

Delegated Report

Planning Ref: 24/00866/CONDIT
Applicant: Mr Adam Seaton
Ward: Ambien



Hinckley & Bosworth
Borough Council

Site: Meadow Barn, Upton Lane, Upton

Proposal: Application to vary Conditions 2, 4 and 5 on planning application 23/00201/CONDIT. Amendments to approved plans and materials.

1. Recommendations

1.1. Grant planning permission for the variation of 23/00201/CONDIT subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description

2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.

2.2. In this case, planning permission for application 23/00201/CONDIT granted amendments to approved plans, ground levels, materials, window details, hard surfacing materials, waste and recycling facilities, and electric vehicle charging points of the development approved via planning permission 21/00188/FUL for the erection of one new four-bedroom dwelling at Meadow Barn, Upton Lane, Upton.

2.3. This Section 73 Application seeks planning permission for the variation of Condition 2 (Approved Plans), 4 (Material Samples), and 5 (Windows and Roof Light Details) of that planning permission. The Applicant has confirmed in writing that the variation of these conditions is to enable the development to undertake the following amendments:

- Incorporation of a new roof light on the northwest elevation above the door.
- Internal alterations to first and ground floor arrangements.
- Removal of new fascias, soffits and barge boards.
- Removal of stone cill detailing and subsequent minor window cill height amendments.
- Replacement of timber materials on windows, doors, and curtain wall with anthracite aluminium and uPVC specifications.
- Revised material specification in light of replacement aluminium and uPVC materials.
- Revision to master bedroom door set from French doors to bi-folds.

- 2.4. The Applicant has stated that the amendments to the use of materials within the scheme is to address longevity concerns with the originally approved timber material. The removal of the new fascias soffits, and bargeboards is due to this approved annotation being in error and corbelled brickwork is proposed to match the surrounding properties.

3. Description of the Site and the Surrounding Area

- 3.1. The application site is located in the designed open countryside to the northeast of Upton Lane and to the north of Upton. The site is bounded by large open fields to the north and northeast, and to the west, northwest and southwest beyond Upton Lane. Public Right of Way (PRoW) T25 runs diagonally between Shenton Lane and Upton Lane to the north of the site and Public Footpath T20 runs parallel to, and is to the south of, Upton Lane.
- 3.2. To the southeast of the site is the residential property, Vine House Farmhouse, and two barns that have been converted into dwellings, Chestnut Barn and Willow Tree Barn, and their associated outbuildings. To the east of the site is a large metal agricultural barn, and a further single storey brick-built barn that has prior approval for its conversion into a dwelling via application 22/00925/P3CQ. These structures are bounded by Shenton Lane, and beyond this is further expanses of open fields.
- 3.3. The provision of one new dwelling was approved in this site in 2014 via 14/00637/FUL, which has been renewed and revised multiple times since. Following the approval of one dwelling within the site via 21/00188/FUL and the amended scheme via 23/00201/CONDIT, development commenced on site on 01 May 2024.

4. Relevant Planning History

4.1 23/00725/NMA

- Non material amendment to planning permission 23/00201/CONDIT minor alterations to the floor plans layout and associated elevation changes.
- Permitted
- 14.08.2023

4.2 23/00201/CONDIT

- Variation of Conditions 2, 3, 4, 5, 6, 12, 13 of Planning Application 21/00188/FUL. Amendment to include approve plans, levels, materials, architectural details, hard surfacing and means of enclosure, waste and recycling storage, and electric charging points.
- Permitted
- 11.05.2023

4.3 21/00188/FUL

- Erection of one new dwelling (Revised scheme)
- Permitted
- 13.01.2022

4.4 19/01417/FUL

- Erection of one new dwelling (renewal of planning permission reference 17/00147/FUL)
- Permitted
- 13.02.2020

4.5 17/00147/FUL

- Erection of one new dwelling
- Permitted
- 04.04.2017

4.6 14/00637/FUL

- Erection of one new dwelling
- Permitted
- 08.09.2014

5. Publicity

5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.

5.2. In this instance, the application has been publicised by sending out letters to local residents and a site notice was posted within the vicinity of the site.

5.3. One member of the public responded to the application but did not make comments in objection or support of the proposal.

5.4. However, the member of the public highlighted that the use of uPVC windows is not keeping with the character of the area, and they raised concerns about the proposed masonry boundary treatment within the application site. It has also been raised that the extra roof light has already been put into the current roof structure.

The annotated boundary treatment within the submitted plans was revised to post and rail fencing on 18 October 2024.

