

Delegated Report

Planning Ref: 23/00567/CONDIT
Applicant: MR & MRS CHRIS & MANDY WRIGHT
Ward: Hinckley



Hinckley & Bosworth
Borough Council

Site: The Acorns, 236 Ashby Road, Hinckley, LE10 1SW

Proposal: Variation of Condition 2, 10 and 13 of planning permission 21/00130/FUL (Planning Appeal ref: APP/K2420/W/21/3288892). Amendment to relocate garage and replace Appeal Approved Drawings ref: 1882-SP-002C and 1882-SP-007B (visibility splay) with new revision Drawings ref: 1882-SP-002D and 1882-SP-007C.

Recommendations

1.1. Grant planning permission subject to

- Planning conditions outlined at the end of this report

Planning application description

2.1. Application 21/00130/FUL was granted permission at appeal for the Erection of two new dwellings.

2.2. An email was received on 31st July 2023 to amend the description of the proposal which replaces Condition 11 with Condition 13 in its title. This application seeks variation of condition 2, 10 & 13 of application 21/00130/FUL which currently reads as;

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

Drawings 1882-SP-001A, 1882-SP-002C, 1882-LP-003, 1882-SK-004A, 1882-SK-005A, 1882-EV-006 received 2nd February 2021

Drawing 1882-007B received 27th April 2021

Planning Statement, Design and Access Statement received 2nd February 2021

Ecology Impact Statement by Swift Ecology dated 30th September 2020

Arboricultural Impact Assessment by Wharton dated 22nd February 2021.

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).

- 10: 'No part of the development hereby permitted shall be occupied until the access arrangements and visibility splays shown on drawing no. 1822-SP-007B have been implemented in full and shall be permanently retained thereafter, with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway'

13: 'The new dwellings shall not be occupied until the waste storage and collection facilities have been provided in accordance with drawing no. 1882-SP-002C and these facilities shall be retained permanently thereafter'

2.3 The submitted application form states that the purpose of the application to remove/vary these conditions is 'the proposed garage serving the existing house is to be relocated, closer to the existing house'. Only the position of the garage is being changed.

2.4 As the applicant is proposing to relocate the proposed garage, some of appeal approved drawings will become superseded, therefore we included planning conditions 2 (*Approved Drawings*), 10 (*Visibility Splays*) and 13 (*Waste Storage*) into the application as they all refer to drawings that will be replaced. If the new 'Variation of Condition' application is approved, these 3no. conditions will need to be updated to include the new drawing references. Any Condition of the appeal decision that includes references to drawings 1882-SP-002 and 1882-SP-007 needs to be updated.

2.4 The proposed Conditions would, as a result of this proposal, read:

'2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1882-LP-003; 1882-SP-002D; 1882-EV-006; 1882-SK-004A; 1882-SK-005A; 1882-SP-007C; Arboricultural Impact Assessment, reference 210210 1121 AIA V1 dated 22nd February 2021; Ecology Impact Statement, reference C2506-1 dated 30th September 2020.

10) No part of the development hereby permitted shall be occupied until the access arrangements and visibility splays shown on drawing no. 1822-SP-007C have been implemented in full and shall be permanently retained thereafter, with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

13) The new dwellings shall not be occupied until the waste storage and collection facilities have been provided in accordance with drawing no. 1882-SP-002D and these facilities shall be retained permanently thereafter.'

Description of the site and surrounding area

3.1. The Acorns is a large 20th century detached dwelling with extensive mature gardens well screened from its surroundings. It is located on the eastern side of the A447 Ashby Road, close to the junction with the A47 Normandy Way and currently has a double 'in/out' access onto Ashby Road. There are neighbouring dwellings to each side backing onto open countryside (no 238) and allotments (no 234). The furthest part of the rear garden of The Acorns also abuts the allotment gardens on Normandy Way to the south and the open countryside to the north which forms part of the Hinckley, Barwell, Earl Shilton and Burbage Green Wedge. The boundary of the Green Wedge bisects the rear garden of The Acorns approximately half way between the house and the end of the garden in an area where there is currently a tennis court and a shed.

3.2. This part of Ashby Road is characterised by similar dwellings in spacious plots which front directly onto Ashby Road.

3.3. Relevant planning history

21/00130/FUL

- Erection of two dwellings

- Refused but approved at appeal 15/09/2022

96/00427/COU

- Change of use to nursery
- Permitted
- 24.07.1996

97/00697/CONDIT

- Continued use of premises without compliance with conditions 1 and 2 of consent 96/00427/cou (permanent consent and increase in number of children)
Permitted
18.09.1997

75/01704/4M

- Extension to dwelling granny flat
Permitted
30.12.1975

74/01103/4M

- Extension to garage
- Permitted
- 26.11.1974

Publicity

- 5.1. The application has been publicised by sending out letters to local residents. A site notice was also posted within the vicinity of the site and a notice was displayed in the local press.
- 5.2. No letters of representation were received

Consultation

- 6.1. LCC Ecology- No objections
- 6.2. LCC Highways- No objections
- 6.3. HBBC Drainage- No objections
- 6.4. LCC Minerals- No objections
- 6.5. LCC Archaeology- No objections
- 6.6. HBBC Pollution- No comment
- 6.7. HBBC Waste- No objections

