

Delegated Report

Planning Ref: 23/01166/CONDIT
Applicant: Mr & Mrs Robertson
Ward: Wellsborough



Hinckley & Bosworth
Borough Council

Site: Cotton View, Bosworth Road, Wellsborough, Nuneaton

Proposal: Variation of condition 2 (plans and elevation) of planning permission 19/00669/FUL. Amendment to the dwelling and garage

Recommendations

1.1. Refuse variation of condition 2 of planning permission ref: 19/00669/FUL for the reason below.

1.2 This application seeks the variation of condition 2 attached to the decision on application 19/00669/FUL for an amendment to the dwelling and garage. Condition 2 of permission 19/00669/FUL reads as follows:

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Block Plan Drg No: SC/Taylor/02 Rev A
- Proposed Garage Drg No: 2860/100A Received by the Local Planning Authority 13 August 2019.
- Proposed Floor Plans and Elevations Drg No: 2860/03C Received by the Local Planning Authority 12 August 2019.

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).

2.1. The proposed change to condition 2 is to alter the size and design of the approved dwelling & garage. The 2019 permission brought the building to 88sqm which represented a 38% increase over the original. Amended plans received on 08.02.2024 show a proposed dwelling of 126 sqm. The proposed show an approximate increase of 17% footprint and 93% height for the dwelling and an increase of approximately 96% footprint and 110% height for the garage. The proposed condition reads as follows:

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, as follows:

- Proposed plans Drawing 3851-03 Rev a received by the LPA on 08/02/2024

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).

Description of the Site and Surrounding Area

3.1. The application property was a redundant agricultural building of approximately 64 square metres granted permission in 2019 for 'Change of use and extension to agricultural building to create a dwelling, creation of residential curtilage and erection of detached double garage'. The application site is approximately 1,512

square metres but the application owns land surrounding the site which makes up a wider area of 0.4 hectares.

- 3.2. There is one neighbouring dwelling to the east of the site. The application site is set back from the highway by approximately 80 metres. The site is within the open countryside. The application site is approximately 3 kilometres outside the settlement boundary of Sibson and approximately 5 kilometres outside of the settlement boundary of Sheepy Magna.

Relevant planning history

18/00045/RPAGDO	Prior Approval for change of use of an existing agricultural building to a dwelling (C3) and associated building operations	Appeal Allowed	19.12.2018
17/01164/CQGDO	Prior approval for change of use of an agricultural building to a dwelling (C3) and associated building operations	Prior Approval Refused	15.02.2018
18/00343/CQGDO	Prior Approval for change of use of an existing agricultural building to a dwelling (C3) and associated building operations.	Prior Approval Refused	06.07.2018
19/00669/FUL	Change of use and extension to agricultural building to create a dwelling, creation of residential curtilage and erection of detached double garage	Approved	22.08.2019

Publicity

- 5.1. The application has been advertised by means of a site notice and neighbour notifications. No representations have been received.

Consultation

- 6.1. Sheepy Parish Council – Object.

‘Please note, this response is based on documents available on HBBC Planning Portal as at 14th February 2024. Sheepy Parish Council kindly request that it is notified and consulted on any later changes to this application so as to ensure full compliance with the Sheepy Parish Neighbourhood Plan made May 2022.

Sheepy Parish Council has reviewed the above application–23/01166/CONDIT (Re-consultation) - (Coton View Bosworth Road Wellsborough- Variation of condition 2

(plans and elevation) of planning permission 19/00669/FUL. Amendment to the dwelling and garage), and notes, for the re-consultation, the reduction in footprint of both the dwelling and garage, but nevertheless still OBJECTS as it appears to be not in line with the policies, which should be considered collectively, in the Sheepy Parish Neighbourhood Plan made May 2022.

Sheepy Parish Council is cognisant of the Delegated Report (2 September 2019) and the significant variation in size and appearance, between the plans 'Block Plan Drg No: SC/Taylor/02 Rev A, Proposed Garage Drg No: 2860/100A, Proposed Floor Plans and Elevations Drg No: 2860/03C', granted permission on 2 September 2019 and the re-consultation proposed plans Drawing 3851-03 Rev A (February 2024), notably an approximate increase of 17% footprint and 93% height for the dwelling and increase of approximately 96% footprint and 110% height for the garage, together with a material change and considerable alteration in appearance, and therefore believe it is not compliant with Condition 3 and cannot be considered as a 'Variation of condition 2'.

- 6.2. HBBC Drainage – No objection.
- 6.3. LCC Highways – No objection. Refer to 2019 comments
- 6.4. HBBC Waste – No objection.

