

# **HINCKLEY AND BOSWORTH BOROUGH COUNCIL**

**TOWN AND COUNTRY PLANNING ACT 1990**



**Hinckley & Bosworth  
Borough Council**

## **STATEMENT OF CASE OF THE LOCAL PLANNING AUTHORITY**

**PLANNING APPEAL BY MR MANJEET HAYRE**

**AGAINST THE REFUSAL OF PLANNING APPLICATION 23/00560/FUL FOR THE  
CONVERSION OF DETACHED BUILDING TO STUDIO APARTMENT**

**37A LONDON ROAD, HINCKLEY, LEICESTERSHIRE, LE10 1HQ**

**LOCAL PLANNING AUTHORITY REFERENCE: 23/00560/FUL**

**PLANNING INSPECTORATE REFERENCE: APP/K2420/W/24/3346910**

**SEPTEMBER 2024**

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1. **INTRODUCTION**

- 1.1. This Statement should be read in conjunction with the previously submitted appeal questionnaire papers, particularly the Delegated Report, and is submitted in full support of the decision of Hinckley and Bosworth Borough Council to refuse planning permission for the conversion of the detached outbuilding to a studio apartment at 37A London Road, Hinckley, Leicestershire.

2. **DESCRIPTION OF THE APPEAL SITE, THE SURROUNDING AREA, AND THE PROPOSAL**

- 2.1. Sections 2 and 3 of the Delegated Report sets out a description of the site and surrounding area and a description of the planning application and so these is not repeated here.
- 2.2. At paragraph 2.1 the Delegated Report refers to the floor area of the studio apartment being less than 21 square metres, which, for clarity, excludes the entrance lobby. It is worth clarifying that in addition to the two skylights the main living area has just a single window that measures 2.05m by 0.45m including the window frame providing an obscurely glazed area of less than 0.9 square metres which has no outlook given that it is obscurely glazed.
- 2.3. The three storey Park View Apartment building at 39 London Road is just 10.7 metres to the south of the studio apartment that is the subject of this appeal.

### 3. **SITE HISTORY**

- 3.1 The relevant planning history of the site is set out in the Council's Delegated Report. Importantly when permission was granted to convert 37 London Road into two flats the then existing garage to the rear of the site was to remain available for the use of the occupants of the two flats at all times, as well as remaining incidental to the enjoyment of the two flats. The reason for the condition was to ensure that the use remains compatible with the surrounding area. The decision notice is attached at Appendix 1.
- 3.2 The application that is the subject of this appeal was refused under delegated powers for the following reasons:
- 1) The development provides occupiers of the studio apartment with unacceptably poor living conditions and a lack of appropriate levels of amenity as a result of the small amount of floorspace, lack of built-in storage, low ceiling height, lack of garden space, poor outlook as a result of the provision of a high level window and skylights and overlooking and loss of privacy as a result of the proximity to habitable room windows at 39 London Road. This is considered contrary to Policy DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016), the Council's Good Design Guide, the Government's Technical Housing Standards and Section 12 of the National Planning Policy Framework.
  - 2) The development represents a severe overdevelopment of the site that has a significant detrimental effect on the character of the local area contrary to Policies DM1 and DM10 of the Site Allocations and Development Management Policies Development Plan Document (2016) the Council's Good Design Guide and Section 12 of the National Planning Policy Framework.