Policy

- 7.1. 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 DM6: 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
- 7.2. National Planning Policies and Guidance
 - National Planning Policy Framework (NPPF) (2019)
 - Planning Practice Guidance (PPG)

7.3. Other relevant guidance

- Good Design Guide (2020)
- National Design Guide (2019)

Appraisal

7.6 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
- Ecology
- Drainage & Pollution
- Other issues

Assessment against strategic planning policies

- 7.2. This application is to vary conditions 2 (Approved Plan), 10 (Visibility Splay) & 13 (Waste Storage & Collection) attached to planning permission 21/00130/FUL as they were not discharged prior to commencement
- 7.3. The principle of development has already been established in application 21/00130/FUL
- 7.4. Design and impact upon the character of the area
- 7.5. Policy DM10 of the adopted 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 that the use and application of building materials respects the materials of existing adjoining/neighbouring buildings and the local area generally. This is essentially also reflected in the provisions of Policy DM4 of the adopted SADMP.
- 7.6. Policy DM4 states that to protect the intrinsic value, beauty, open character and landscape character, the countryside will be safeguarded from unsustainable development. Sustainable development should not undermine the physical and perceived separation and open character between settlements.
- 7.7. Application 21/00130/FUL for the erection of 2 dwellings to the rear of 236 Ashby Road has been approved. Part of that approval was for the existing double garage associated with 236 Ashby Road to be demolished and replaced with a single bay garage to the rear of the existing dwelling. The purpose of the current proposal is to bring this single bay garage alongside the side elevation of 236 Ashby Road to make it more convenient for the owners of 236 Ashby Road. The proposed change in garage location leaves sufficient room for occupiers of the 2 approved dwellings to enter and leave the site in their cars & moves the garage away from the green wedge that bisects the rear garden of the proposed dwellings.
- 7.8. Notwithstanding the fact that part of the site is within the Green Wedge, there is no built development proposed by the application within the Green Wedge and beyond the settlement boundary. It would remain residential garden as it is now and the mature landscaping in this area does not require removal. There would be no change of use. For this reason it is considered that there is no loss of function of the Green Wedge and the visual appearance of the area would be retained in accordance with the requirements of Policy 6 of the Core Strategy. The development would not result in harm to the countryside potentially identified by Policy DM4 of the SADMP, as the absence of built development or a change of use

would not undermine the physical and perceived separation or open character between settlements.

- 7.9. A condition removing householder permitted development rights is proposed in respect of the residential curtilage of the two new dwellings in order to control future ancillary development upon the Green Wedge and open countryside.
- 7.10. The development of 2 additional dwellings in a backland location behind the existing dwelling at number 236 Ashby Road has been assessed in the original application. Whilst this is not characteristic of the area it is not unacceptable in principle and was considered in terms of its relationship to the existing built form and its visual impact on the locality. The Good Design Guide Supplementary Planning Guidance states that some sites may be able to accommodate Backland Development whereas others will not.
- 7.11. The proposed changes to the layout of the scheme are relatively inconspicuous and modest in scale and nature & would have no adverse impacts upon the character of the site or surrounding area and would enhance the visual appearance of the wider landscape and the revised scheme would therefore remain in accordance with Policy DM4 of the adopted SADMP.
- 7.12. The proposed scale of the garage would be consistent with that of the surrounding properties. The proposed materials of the garage are as per the original approval, similar to that of the surrounding properties.
- 7.13. To summarise, the proposed development is considered to meet acceptable standards of design that are proportionate to the scale of the development and would complement the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features in accordance with Policy DM10 of the SADMP. It also complies with the advice within the Good Design Guide.
- 7.14. By virtue of the siting, layout, scale, design and appearance, the scheme would be in keeping with the character of the surrounding area and would therefore be in accordance with the relevant criteria of Policies DM4 and DM10 of the SADMP.

Impact upon neighbouring residential amenity

- 7.15. Policy DM10 of the SADMP states that proposals should not adversely affect the occupiers of the neighbouring properties and a good standard of amenity for all existing and future occupants of land and buildings.
- 7.16. Policy DM10 of the SADMP identifies that development should not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings, including matters of lighting, air quality (including odour), noise, vibration and visual intrusion.
- 7.17. 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 guide states that new developments should meet minimum standards of garden sizes and separation distances between dwellings. The National Design Guide also promotes a healthy, comfortable and safe internal and external environment.
- 7.18. 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.

- 7.19. As mentioned the only difference being proposed is to move the garage from the rear to the side of the existing dwelling 236 Ashby Road. Impacts of neighbouring amenity regarding the 2 dwellings have already been dealt with in the original application 21/00130/FUL.
- 7.20. The dwelling at 238 Ashby Road is set off the common boundary which would be fenced with a 1.8m high close boarded fence. The closest part of the new development to this dwelling was the approved new garage serving The Acorns but the proposed would move this single bay garage near the southern side elevation of The Acorns, away from 238 Ashby Road. Therefore by virtue of this distance and relationship there would be no overbearing impact on this neighbouring residential amenity.
- 7.21. 234 Ashby Road would be forward of & separated from the side elevation of this single bay garage by the new driveway & an approx. distance of 13m. This boundary is also well screened. The proposed would have no detrimental impact on this neighbours amenity.
- 7.22. Therefore, it is considered that the proposed scheme would be in accordance with Policy DM10 of the SADMP.

