

Delegated Report

Planning Ref: 23/00308/OUT
Applicant: Mr John Hudson
Ward: Ratby, Bagworth and Thornton



Hinckley & Bosworth
Borough Council

Site: 9 Mill Drive Ratby Leicester Leicestershire LE6 0JH

Proposal: Outline planning application for single residential dwelling and creation of access to the rear (all matters reserved – access only)

1. Recommendations

1.1. Refuse planning permission for the following reasons:

- The application would result in a cramped and contrived form of development that does not correspond well with the prevailing character of the area, which benefits from strong street frontages, a clear blockwork pattern of development and large, rear verdant gardens. By introducing an incongruous backland feature, this clear character would be undermined to an unacceptable level. The proposed access would create a frontage further dominated by hardstanding, a new access and bin storage for the proposed dwelling and car parking provision for the existing dwelling and would not contribute positively to the existing street scene. It would puncture the character of the area and allow highway requirements to dominate. As such the application is considered to be contrary to Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF with respect to design and character considerations.
- The proposed dwelling would be accessed via a new private drive in between No's 9 and 7 Mill Drive. 7 Mill Drive comprises a bungalow with a long side elevation which runs directly adjacent to the boundary of the application site. The resultant access location would cause noise and disturbance as a result of the proximity of the proposed access with the number of windows located within the side elevation of the property some of which are habitable rooms. Residential amenity for this neighbouring property would be adversely impacted when compared to the existing situation. This application is considered to be unacceptable in residential amenity terms and not in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

2. Planning application description

2.1. The proposal seeks to subdivide the existing plot and erect a new dwelling on garden land to the rear of No. 9 Mill Drive, Ratby. It is an outline application for which all matters are reserved except for access.

2.2. This application is a resubmission of a previous outline application which was refused in 2022 ref (22/00510/OUT) for a dwelling in the rear garden of the application site and access provision to the side of the site.

3. Description of the site and surrounding area

3.1. The application site is located in Ratby, in a residential area. No. 9 is located on the north side of the Mill Drive which lies to the south of the settlement. It comprises predominantly of detached dwellings with large rear gardens.

3.2. The existing two storey property is typical of this part of Ratby in terms of its design and proportions. There is an existing garage to the side, an area of hard standing to the front of the property and some landscaping/garden frontage. A large rear garden extends away to the rear, backing onto the rear of properties on Heathbrook Drive and the Centurion Centre (a sheltered housing unit).

3.3. The site is not located within the Ratby Conservation Area and is not in an area at high risk of flooding.

4. Relevant planning history

4.1. 22/00510/OUT - Proposed residential dwelling to rear (Outline Application - Access Only) – REFUSED.

5. Publicity

5.1. The application has been publicised by sending out letters to local residents and posting a site notice.

5.2. Two letters of objection have been received from neighbouring properties and a summary of their comments are listed below:

- The road has become very congested with cars parked all the way along the drive causing a lot of problems with double parking. We feel another property with the possibility of more cars will only make things worse.
- The development will cause loss of privacy and overlooking issues.
- The development will result in noise and light pollution to our property.
- The proposed access will be directly adjacent to our bedroom windows and will cause disturbance.

6. Consultation

6.1. No objection has been received from:

- HBBC ES Pollution
- HBBC Waste Management - Please note that our policy states that all recycling and refuse services take place from the adopted highway boundary with the public highway.

6.2. LCC Highways - A shared access for two dwellings should be a minimum of 4.25m wide for at least 5m behind the highway boundary; add 0.5m width for each side bounded by a wall, fence, hedge, line of trees or other similar obstruction. Access surfacing should be hard-bound for a minimum of 5m behind the highway boundary to prevent the potential depositing of loose materials onto the highway. Drainage should be provided within the site so that surface water does not drain onto the public highway. The applicant is proposing to erect a two bedroom dwelling. As such the applicant should provide two off street car parking spaces in line with the guidance contained within the Leicestershire Highway Design Guide (LHDG). The LPA should also consider the quantum of parking for the original dwelling. Car parking spaces should be a minimum parking size 2.4m x 5.5m; add 0.5m width for each side bounded by a wall, fence, hedge, line of trees or other similar obstruction as per paragraph 3.188 of the LHDG. Garages should be 3m by 6m for a single garage and 6m by 6m for a double garage if they are to be counted as a parking space.