#### 4. **RELEVANT PLANNING POLICY**

- 4.1 Section 70(2) of the Town and Country Planning Act 1990 and Section 38(6) of the Planning and Compulsory Purchase Act 2004 provide that planning decisions must be made in accordance with the development plan unless there are material considerations to indicate otherwise.
- 4.2 It is the National Planning Policy Framework December 2023 (NPPF) (the Framework) is of key relevance to this appeal. Paragraph 2 confirms 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.
- 4.3 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.
- 4.4 Paragraph 11 of the Framework sets out a presumption in favour of sustainable development and states that development proposals that accord with the development plan should be approved without delay or that where there are no relevant development plan policies, or the policies that are the most important for determining the application are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
- 4.5 On 29 July 2024 the City Council published an updated five year housing land supply calculation. This updates the five year housing land supply position from March 2023 to March 2028 and demonstrates a 5.6 year supply of housing, with a surplus supply of 145 dwellings over the five year period.
- 4.6 For decision taking, a five year housing land supply is a material consideration in all relevant applications and appeals for dwellings in the Borough. Despite being able to demonstrate a housing land supply, due to the age of the relevant housing policies in the Core Strategy, in accordance with the requirements of 11d) of the NPPF, the Council should still grant permission 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.
- 4.7 Paragraph 3 sets out that the Framework should be read as a whole (including its footnotes and annexes). This point is considered important with regard to this appeal.
- 4.8 Paragraph 8 sets out that the planning system has three overarching objectives and that the second of these is a social objective to support strong, vibrant and healthy communities by fostering well-designed, beautiful safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being.

- 4.9 Paragraph 123 of the Framework states that planning decisions should promote an effective use of land in meeting the need for homes, while safeguarding and improving the environment and ensuring safe and healthy living conditions.
- 4.10 Section 12 of the Framework is titled 'Achieving well-designed and beautiful places', and paragraph 131 sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development and creates better places in which to live and work. Paragraph 135 states that decisions should ensure that developments are visually attractive; are sympathetic to local character; and create places that promote health and well-being with a high standard of amenity for existing and future users.
- 4.11 Paragraph 139 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.
- 4.12 The requirements of Policy DM10 of the Council's Site Allocations and Development Management Policies Development Plan Document (SADMP DPD) and the guidance in the Council's Good Design Guide are set out in full in the Delegated Report and so are not repeated here.

5. **RELEVANT APPEAL/APPLICATION DECISIONS**

- 5.1 There are no relevant appeal decisions that the LPA wishes to bring to the attention of the Inspector.
- 5.2 The appellant though has referred to planning application 22/00703/HOU. This related to the conversion of an existing double garage to habitable space. The delegated report and the decision notice are attached at Appendices 2 and 3. Crucially condition 4 requires that the garage space is occupied as residential accommodation ancillary to the main dwelling at 269 Station Road and explicitly states that the converted garage shall not at any time be occupied as an independent unit of residential accommodation. That the appellant makes quite so much of this application as they do, shows a significant misunderstanding of the circumstances that are of key relevance to this appeal and that would easily have been remedied by checking the decision notice
- 5.3 It is confirmed that there have been no further planning applications at 269 Station Road, Market Bosworth approving the use of the garage as a separate unit of accommodation.

## **6 THE CASE FOR THE LPA**

- 6.1 The two reasons for refusal are set out above at paragraph 3.2. Section 8 of the Council's Delegated Report sets out the reasoning behind the refusal of permission and this Statement seeks to avoid repeating the points that are made there. The Delegated Report should be read alongside this Statement and together they form the case for the LPA.
- 6.2 The LPA considers that its case is made well in the Delegated Report. This statement will seek to minimise repetitions of the points that have already been made.
- 6.3 The Delegated Report sets out the Council's main concerns that the proposed development would have a significant detrimental effect on living conditions of occupiers of the appeal proposal, providing them with inappropriate levels of amenity contrary to both local and national planning policy and advice. As such the proposal represents a significant overdevelopment of the site that has a significant detrimental effect on the character of the area contrary to both local and national planning policy.
- 6.4 The proposal fails to meet the minimum space standards as set out in the THS, not marginally but by a very considerable margin. It also fails to meet the minimum requirement of the THS in both the floor to ceiling height and in the lack of any in-built storage. The layout indicates that the occupants would be likely to need a sofa-bed rather than having the ability to have both a place to sit and relax that is separate from a place to sleep. In 2024 accommodation of this type can only be allowed in the most exceptional of circumstances and this is not one of those.
- 6.5 The Appellant has clearly seen garages being converted into ancillary living accommodation and mistakenly assumed that these are instead separate units of accommodation. There can be no other explanation for the reference in their appeal statement to 269 Station Road, Market Bosworth. If the appeal was to be successful then even though each planning application must be considered on its own merits, many others would legitimately feel that it was acceptable to turn their garages into new dwellings.
- 6.6 The Appellant argues that the studio apartment makes effective use of land but Paragraph 123 of the Framework requires that planning decisions should also safeguard and improve the environment and ensuring safe and healthy living conditions. It is the case of the LPA that the proposal fails to do both these things in the obvious overdevelopment of the site and the unhealthy living conditions that are provided.
- 6.7 The fundamentally basis of the Council's case is that the proposal fails to provide occupiers of the studio apartment with the high standard of amenity that is required by paragraph 135 of the Framework and instead provides accommodation that falls significantly short of the minimum standards that are required to provide the minimum levels of amenity that occupiers need. The proposal causes harm, and this harm is contrary to not just the Framework, but the clear advice set out in the Council's Good

