

Delegated Report

Planning Ref: 24/00252/FUL

Applicant: Mr A Salter

Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: The Lilacs 1 Nailstone Road Barton In The Beans

Proposal: Proposed residential dwelling with associated car parking on land to the rear of 1 Nailstone Road

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 planning permission for the erection of one residential dwelling with associated works at land rear of The Lilacs, no. 1 Nailstone Road within the settlement of Barton in the Beans.
- 2.2. This application is a resubmission of the approved planning permission 21/00104/FUL for one dwelling and associated works.
- 2.3. The proposed dwelling would have a single storey with a total length of 24.0m, and a width of 7.0m. The eaves would be set at roughly 3.6m above ground level, and the ridge would be roughly 6.2m above ground level.
- 2.4. The proposed palette of materials includes timber cladding, slate defect roof tiles, aluminium windows and doors, a wood effect garage door. The proposed boundary treatment would be a 1.8m high close boarded timber fence, and the drive would be gravelled.

3. Description of the site and surrounding area

- 3.1. The site relates to the eastern section of the rear garden of The Lilacs and equates to a plot 42 metres in length and 17 metres in width.
- 3.2. The site is within the settlement boundary of Barton in the Beans and is surrounded by other residential development. There are several TPO trees on the site

4. Relevant planning history

13/00540/HOU

- Proposed second floor and single storey rear extension
- Permission
- 23.08.2013

15/00380/CLUE

- Certificate of existing lawful use for garden land ancillary to The Lilacs.
- Granted
- 22.05.2015

19/00548/HOU

- Two storey rear extension

- Permission
- 02.08.2019

19/01200/FUL

- Two storey rear extension & re-location of rear common boundary between 1 Nailstone Road and 2 Odstone Road
- Permission
- 17.12.2019

20/00113/HOU

- Single storey side extension
- Permission
- 24.03.2020

20/00551/FUL

- Residential Dwelling with associated car parking on land to the rear of 1 Nailstone Road accessed via Barton Court
- Permission
- 18.08.2020

21/00104/FUL

- Residential dwelling with associated works (resubmission of 20/00551/FUL)
- Permission
- 24.06.2021

21/00909/HOU

- Two storey rear extension (Re-submission of 19/00548/HOU)
- Permission
- 03.09.2021

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. One objection was received which stated that the proposal was inappropriate in scale, size and position and would have detrimental overbearing impacts and would cause increased vehicle and noise pollution.

6. Consultation

- 6.1. LCC Ecology: No objections subject to condition and notes to applicant.
- 6.2. LCC Highways: No objections.
- 6.3. HBBC Waste: No objections, notes to applicant included.
- 6.4. HBBC Drainage: No objections, notes to applicant included.
- 6.5. LCC Tree Officer: No objections.
- 6.6. HBBC Pollution: No objections.
- 6.7. Shackerstone Parish Council: No comments received.

7. Policy

- 7.1. Core Strategy (2009)
 - Policy 13: Rural Hamlets

7.2. Site Allocations and Development Management Policies 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) (2023)
- 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

Assessment against strategic planning policies

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. 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 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 The proposed indicative location of the dwelling is situated within the settlement boundary of Barton in the Beans. Barton in the Beans is designated as a Rural Hamlet in the Core Strategy. Policy 13 of the Core Strategy seeks to support Rural Hamlets by supporting housing development within settlement boundaries. Given the plot is within the settlement boundary, the proposal would be in accordance with Policy DM1 of the SADMP and Policy 13 of the Core Strategy subject to satisfying any other material considerations.