6.3. HBBC Drainage - The suitability of the ground strata for soakaway drainage should be ascertained by means of the test described in BRE Digest 365, and the results approved by the Building Control Surveyor before development is commenced. The

soakaway must be constructed either as a brick or concrete-lined perforated chamber with access for maintenance, or alternatively assembled from modular surface water storage/soakaway cell systems, incorporating silt traps. Design and construction of all types of soakaway will be subject to the approval of the Building Control Surveyor. Any access drives, parking and turning areas, paths and patios should be constructed in a permeable paving system, with or without attenuation storage, depending on ground strata permeability. On low-permeability sites surface water dispersal may be augmented by piped land drains, installed in the foundations of the paving, discharging to an approved outlet (See Environment Agency guidance on the permeable surfacing of front gardens).

6.4. No comments have been received from Ratby Parish Council.

7. Policy

7.1. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester
- Policy 16: Housing Density, Mix and Design

7.2. Site Allocations and Development Management Policies DPD (2016)

- Policy DM1: Presumption in Favour of Sustainable Development
- Policy DM6: Enhancement of Biodiversity and Geological Interest
- Policy DM7: Preventing Pollution and Flooding
- 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) (2021)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.4. Other relevant guidance

- Good Design Guide SPD (2020)
- Leicestershire Highway Design Guide

8. Appraisal

8.1. Key Issues

- Principle of Development
- Design and Impact upon the Character of the area
- Impact upon Neighbouring Residential Amenity
- Impact upon Highway Safety
- Flood Risk and Drainage
- Planning Balance

Principle of Development

8.2. Paragraph 2 of the National Planning Policy Framework (NPPF) July 2021) states 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. 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.

- 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.
- 8.4. The development plan in this instance consists of the adopted Core Strategy (2009) (CS) the Site Allocations and Development Management Policies DPD (2016) (SADMP).
- 8.5. The Emerging Local Plan for 2020-39 has previously been out for consultation at Regulation 19 draft stage (February to March 2022). The latest Local Development Scheme (LDS), was approved at Full Council on 13 December 2022. The updated LDS extends the Local Plan period to 2041, revises the timetable for production of the Local Plan and establishes key milestones for public consultations, including a second Regulation 19 Consultation which is not scheduled until May-June 2024. The Replacement Local Plan is therefore delayed.
- 8.6. Policies 7 and 8 of the Core Strategy sets out how development is expected to come forward in Ratby. It is identified as a Key Rural Centre playing a supportive role in the delivery of the growth aspirations of the Borough.
- 8.7. 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. However, at a recent appeal (application ref: 21/01131/OUT, appeal Ref: APP/K2420/W/22/3301735, determined 4 January 2023) the Council signed a Statement of Common Ground which updates the monitoring position. On this basis, the Council have agreed that the 5 year housing land supply currently stands at 4.76 years, as of 1st April 2022. Due to this and the change in the housing figures required for the borough paragraph 11(d) of the NPPF is triggered. Therefore, this application should be determined in accordance with Paragraph 11(d) of the National Planning Policy Framework (NPPF) 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. This is weighed in the balance of the merits of the application when considered with the policies in the SADMP and the Core Strategy which are attributed significant weight as they are consistent with the Framework. Therefore, sustainable development should be approved unless other material considerations indicate otherwise.
- 8.8. Under these circumstances, the NPPF sets out, in paragraph 11d) that, for decision makers:
“where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date (8), granting permission unless:
i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”
- 8.9. Footnote 8 in the NPPF states that the application of this approach “includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the

appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years”.