Design Guide which states that delivering well-designed internal and external amenity space is critical to quality of life for residents, as it provides the setting for day to day home life.

## **7 COMMENTS ON THE APPELLANT'S CASE**

- 7.1 The Appellant provides a short statement in support of the appeal. The first section deals with living conditions and amenity. The Appellant asserts that the studio apartment meets the minimum internal space standards as set out in the Government's Technical Housing Standards (THS). The THS at Table 1 sets out the minimum gross internal floor areas and storage requirements. For a one bed one person dwelling the floor area should be a minimum of 37 square metres. The proposal has a gross internal floor area of 22.5 square metres, including the entrance area, which falls significantly below the minimum size required. It is difficult to understand how the Appellant considers that the proposal does meet the requirements of the THS.
- 7.2 The second point made by the Appellant relates to ceiling height. Again it is claimed that the floor to ceiling height complies with the minimum standards set out in the THS, which requires a minimum floor to ceiling height of 2.3m for at least 75% of the gross internal area. The submitted plan, 0135-01b has a helpful section through the building which provides dimensions for the floor to ceiling height which is 350mm + 450mm + 1450mm which totals 2250mm or 2.25m, which is undeniably less than the minimum 2.3m required. Even if the increased height below the skylights is factored in, these cover an area of 1.5 square metres each so totalling 3 square metres which represents less than 14% of the gross internal area as opposed to the 25% that would be required if a floor to ceiling height of less than 2.3m was to be considered acceptable in accordance with the THS. The notes on the drawing confirm that the 100m dimension is the concrete floor slab above 120mm of insulation. Again it is difficult to understand how the Appellant considers that the proposal does meet the requirements of the THS.
- 7.3 The third point relates to garden space and outlook and the Appellant asserts that the proposal includes the provision of a shared garden space for residents. This is not correct – a recent site visit confirms that the space between the house and the studio apartment can only be used by the residents of the house as the gate from the alleyway which provides access to the studio apartment is bolted on the inside with no means of opening the gate from the alleyway. The submitted plans show a space measuring 11.5 square metres between the main house and the outbuilding. This is not considered adequate space for one household, let alone the two households that the Appellant falsely says share the space. The Appellant asserts that the design elements have been carefully considered to provide a satisfactory outlook and living environment. This is considered to be nonsense. There has clearly been little thought given to the needs or amenity of the households in the existing flats at 37 and 37A London Road or to the occupiers of the studio apartments and instead far greater consideration has been given to the maximisation of rental income from the plot.
- 7.4 The fourth point deals with privacy and overlooking and the Appellant asserts that measures have been incorporated to mitigate any potential overlooking and loss of privacy concerns. If providing a single high level window that is obscurely glazed so that neighbours can see into the living area can be described as taking measures, then the LPA cannot disagree with the Appellant's basic claim. However the fact that

occupiers do not have a single window that provides any outlook other than being able to up at the skylights clearly fails to provide occupiers with a satisfactory level of amenity and pays zero regard to their wellbeing. It is considered totally unacceptable to provide any household with no windows that they can look out from other than skylights. The Appellant simply asserts with no evidence that appropriate screening is provided and that the window is strategically placed to ensure that privacy both for occupiers and neighbours is protected. The LPA strongly disagrees.