Policy

- 7.1. Sheepy Parish Neighbourhood Plan 2018-2036
 - Policy S1: Countryside
 - Policy S8: Design
 - Policy S10: Housing Development
 - Policy S15: Car Parking and new housing development
- 7.2. Site Allocations and Development Management Policies DPD (2016)
 - Policy DM1: Presumption in Favour of Sustainable Development
 - Policy DM4: Safeguarding the Countryside and Settlement Separation
 - Policy DM7: Preventing Pollution and Flooding
 - Policy DM10: Development and Design
 - Policy DM15: Redundant Rural Buildings
 - 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)

Appraisal

- 8.1. This application should be read in conjunction with the previously approved application and in particular a comparison made between the 'existing plans Drg No. 2860/02' & 'proposed plans Drg No. 2860/03C' associated with 19/00669/FUL & the amended proposed plans for the current proposal 'Drg No. 3851-03 Rev a'. The key issues are therefore:
 - Whether the principle of development is still acceptable with regards to the conversion element of the proposal
 - Design and impact upon the character of the area

Principle of Development

- 8.1 The principle of development has been established under application 19/00669/FUL where it was determined that the original application met the criteria of the relevant policies regarding the conversion/re-use of redundant buildings. As the amendments seek to alter the design and structure of the building in this case a fresh assessment must be made as to whether the amendments still accord with the relevant policies for the conversion of redundant buildings.
- 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 Paragraph 11 of the National Planning Policy Framework (NPPF) and Policy DM1 of the Site Allocation and Development Management Policies Development Plan Document (SADMP) set out a presumption in favour of sustainable development, and state that development proposals that accord with the development plan should be approved unless other material considerations indicate otherwise. The development plan in this instance consists of the Core Strategy (2009), the Site Allocations and Development Management Policies (SADMP) Development Plan Document (2016) and the Sheepy Parish Neighbourhood Plan (2018).
- 8.4 However, the housing policies in the development plan are considered to be out-of-date as they focus on delivery of a lower housing requirement than required by the up-to-date figure and the Council is unable to demonstrate a 5 year housing land supply. Therefore paragraph 11 of the NPPF is triggered and the application should be determined in accordance with Paragraph 11(d) of the Framework whereby permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 8.5 Due to the sites countryside location Policy DM4 is therefore applicable and states that the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where the proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting.
- 8.6 Policy SC1, of the Sheepy Neighbourhood Plan states that the countryside, will be protected for the sake of the intrinsic character, beauty, heritage and wildlife, the wealth of its natural resources and to ensure it may be enjoyed by all. In principle, subject to the caveats within the Hinckley and Bosworth SADMP Policy DM4, the following types of development may be considered sustainable in the countryside:-
- A. The re-use and adaptation of buildings in accordance with the Site Allocations and Development Management Policies DPD Policies DM14 and DM15;
 - B. Dwellings in accordance with Policy S10; ...

8.7 Policy S10 of the Sheepy Neighbourhood Plan goes on to state that within Sheepy Magna and Sibson settlement boundaries infill housing will be supported subject to the proposals being of a scale appropriate to each settlement. Outside those settlement boundaries permission will be limited to:

“...D. The re-use and/or adaptation of redundant rural buildings in accordance with Site Allocations and Development Management Policies DPD Policy DM15;...

8.7 Policy DM15 of the SADMP goes beyond Policy DM4 and provides criteria against which proposals for development outside settlement boundaries for the re-use and/or adaption of redundant or disused rural buildings should be assessed in order to be supported. Policy DM15 states that developments will be supported where:

- a) The applicant demonstrates the building is no longer viable in its current use; and
- b) The applicant has adequately demonstrated the building is in a structurally sound condition and is capable of conversion without significant rebuild or alteration; and
- c) Any proposed extension(s) or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage; and
- d) The proposed development accords with Policy DM10: Development and Design and relevant design guidance.

8.8 All development proposals for the re-use of redundant rural buildings should result in the enhancement of the immediate setting.

8.9 The supporting text to Policy DM15 recognises that *‘buildings in the rural area are often attractive, frequently constructed from local materials and often reflect the local vernacular, which in turn contribute significantly towards the character and diversity of the area in their existing form’*. It goes on to state that *‘It should be recognised that not all buildings in the countryside are suitable for conversion or adaptation to new uses as they may be poorly designed and constructed.’*

8.10 The proposed alterations present a significant variation from those previously approved, with the eaves and ridge height of the building being raised with new walls and a roof required to facilitate this. No updated structural survey has been submitted demonstrating that the building is capable of conversion in this manner and the proposed alterations are judged to be a significant rebuilt and alteration to the existing building. Furthermore, the resultant scale of the building is not proportionate to the single storey, low height size, scale and mass of the original building. The proposed garage also fails to be subordinate to or ancillary in appearance to the original building.

8.11 A full assessment of the design and impact upon the character of the area and countryside is made later in the report. However, as a result of the scale of the amendments and the proposed departure from the fabric and scale of the original dwelling, the variation to the approved plans is not considered acceptable in accordance with Policies DM1, DM4 and DM15 of the SADMP (2016) DPD and Policies S1 and S10 of the Sheepy Neighbourhood Plan.