8.5 Using the standard method as outlined by MHCLG, Hinckley and Bosworth Borough is able to demonstrate 4.89 years of deliverable housing at 1st April 2022. The housing policies are considered to be out-of-date and therefore paragraph 11(d) of the NPPF is triggered and 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. This is a material consideration to weigh in the context of the statutory requirement to determine applications and appeals in accordance with the Development Plan unless considerations indicate otherwise. The tilted balance of Paragraph 11d) of the NPPF is engaged, irrespective of the housing land supply figure, is a product of the age of the plan and the out-of-date evidence base it relies upon. The Core Strategy plans for a minimum requirement of 9,000 dwellings over a 20 year period between 2006-2026, this equates to 450 dwellings per annum. This figure was derived from the East Midlands Regional Plan and was considered the 'end point' for housing need requirements for that period. The Site Allocations and Development Management Policies DPD is also based upon these requirements in terms of the allocations it makes and the settlement boundaries it fixes. The Standard Methodology set by government currently identifies a requirement for Hinckley and Bosworth Borough Council of 450 dwellings per annum. Whilst the figure is the same as the Core Strategy requirement, it is the 'starting point' for the need; the 'end point' has not yet been assessed and the allocations to meet it / the new settlement boundaries will not be confirmed until the publication of the new Local Plan. The new Local Plan period will cover 2019-2039.

Design and impact upon the character of the area

- 8.6 Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. This is supported by the Good Design Guide SPD (SPD) which seeks to ensure a high quality of design including adequate amenity space surrounding all new dwellings.
- 8.7 Access to the site is proposed by removing part of the eastern boundary fence which would allow access from the private driveway leading to Bardon Court. By virtue of the proposed siting of the dwellinghouse to the rear of nos. 5, 7, & 7a Nailstone Road, it is not considered that the proposed scheme would appear prominent within the street scene of Nailstone Road.
- 8.8 The proposed dwelling is not considered to detract from the semi-rural character of this part of the village. The proposed finishes and materials would give the dwelling a softer and more contemporary appearance within its setting and combined with the low ridge height it would not be easily seen from any public vantage point. There is no significant level change across the site between no.5 Nailstone Road and Barton Court, as such the proposed dwelling would not be clearly apparent within its setting.
- 8.9 The TPO trees are to remain and would be adequately protected throughout the construction works. The LCC Tree Officer did not offer comments as the TPO'd trees do not relate to County TPO's – however it is considered that the relevant methodology for tree protection works is satisfactory and as such would not detrimentally impact this. Although some trees are to be removed within the plot, additional trees and shrubs are proposed to further screen the dwelling from the rears of the properties on Nailstone Road. The tree officer has previously been consulted over the removal of the trees including an Oak tree along the northern boundary and advised that the trees are not such high quality that he would recommend a further TPO to be imposed. He was satisfied that the additional trees are appropriate species to compliment the character of the area and would not become problematic for future or existing residents in the future. He was also satisfied that the positioning of the access and driveway in relation to the TPO trees on either side would not cause harm or overall detriment to the health of the trees.

There have been no materially changes on the site that would warrant a departure from this previous advice.

- 8.10 The proposed layout is acceptable allowing sufficient distances between the proposal and dwellings on Nailstone Road. The dwelling is an appropriate size and scale and it does not appear cramped within the plot. The plot is within the settlement boundary and although this part of the village, originally of linear character with dwellings adjacent to each other on the north side of the highway, has evolved in more recent times with the three dwellings accessed from in between 7 and 7A Nailstone Road. As an infill plot, the proposed development can be seen as a densification of this central cluster of Barton in the Beans. The proposed dwelling would be seen overall as an extension to this more recent pattern of development, and infilling a vacant site, and would not appear out of character in the wider area.
- 8.11 Overall, the proposal is considered to be in keeping with the character and appearance of this semi-rural area and therefore considered to accord with Policy DM10 of the SADMP and the overarching design principles within the SPD.

Impact upon neighbouring residential amenity.