- 8.10. The proposal seeks permission for a new dwelling within the settlement boundary of Ratby and so in principle is considered to accord with the Development Plan subject to material considerations set out below.

Design and Impact upon the Character of the Area

- 8.11. Policy DM10(c), (d) and (e) of the SADMP seeks to ensure that development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features and the use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the area generally and incorporates a high standard of landscaping.
- 8.12. The Good Design Guide SPD provides guidance on residential development in particular extensions, conversions and new residential development.
- 8.13. Paragraph 134 of the NPPF states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance. Local policy is considered to accord with the NPPF.
- 8.14. The proposed site plan, elevations and floor plans, illustrate that the scheme seeks to subdivide the plot, and erect a new two bedroom, 1.5 storey dwelling in the rear garden of No 9 Mill Drive with access from Mill Drive to the side of the existing application property and its adjacent neighbour No 7 Mill Drive. An existing garage attached to No 9 Mill Drive would be demolished in order to make provision for the new access to the side of the site.
- 8.15. The result would be a cramped and contrived form of development that does not correspond well with the prevailing character of the area, which benefits from strong street frontages, a clear blockwork pattern of development and large, verdant rear gardens. By introducing an incongruous backland feature, this clear character would be undermined to an unacceptable level.
- 8.16. The proposed access would create a frontage further dominated by hardstanding, bin storage and car parking provision for the existing dwelling and would not contribute positively to the existing street scene. It would puncture the character of the area and allow highway requirements to dominate.
- 8.17. The application is accompanied by a site context plan which shows development to the rear of existing properties. One example however is an outbuilding to an existing property and does not bear the same size, resemblance and alteration to the character of the area when compared to the proposal in this instance. The Good Design SPD is clear that proposed backland development requires clear and convincing justification in relation to its context. It is not considered in this instance that this evidence has been provided to justify development in this location.
- 8.18. Overall the scheme is considered to be unacceptable and contrary to Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF with respect to design and character considerations.

Impact Upon Neighbouring Residential Amenity

- 8.19. Policy DM10 (a) and (b) of the SADMP states development will be permitted provided that it would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting and noise and that the amenity of occupiers would not be adversely affected by activities within the vicinity of the site.
- 8.20. The Good Design Guide SPD outlines that development will need to provide high quality internal amenity space as this is critical to the quality of life of residents. The indicative plans show that the proposed two bed property could be designed to accord with National Space Standards.
- 8.21. The Good Design Guide SPD also states that backland development such as this will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.22. Paragraph 130 of the NPPF states that decisions should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 8.23. The proposed dwelling would be accessed via a new private drive in between Nos 9 and 7 Mill Drive. 7 Mill Drive comprises a bungalow with a long side elevation which runs directly adjacent to the boundary of the application site. The resultant access location would cause noise and disturbance as a result of the proximity of the proposed access with the number of windows located within the side elevation of the property some of which are habitable rooms. Residential amenity for this neighbouring property would be adversely affected when compared to the existing situation.
- 8.24. Whilst the indicative plans show that amenity provision and separation distances for the host and proposed dwelling accord with the requirements of the Design Guide SPD it is considered that the relationship between the new dwelling and existing properties around it would be strained. No details are provided in this Outline application with respect to elevations and floor plans and there remains a concern about the potential for the scheme to result in a loss of privacy and/or an overbearing impact.
- 8.25. As such this application is considered to be unacceptable in residential amenity terms and not in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF with respect to residential amenity.