5.5. No further responses have been received.

6. Consultation

- 6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 6.2 In this instance, Sheepy Parish Council were consulted on the application, and they did not object to the proposed amendments to the scheme.
- 6.3 No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):
- N/A.
- 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 DM10: Development and Design
 - Policy DM17: Highways and Transportation
 - Policy DM18: Vehicle Parking Standards
- 7.3 Sheepy Parish Neighbourhood Plan (SPNP) 2018 – 2036 (made March 2019):
- Policy S1: Countryside
 - Policy S8: Design
 - Policy S10: Housing Development
 - Policy S15: Car Parking and New 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)
 - National Design Guide (2019)

8. Appraisal

8.1. In accordance with Planning Practice Guidance (NPPG), there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part of the permission. The operative part of the planning permission being the description of the development.

8.2. The principle of development has already been established through the earlier grant of the extant planning permission on the site. Therefore, the key issues in respect of this application are:

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

Design and Impact upon the Character of the Area

8.5 Paragraph 140 of the NPPF confirms that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme; for example, through changes to approved details such as the materials used.

8.6 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.

8.7 It is noted that the adjacent properties, Vine House Farm, Willow Tree Barn, and Chestnut Barn, do not feature stone cill detailing on their windows, nor fascias, soffits, or barge boards. Therefore, whilst the loss of these feature from the approved scheme may reduce the quality of the scheme, they are not an architectural feature that is prevalent on the adjacent properties and its loss is not considered to materially diminish the quality of the scheme to the extent that should be avoided, as per the duty of the Local Planning Authority within Paragraph 140 of the NPPF.

8.8 The scheme also replaces the timber material finishes of the fenestration with anthracite uPVC. Whilst Vine House Farm and Willow Tree Barn utilise timber framed fenestration, Chestnut Barn's fenestration is constructed with a uPVC finish. Therefore, there is a precedent for the use of uPVC within the surrounding area. Notwithstanding this, the development is located behind Chestnut Barn and Willow Tree Barn, and the resultant views of the site from Shenton Lane in the context of the existing surrounding properties is limited. Ultimately, this revised material choice is not considered to materially diminish the quality of the scheme, nor result in any adverse impacts to the character of the surrounding area.

- 8.9 The revisions to the internal layout of the development, the design of the master bedroom door set, and the provision of the new roof light on the northwest elevation are considered to preserve the character and appearance of the area.
- 8.10 By virtue of these factors, the proposal respects the character of the surrounding area in accordance with Policies S8 and S10 of the SPNP, Policies DM4 and DM10 of the SADMP, and the Good Design Guide.

Other Issues

- 8.11 The development makes no amendments to the positioning of the scheme, nor its fenestration. Therefore, the proposal is not considered to result in any adverse impacts to the residential amenity of neighbours or the future occupants of the scheme in comparison to the approved scheme. As a result, the proposal remains compliant with Policy S8 of the SPNP, Policy DM10 of the SADMP, and the Good Design Guide.
- 8.12 The proposal makes no amendments to the off-street parking and turning facilities, nor the access to the site from Upton Lane. Therefore, the development is not considered to result in any adverse impacts on highway safety or the road network in comparison to the approved scheme. Therefore, the proposal remains compliant with Policies DM17 and DM18 of the SADMP, and Policies S10 and S15 of the SPNP.

Conditions

- 8.13 Permission granted under Section 73 takes effect as a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and un-amended. It is open to the Applicant to decide whether to implement the new permission or the one originally granted.
- 8.14 Therefore, in accordance with PPG, a Section 73 decision notice should set out all the conditions imposed on the new permission, and, for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.
- 8.15 Planning permission 23/00201/CONDIT was subject to 12 conditions.
- 8.16 Development has already commenced on site and therefore Condition 1 (Time) can be removed.
- 8.17 Condition 2 (Amended Plans), Condition 4 (Materials), Condition 5 (Window and Roof Light Details), Condition 6 (Hard Surfacing Materials), Condition 8 (Parking and Turning Provision), and Condition 12 (Electric Vehicle Charging) needs amending to refer to the new revised plans.
- 8.18 Condition 3 (Ground Levels) remains reasonable and necessary to ensure that the development has a satisfactory appearance in the interests of visual amenity.