- 8.12 Policy DM10 of the SADMP seeks to ensure that development proposals do not harm the amenity of neighbouring residential properties. This is supported by the Good Design Guide SPD.
- 8.13 The proposed siting of the dwelling results in there being approximately 8.6 metres from the side elevation to the southern boundary wall and approximately 14 metres between the side elevation and the habitable rooms at the rear of no 5 Nailstone Road. This meets the standards set out with the SPD on distances between dwellings.
- 8.14 One window is proposed in the centre of the west facing gable, this window is not considered to be overlooking to the occupants of no.1 Nailstone Road. This gable end is over 21m from the conservatory of no.1 Nailstone Road, and would be separated from this dwelling by a close boarded timber fence and a 6m tall apple tree.
- 8.15 The rooflights allowing light and ventilation to the bedroom within the roof space are to be inserted into the northern roof slope so there would be no potential for overlooking from these windows to the properties along Nailstone Road. The front elevations of the dwellings in Bardon Court are approximately 30 metres from the north side elevation of the dwelling and should there be any overlooking from these rooflights this would be across the driveways and front gardens of these dwellings.
- 8.16 In terms of private amenity area for future occupiers of the proposed dwelling, there would be over 250 square metres of amenity space for the 3 bedroom dwelling which exceeds the minimum of 80m² as set out within the HBBC Good Design Guide SPD.
- 8.17 In relation to the impact the proposal may have on neighbouring residential amenity it is considered that the proposal meets the standards as set out within the SPD in regard to sufficient space between properties and space around the property to prevent any over bearing impact or sense of enclosure, as set out above. Although there have been concerns raised relating potential noise nuisance, it is not considered that noise from one property within an area surrounded by other residential development would have such a harmful impact on existing residential amenity to warrant a refusal in this regard. In addition concerns were raised regarding overbearing impacts, given the scale of the development in relation to the

neighbouring dwellings and when considering the separation distances and boundary treatments, it is not considered to create significant detrimental impacts to neighbouring amenity in terms of overbearing impacts.

- 8.18 It is therefore considered that the proposal accords with Policy DM10 of the SADMP and the overarching principles of development within the SPD in regard to impact upon residential amenity.

Impact upon highway safety

- 8.19 Policy DM17 of the SADMP seeks to ensure new development would not have an adverse impact upon highway safety.
- 8.20 Policy DM18 of the SADMP seeks to ensure parking provision appropriate to the type and location of the development.
- 8.21 The plans show sufficient off-street car parking space to the western side of the proposed development to allow for at least 2 off-street car parking spaces, which would satisfy the requirements under the Leicestershire Highway Design Guide. LCC Highways were consulted on the application and referred to their standing advice. It is considered that the proposal puts forward sufficient parking provision and it is not anticipated that any detrimental impacts to highway safety would occur following the approval of the development.
- 8.22 Consequently it is considered that the proposed development would be in accordance with Policies DM17 and DM18 of the SADMP.

Equality implications

- 8.23 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.
- 8.24 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.
- 8.25 There are no known equality implications arising directly from this development.
- 8.26 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).

9. Conclusion

- 10.1. This application relates to the construction of a single storey detached dwellinghouse within the settlement boundary of Barton in the Beans, as such there

is a presumption in favour of sustainable development as set out in Policy DM1 of the SADMP and Paragraph 11 of the NPPF. However, the relevant policies for determining this are considered to be out of date. 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.

- 10.2. This application is a resubmission of a previously approved scheme for a similar dwellinghouse of similar scale and siting, whilst expired these previous approvals (21/00104/FUL and 20/00551/FUL) are material considerations that weigh in favour of the development.
- 10.3. The design, scale and layout of the dwelling would be in keeping with the character and appearance of the village within the immediate vicinity. The dwelling would have no visible impact on visual amenity when viewed from any public vantage points nor would it have any significant impact on existing or future residential amenity through loss of privacy, overlooking, overshadowing or noise nuisance. The plot provides in excess of the minimal amount of private amenity space for a 3 bedroom dwelling and provides sufficient parking and turning within the site. The TPO trees are to be adequately protected during the construction phase and additional landscaping is proposed to provide additional screening to ensure continued privacy to existing residents to the south.
- 10.4. The conformity with the development plan, limited positive contribution to housing land supply and the associated economic and social benefits outweigh any adverse impacts.
- 10.5. Overall the proposal is considered to accord with Policy 13 of the Core Strategy, Policies DM1, DM10, DM17 and DM18 of the SADMP and the overarching principles of the HBBC Good Design Guide SPD. Consequently the application is recommended for approval subject to the following conditions.

10. 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:

Planning Statement
Design and Access Statement
Site Location Plan Drg No. 01
Tree Survey Drg No. 1A
Landscape Plan Drg No. 2A
Proposed Block Plan Drg No. 11B
Proposed Site Plan Drg No. 12B

Proposed Elevations Drg No. 23
Proposed Elevations Drg No. 22
Proposed Elevations Drg No. 21
Proposed Floor Plans Drg No. 20

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 dwellings 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. No development above foundation level shall commence on site until such time as the existing and proposed ground levels of the site, and proposed finished floor levels have been submitted to and agreed in writing by the local planning authority. The development shall then be implemented in accordance with the approved details.

