can be controlled by planning condition. Therefore, subject to a suitably worded condition removing such rights, the proposal is not considered to give rise to any tangible harm to the

visual qualities or open character of the rural area. As a result, the scheme is considered to be compliant with Policies S1 and S8 of the SPNP, and Policies DM4 and DM10 of the SADMP.

Impact upon Residential Amenity

- 8.16 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.
- 8.17 The development does not consist of any new buildings or extensions and therefore is not considered to have any adverse impacts on neighbouring residential amenity.
- 8.18 The proposal increases the provision of outdoor private amenity spaces for the occupants of 14 Rodney Gardens and is therefore considered to represent a benefit to the occupants of this property.
- 8.19 By virtue of these factors, the proposal is considered to be in accordance with Policy DM10 of the SADMP.

Impact upon Parking Provision and Highway Safety

- 8.20 Policy DM17 of the SADMP states that development proposals need to demonstrate that there is not a significant adverse impact upon highway safety, and that the residual cumulative impacts of development on the transport network are not severe.
- 8.21 The development has no impact on the existing access to the site, nor the capacity of the existing dwelling or its associated off-street parking provision. Therefore, the proposal does not create an unacceptable impact on highway safety or the road network in accordance with Policies DM17 and DM18 of the SADMP, and the LHDG.

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 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 **Grant planning permission** subject to:

- Planning conditions detailed 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:

- Site Location Plan (submitted: 06.07.2024)

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).

2. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking, re-enacting, substituting, amending, extending, consolidating, replacing, or modifying that Order), no development within Class E of Part 1 of Schedule 2 of the Order, and no gates, fences, or walls within Class A of Part 2 of Schedule 2 of the Order shall be erected on the land, except in the event that a further planning permission is expressly granted for that development.

Reason: To protect the character of the surrounding area and to safeguard the privacy and amenity of neighbouring dwellings from potential overlooking

in accordance with Policies DM4 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).