- 8.19 Condition 7 (Obscure Glazing) remains reasonable and necessary to safeguard the residential amenity of neighbouring properties.
- 8.20 Condition 9 (Access Surfacing) and Condition 10 (No Vehicular Access Barriers) remain reasonable and necessary in the interests of highway safety.
- 8.21 Condition 11 (Removal of Permitted Development Rights) remains reasonable and necessary to protect the rural character and visual appearance of the development, and the amenities of neighbouring residential properties.
- 8.22 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 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 for the variation of 23/00201/CONDIT 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:

- Drawing Package 1414-VOC (submitted: 18.10.2024)

Reason: To ensure a satisfactory form of development in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policies DM1 and DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

2. The development hereby permitted shall be implemented in accordance with the approved ground level details within the submitted plan Proposed Levels 1414 (submitted: 13.03.2023).

Reason: To ensure a satisfactory form of development in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policy DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall be implemented in accordance with the approved details of the proposed materials within the Materials Specification Sheet (submitted 13.09.2024) and the Proposed Elevations 14140P04B plan within Drawing Package 1414-VOC (submitted: 18.10.2024).

Reason: To ensure a satisfactory form of development in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policy DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall be implemented in accordance with the approved details of the windows, roof lights, reveals, header treatments, and guttering and down pipes (including method of fixing) within the Proposed Elevations 14140P04B plan within Drawing Package 1414-VOC (submitted: 18.10.2024).

Reason: To ensure a satisfactory form of development in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policy DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

5. The development hereby permitted shall not be occupied until as such time as the hard surfacing materials and means of enclosure have been implemented in accordance with the approved plan Proposed Landscaping Layout Plan 1414 (submitted: 24.04.2023) and the Proposed Site Layout Plan 1414-P02C within Drawing Package 1414-VOC (submitted: 18.10.2024).

Reason: To enhance the appearance of the development and to ensure that the works are carried out in a reasonable time scale in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policy DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

6. Notwithstanding the provisions of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (Order 2015) (as amended) or any Order revoking and re-enacting that Order with or without modification), the roof light to the master bedroom en-suite on the south-eastern elevation of the development shall be fixed/ non-opening and fitted with obscure glazing to a minimum of Level 3 of the Pilkington Scale before the development hereby permitted is first occupied and shall thereafter be permanently retained in this approved form at all times thereafter.

Reason: To safeguard the amenities of neighbouring properties in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policy DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

7. The development hereby permitted shall not be occupied until such time as off-street vehicular parking provision and turning facilities have been provided and hard surfaced in accordance with the approved Proposed Site Layout Plan 1414-P02C within Drawing Package 1414-VOC (submitted: 18.10.2024).. Thereafter, the on-site parking 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 interest of highway safety and in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019), Policy DM17 of the adopted Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2023).

8. The development hereby permitted shall not be occupied until such time as the access drive has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres behind the highway boundary and, so once provided, shall be permanently so maintained at all times thereafter.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.,) in the interests of highway safety and in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019), Policy DM17 of the adopted Allocations and Development Management Policies Development Plan Document (2016), and the National Planning Policy Framework (December 2023).

9. The development hereby permitted shall not be occupied until such time as the existing barrier to the vehicular access has been permanently removed. Notwithstanding the provisions of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no vehicular access gates, barriers, bollards, chains, or other such obstructions shall be erected within a distance of 10 metres of the highway boundary. Any gates or other such barriers shall be hung to open away from the highway.

Reason: To enable a vehicle to stand clear of the highway in order to protect the free and safe passage of traffic, including pedestrians, in the public highway in the interests of highway safety in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019), Policy DM17 of the adopted Allocations and Development Management Policies Development Plan Document (2016) and the National Planning Policy Framework (December 2023).

10. Notwithstanding the provisions of Classes A to H (inclusive) of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification), no enlargement, improvement, or other alteration to the dwelling shall be carried out, and no building or structure erected or placed within the curtilage of the dwelling hereby permitted, unless planning permission for such development has been granted by the Local Planning Authority.

Reason: To protect the rural character and visual appearance of the development, and the amenities of neighbouring properties in accordance with Policy S8 of the 'made' Sheepy Parish Neighbourhood Plan (2019) and Policy DM10 of the adopted Allocations and Development Management Policies Development Plan Document (2016).

11. The development hereby permitted shall not be first occupied until such time as the installation of electric vehicle charging points has been provided in accordance with the approved details within EV Charging Points Details submitted: 13.04.2023), and the Proposed Site Layout Plan 1414-P02C within Drawing Package 1414-VOC (submitted: 18.10.2024).

Reason: To ensure that the proposal meets the requirements of Policy DM10(g) of the adopted Site Allocations and Development Management

Policies Development Plan Document (2016) and Paragraph 111(e) of the National Planning Policy Framework (December 2023).

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 building.control@blaby.gov.uk or call 0116 272 7533.