Impact upon Highway Safety

- 8.26. Policy DM17 of the SADMP supports development that makes best use of public transport, provides safe walking and cycling access to facilities, does not have an adverse impact upon highway safety. All proposals for new development and changes of use should reflect the highway design standards that are set out in the most up to date guidance adopted by the relevant highways authority (currently this is the Leicestershire Highway Design Guide (LHDG)).
- 8.27. Paragraph 111 of the NPPF (2019) outlines that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 8.28. The Highways Authority have raised no objection to the scheme, but have provided standing advice in relation to the provision of car parking spaces and access requirements. It is considered that the proposal would adhere to the necessary highway safety and parking requirements.
- 8.29. Electric vehicle charging points are also proposed and shown on the submitted plans in accordance with the requirements of the NPPF.
- 8.30. Overall, the proposal is considered to have a negligible impact on the highway network and the new and existing property would have sufficient car parking areas on site for the number of bedrooms. The proposal is therefore considered to be acceptable in highway terms and accords with Policies DM17 and DM18 of the SADMP and the requirements of the NPPF.

Flood Risk and Drainage

- 8.31. Policy DM7 of the SADMP seeks to prevent development from resulting in adverse impacts on flooding by ensuring that development does not create or exacerbate flooding.
- 8.32. Paragraph 167 of the NPPF states that when determining planning applications local planning authorities should ensure that flood risk is not increased elsewhere. Paragraph 169 states that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should take account of advice from the LLFA, have appropriate proposed minimum operating standards, have maintenance arrangements for the lifetime of the development and where possible provide multifunctional benefits.
- 8.33. The Council's drainage team have not objected to the proposal but have provided notes and information to be considered in regards to permeable paving and soakaways. With respect to flood risk and drainage considerations this application is considered to be acceptable and in accordance with Policy DM7 of the SADMP and the requirements of the NPPF.

Planning Balance

- 8.34. 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.
- 8.35. The proposal would deliver a new dwelling within the settlement boundary of Ratby – a policy consideration that comes down positively in support of the scheme. Whilst it is acknowledged that the Council cannot demonstrate a 5 year housing land supply it is also noted in this case that the proposal is only for 1 dwelling and therefore would not make a substantial difference to the required housing numbers. The concerns expressed above in relation to character and amenity are considered to outweigh this minor positive impact.

9. Equality implications

- 9.1 Section 149 of the Equality Act 2010 created the public sector equality duty. Section 149 states:-

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 in the consideration 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. Recommendation**
- 10.1 **Refuse planning permission for the following reasons:**
- 11. Reasons**
1. The application would result in a cramped and contrived form of development that does not correspond well with the prevailing character of the area, which benefits from strong street frontages, a clear blockwork pattern of development and large, rear verdant gardens. By introducing an incongruous backland feature, this clear character would be undermined to an unacceptable level. The proposed access would create a frontage further dominated by hardstanding, bin storage and car parking provision for the existing dwelling and would not contribute positively to the existing street scene. It would puncture the character of the area and allow highway requirements to dominate. As such the application is considered to be contrary to Policy DM10(c), (d) and (e) of the SADMP, the Good Design Guide SPD and the requirements of the NPPF with respect to design and character considerations.
 2. The proposed dwelling would be accessed via a new private drive in between No.s 9 and 7 Mill Drive. 7 Mill Drive comprises a bungalow with a long side elevation which runs directly adjacent to the boundary of the application site. The resultant access location would cause noise and disturbance as a result of the proximity of the proposed access with the number of windows located within the side elevation of the property some of which are habitable rooms. Residential amenity for this neighbouring property would be adversely impacted when compared to the existing situation. This application is considered to be unacceptable in residential amenity terms and not in compliance with Policy DM10 a and b of the SADMP, The Good Design Guide SPD and the requirements of the NPPF.

Notes to applicant

In dealing with the application, through ongoing dialogue and the proper consideration of the proposal in accordance with Section 38(6) of the Planning and

Compulsory Purchase Act 2004, the local planning authority have attempted to work with the applicant in a positive and proactive manner by offering a pre-application advice service and by seeking solutions to problems arising in relation to dealing with the planning application as required by the National Planning Policy Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended). However, in this instance, it has not been possible to overcome the concerns raised and the proposal remains in conflict with the provisions of the Development Plan and therefore the application has been refused.