- 7.5 The second section of the Appellant's Statement deals with character of the area and overdevelopment. The first point deals with site utilisation and the Appellant asserts that the proposal makes efficient use of an underutilised site that contributes to the supply of housing without compromising the character of the area. The LPA takes issue with this statement as it pays no regard to the amenity of occupiers of the converted garage. It is not efficient to provide just 11.5 square metres of garden area for a garden that seeks to meet the needs of two households, no matter how close Queens Park might be to the site.
- 7.6 The LPA does not dispute that permission was granted to split 37 London Road into two households and that these two flats were then converted back to a single dwelling but a key difference between that application and this is that both flats shared the use of the garage and the permission for the conversion dated back to the 1980s significantly prior to the introduction of the Council's Good Design Guide, the National Planning Policy Framework and the Government's Technical Housing Standards. The fact that the converted outbuilding would retain the 37A address number is not material to the planning considerations of this appeal, contrary to the reasoning put forward by the Appellant.
- 7.7 The Appellant then asserts that the position at 37 London Road is similar to that at 35 London Road. This is not the case. Records show that 35 London Road was in use as retail premises and that planning permission 06/00758/COU allowed the change of use to residential accommodation in December 2006. Historic street imagery shows that the property was divided into two units some time between July 2011 and September 2014 when the number 35A appeared on the external door on the front elevation to access the rear of the property. There are no records of any planning application being submitted to convert 35 London Road to two separate properties. The circumstances are therefore very different between numbers 35 and 37 London Road in terms of their planning histories.
- 7.8 The Appellant then raises 269 Station Road which has already been addressed above at section 5 of this Statement and dismissed as being of any relevance to the current appeal.
- 7.9 The second point made relates to design and scale and the Appellant asserts that the design of the studio apartment respects the architectural style and scale of the surrounding buildings. That the resulting building respects the scale of the former garage on the site is not disputed but it is considered a stretch for the Appellant to claim that the materials and aesthetic choices complement the existing streetscape and ensure that the development integrates harmoniously with its surroundings given

the use of a thick white plastic fascia, which is not a material found elsewhere in the street scene. That the previous building was an eyesore is not disputed but that is not good enough reason to overdevelop the site by seeking to provide an entirely new unit of accommodation on the site. The LPA has not been provided with photographic evidence as claimed by the Appellant.

- 7.10 The Appellant asserts that a thorough impact assessment has been conducted that demonstrates that the proposed development will not have a significant adverse effect on the character of the local area. Such a thorough impact assessment has not been submitted to the LPA. No supporting statement was submitted with the planning application and the Appellant's appeal statement is simply a weak attempt at post rationalisation for the work that has already gone ahead that makes statements that are either plainly false, have little merit or are of no relevance to the material planning considerations that are relevant to the appeal.
- 7.11 The Appellant simply asserts that the proposal adheres to the Council's Good Design Guide by prioritising high-quality design and sustainable building practices. The Appellant obviously missed those parts of the Good Design Guide that refer to the important of gardens to quality of life, or the parts that refer to amenity and separation distances. The proposal demonstrates no high-quality design and no sustainable building practices.
- 7.12 The Appellant concludes by stating that the proposal addresses concerns raised. This is not the case as the proposal was completed before the application was determined. It is the Appellant's appeal statement that seeks to address the concerns that have been raised and it is considered that it fails to do so. It is not the refusal of planning permission that does not accurately reflects the merits of the development it is the Appellant's appeal statement that makes false statements about the shared amenity area, that makes rudimentary errors regarding what their own plans clearly state, that seeks to equate completely different cases with the current appeal, that makes assertions that bear no relationship to the evidence, that ignores key basic principles with regard to the amenity of occupiers of the proposal that are set out in the Government's Technical Space Standards, the National Planning Policy Framework, and the Council's Good Design Guide.