Design and Impact on the Character of the Area

- 8.2. Policy DM4 of the SADMP requires that development in the countryside does not have an adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside, does not undermine the physical and perceived separation and open character between settlements and does not create or exacerbate ribbon development.
- 8.3. Policy DM10 of the SADMP requires new development to complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.
- 8.4. Policy DM15 of the SADMP seeks to ensure that any proposed extensions or alterations are proportionate to the size, scale, mass and footprint of the original building and situated within the original curtilage and that the building leads to an enhancement of the immediate setting.
- 8.5. Policy S8 of the Sheepy Neighbourhood Plan, seeks to ensure that proposals should be designed with evident care so as to:
 - A. Be in keeping with the scale, form and character of its surroundings and make a positive contribution to the street-scene;
 - B. Protect important features such as traditional walls, hedgerows and trees;
 - C. Not significantly adversely affect the amenities of residents in the area, including daylight/sunlight, privacy, air quality, noise and light pollution;
 - D. Not significantly increase the volume of traffic through the Parish's settlements; and
 - E. Have safe and suitable access.
- 8.6. The design & scale of the dwelling would materially change when compared to the approved plans. The proposed garage would measure 12.2m wide by 6m deep and have a pitched roof with a ridge and eave height of 6.3m and 3m respectively. The proposed would have 4 no roof lights on the front elevation and the loft area would be accessed by an external stairs.
- 8.7. The existing building is single storey in nature and has an area of 64 square metres. The proposed dwelling would be 7m deep x 15m wide. A pitched roof is proposed with a ridge and eave height of 6.7m & 5.1m respectively. The proposed front elevation would have floor to ceiling fenestration. 5 no. roof lights are proposed for the side roof slope with a small porch proposed. This porch and the base of the dwelling would be of cobel stone cladding. Above that vertical timber cladding is proposed. Door and windows would be anthracite grey aluminium.
- 8.8. The proposed would result in an approximate increase of 17% footprint and 93% height for the dwelling and an increase of approximately 96% footprint and 110% height for the garage. The proposed would be a considerable alteration in appearance and is considered unacceptable in terms of scale and design. The increase in the ridge height for the dwelling and the increase in footprint and ridge height for the garage would result in major visual changes over and above that of the original agricultural building and that approved through the 2019 application which are considered unacceptable. The general appearance of the approved dwelling/garage and the proposed dwelling/ garage would be very different & the large increase in height and footprint would be impactful upon the openness of the

countryside area and would not reflect the scale/massing of the existing development. Although proposed materials are acceptable, overall, the proposed changes are not considered to accord with Policies DM4, Policy DM10 & Policy DM15 of the SADMP or S1 & S8 of the Stoke Golding Neighbourhood Plan.

Other matters

- 8.9. In terms of neighbouring amenity impacts, the nearest neighbouring dwelling would be approximately 14 metres away from the application site and approximately 33 metres from the proposed dwelling. The proposed garage would be sited between the proposed dwelling and the neighbouring dwelling to the east. There are also other intervening buildings within the neighbouring dwellings curtilage. The front elevation of the proposed dwelling would face towards the east and be largely fenestration. It is considered that due to the boundary treatments, separation distance and intervening outbuildings there would be no adverse impact upon the residential amenity of the neighbouring dwelling to the east in terms of overlooking, overbearing impact or loss of light. The proposal therefore accords with DM10 in this regard.
- 8.10. It is not considered that there are any other material considerations that are relevant to the determination of this application.
- 8.11. It is concluded that the proposed change to condition 2 of 19/00669/FUL is unacceptable and not in accordance with national planning policy and guidance and Policies DM10 of the SADMP and S1 & S8 of the Sheepy Parish Neighbourhood Plan 2018-2036.

Equality Implications

- 1.1 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.
- 1.2 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.
- 1.3 There are no known equality implications arising directly from this development.
- 1.4 The decision has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including General Data Protection Regulations (2018) and The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).

10. Conclusion

- 10.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 and S70(2) of the Town and Country Planning Act 1990 require that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
- 10.2 The housing policies in the adopted Core Strategy and the adopted SADMP are out of date and the Council cannot demonstrate a 5 year housing land supply. Therefore, the 'tilted' balance in paragraph 11(d) of the Framework applies where the permission should be granted unless adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
- 10.3 The benefits of the development are the social and economic benefits attributed to the creation of one single dwelling, these are limited owing to the small scale of the development. Conflict has been identified with policies DM1, DM4, DM10 and DM15 of the SADMP (2016) DPD and Policies S1, S8 and S10 of the Sheepy Neighbourhood Plan. In this regard the proposal would result in an unjustified dwelling, in an unsustainable location which would result in harm to the intrinsic character of the countryside. The harm is judged to significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.

11. Recommendation

- 11.1 **Refuse planning permission** for the reasons below.
1. The development would result in the significant rebuild or alteration of the existing building and it has not been demonstrated that the existing building is capable of conversion in this manner. Consequently, the development represents new unjustified residential development in the designated open countryside. Furthermore the proposed extensions and alterations are not proportionate to the size, scale and mass of the original building, would not enhance the immediate setting of the area and the development would cause harm to the intrinsic value, beauty, open character, and landscape character of the countryside. Therefore, the development is contrary to, and in conflict with Policies DM1, DM4, DM10 and DM15 of the SADMP, Policies S1, S8 and S10 of the Sheepy Neighbourhood Plan and the National Planning Policy Framework.