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 approved hard and soft landscaping scheme shall be carried out in accordance with the proposed landscaping drawing, Drg. No. 2A, and within the first planting season following the first occupation of the dwelling to which it relates. The soft landscaping scheme shall be maintained for a period of five years from the date of planting. During this period any trees or shrubs which die or are damaged, removed, or seriously diseased shall be replaced by trees or shrubs of a similar size and species to those originally planted at which time shall be specified in writing by the Local Planning Authority.

Reason: To ensure that the work is carried out within a reasonable period and thereafter maintained in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

6. Before any development commences on the site, including site works of any description, all trees including those protected under a Tree Preservation Order, shall be protected as per the approved 'Landscape Plan Drg No. 2A'.

Reason: To ensure that the trees on site are to be retained and adequately protected during and after construction in the interests of the visual amenities of the area and biodiversity in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2023).

7. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and paragraph 170 of the National Planning Policy Framework (2023).

8. Notwithstanding the provisions of Part 2 of Schedule 2, Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) no gates, barriers, bollards, chains or other such obstructions shall be erected to the vehicular access.

Reason: To enable a vehicle to stand clear of the private access driveway in order to protect the free and safe passage of traffic including pedestrians in the private access driveway in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2023).

9. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on 'Proposed Site Plan Drg No. 12B, have been implemented in full.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the private access driveway, in a slow and controlled manner, in the interests of general highway safety and in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraphs 108 and 110 of the National Planning Policy Framework (2023).

10. All driveways and parking areas shall be constructed of porous materials, or provision shall be made to direct run-off water to a permeable or porous area or surface within the curtilage of the property.

Reason: To ensure that the development is provided with a satisfactory means of drainage as well as to reduce the risk of creating or exacerbating a flooding problem and to minimise the risk of pollution in accordance with Policy DM7 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

11. The development hereby permitted shall not be occupied until such time as off street car parking provision (with turning facilities) has been provided in accordance with Proposed Site Plan Drg No. 12B. Thereafter the onsite parking provision shall be so maintained 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 DM17 and DM18 of the adopted Site Allocations and Development Management Policies DPD (2016) Paragraphs 108 and 110 of the National Planning Policy Framework (2023).

12. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A-E inclusive; 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 dwelling including the erection of any ancillary structures, 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).

13. Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order) no windows shall be inserted into the southern elevation of the proposed dwelling unless otherwise agreed in writing with 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).

14. No development above foundation level shall take place until a biodiversity enhancement scheme has been submitted to and approved in writing by the LPA. Enhancements shall include (but is not limited to) the incorporation of bird and bat boxes and native planting. Any enhancement measures need to be shown on all relevant submitted plans/elevations. All works are to proceed strictly in accordance with the approved scheme.

Reason: ensure that biodiversity, ecological and geological interests are protected 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. Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore all removal of trees/shrubs/hedges should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.

3. Nesting birds are protected under the Wildlife & Countryside Act 1981 (as amended); therefore all removal of trees/shrubs/hedges should take place outside the breeding season (March to August inclusive) unless carefully checked beforehand by a suitably qualified person.

4. The collection point for domestic recycling, garden waste and refuse is from the adopted highway boundary. Please refer to the following downloads on the website.

http://www.hinckleybosworth.gov.uk/downloads/file/2952/wheeled_bin_information_for_developers_and_planning_officers
https://www.hinckleybosworth.gov.uk/downloads/file/4647/wheeled_bin_and_container_policy_updated_march_2018.

The distance from the dwelling to the highway boundary is considerable. Please note: all our collection services are from the boundary to the public highway. Please ensure adequate space on properties to store the various containers and also space at the kerbside (where the properties meet the public highway) for the placement of the containers on the collection day. It would be advisable to include an area near to the roadside for safe placement of the various containers on collection day. This will then keep the access clear to allow vehicular access. It will be the responsibility of the occupiers to ensure that all containers/wheeled bins will be brought to the collection point.