## 8 PLANNING BALANCE AND CONCLUSIONS

- 8.1 The most important policies for the determining of this appeal those set out in the two reasons for refusal.
- 8.2 It is acknowledged that the tilted balance as set out at paragraph 11d) of the NPPF is engaged due to the age of the Core Strategy but the Council is able now to demonstrate a five-year housing land supply. Accordingly, 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.
- 8.3 The development represents an overdevelopment of the site that is only paralleled by the extent of development at the adjacent property 35 London Road which was former retail premises, clearly explaining why the whole of the plot had been developed. Permission to use 35 London Road as two dwellings was granted many years ago before the requirements of the NPPF, the Site Allocations and Development Management Policies Development Plan Document, the Council's Good Design Guide and the Government's Technical Housing Standards became material planning considerations
- 8.4 The proposal fails to complement or enhance the character of the area and as such is contrary to policy DM10 of the SADMP DPD. It fails significantly to meet the requirements of the Government's Technical Housing Standards. It fails to provide occupiers with adequate or appropriate residential amenity contrary to paragraph 135 of the Framework and contrary to the guidance set out in the Council's Good Design Guide. The development is not well-designed and therefore, in accordance with paragraph 139 of the Framework should be refused. It is the Council's view that given the nature of the proposal **moderate weight** should be given to overdevelopment of the site and the failure to complement or enhance the area contrary to Policy DM10 of the SADMP DPD.
- 8.5 Given the very small floorspace, the low ceiling height, the lack of windows other than skylights that provide any outlook and the resulting severe lack of adequate or appropriate amenity for the occupiers of the proposal distance it is considered that **significant weight** should be given to the degree of non-compliance with paragraph 135 of the Framework, with the Council's Good Design Guide and with the Government's Technical Housing Standards

### Benefits arising from the development

- 8.6 The LPA does not consider that there are any social benefits arising from the provision of housing of such poor quality, particularly where the Council is able to demonstrate a five year supply of housing.
- 8.7 Economic benefits would arise from the scheme through jobs and spend during the construction phase and through economic activity of occupiers are considered to carry **negligible weight**.

- 8.8 It is not considered that in this particular case there are any environmental benefits arising from the conversion of an existing structure.

Overall Balance

- 8.9 Paragraph 8 of the NPPF states that there are three overarching objectives to achieving sustainable development and that these are interdependent and need to be pursued in mutually supportive ways so that opportunities can be taken to secure net gains across each of the different objectives.
- 8.10 The development of the appeal site would fail to meet the environmental or social objectives of sustainable development.
- 8.11 Assessed against a presumption of sustainable development set out in the Development Plan and in the NPPF when balancing the social, environmental and economic aspects of the development, the proposal is not considered to promote sustainable development. There are negligible benefits that come at cost to the environment that are moderate, and social costs through unacceptably poor living conditions that are considered to be significant.
- 8.12 Weighing the totality of harm and taking all the above into account, it is considered that the adverse impacts of the appeal scheme would significantly and demonstrably outweigh its benefits. As such the development is not considered to represent a sustainable form of development. The LPA therefore requests that the appeal should be dismissed.

## **9 CONDITIONS**

- 9.1 Given the nature of the development and the fact that it is occupied the LPA, unusually, does not consider any conditions to be necessary.

## **10 APPENDICES**

Appendix 1: The Decision Notice for the conversion of 37 London Road into two apartments

Appendix 2: The Delegated Report for application 22/00703/HOU

Appendix 3: The Decision Notice for application 22/00703/HOU