Impact upon highway safety

- 7.23. Policy DM17 of the SADMP states that all new development should be in accordance with the highway design standards. Policy DM18 ensures that development provides appropriate parking provision. Paragraph 109 of the Framework states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the cumulative impacts on the road network would be severe.
- 7.24. Leicestershire County Council (Highways) have raised no objections to the proposed re-location of the garage. The proposed driveway and parking area to the front of the dwelling would provide sufficient parking & turning space for the host property. This would be in line with the recommended parking provision for a dwelling of this size.
- 7.25. Therefore, subject to conditions, the proposal would be considered in accordance with Policies DM17 and DM18 of the SADMP.

Ecology & Trees

- 7.26. Policy DM6 of the SADMP seeks to protect, preserve and enhance biodiversity within the borough.
- 7.27. An arboricultural report was submitted with the original application which indicates a total of 22 trees and 15 groups of trees were surveyed on the property. Of these, the development proposes the removal of 8 trees and six groups. The majority of the trees on the site are category C trees (low value) and 7 are category B trees (moderate value). None are category A trees and the site is not subject to a Tree Preservation Order or within a Conservation Area. The proposed removal is in respect of low quality trees with very limited visibility from beyond the site boundaries and only one category B tree. This is a weeping willow which is immediately to the rear of proposed dwelling 1.
- 7.28. A tree root protection system was proposed as part of the new access which will ensure good water infiltration and reduce soil compaction for trees and landscaping along the boundary. Although some trees would be removed in this area to facilitate access, only one category B tree is located in this area (eucalyptus) which is within the adjacent garden of number 234 Ashby Road. This tree is retained and the root

protection system will safeguard its future. Conditions relating to tree protection during construction and the use of the ProtectaWeb root protection system are proposed. As part of the original application four new trees were proposed between the rear of the existing dwelling and the new dwellings and a condition was also proposed to secure and maintain these new trees. It was considered that the loss of trees would not be significant in terms of the overall visual amenity of the landscaping on the site and the benefits to the natural environment.

- 7.29. The original application was also accompanied by an Ecology Impact Assessment which concluded that there a low likelihood of the development impacting upon protected species or their habitats. The new dwellings are located on the tennis court which is hard surfaced and has limited potential for wildlife. The report advises that there is no evidence of bat roosting within the site and the predominance of non-native species means that foraging opportunities are also quite limited. The two ponds in the area have a below average suitability for Great Crested Newts. However, there is bird nesting and foraging potential and the report recommends that biodiversity enhancements can be secured by additional planting and the provision of bird / bat boxes.
- 7.30. The County Ecologist has no objections to the application. The relocation of this single bay garage would not result in the removal or damage of any other trees.
- 7.31. The application would not significantly adversely impact features of nature conservation and together with mitigation measures secured through conditions, safeguards the natural environment in accordance with Policy DM6 of the SADMP.
- 7.32. With no other way to resolve this it is considered, at this stage, that the proposed development although not in accordance with Policy DM6 of the SADMP, is acceptable.
- 7.33. Drainage & Pollution
- 7.34. Policy DM7 states that development should not create or exacerbate flooding by being located away from areas of flood risk unless adequately mitigated against. Adverse impacts from pollution and flooding will be prevented by ensuring that development proposals will not adversely impact on water quality, ecological value or drainage function, avoid obtrusive light intrusion, noise pollution and air quality.
- 7.35. The site is within Flood Risk zone 1 (low risk) as identified by the Environment Agency. However, the application indicates that a sustainable drainage system (SUDs) is proposed incorporating attenuation measures to prevent increased surface water runoff. A condition is proposed requiring technical approval of a drainage scheme prior to commencement of the development. The Council's Drainage Engineer and Environmental Services Officer has no objections to the proposal.
- 7.36. The proposal is to change the location of an approved garage to the side elevation of the host dwelling. There would not be a significant increase in pollution as a result of the garage relocation that would justify a refusal of the application. The application therefore complies with Policy DM7 of the adopted SADMP.

Equality implications

- 8.0 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.
- 8.1 Officers have taken this into account and given due regard to this statutory duty in the consideration of this application. The Committee must also ensure the same when determining this planning application. There are no known equality implications arising directly from this development.
- 8.2 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).

Conclusion

- 9.0 The proposal would not result in any adverse impact to the character or appearance of the area, or neighbouring amenity. The proposal is therefore considered to accord with Policy DM10 of the SADMP and H7 of the DNDP.

Recommendation

10.1 Grant planning permission subject to

- Planning conditions outlined at the end of this report

10.2 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 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans: 1882-LP-003; 1882-SP-002D; 1882-EV-006; 1882-SK-004A; 1882-SK-005A; 1882-SP-007C; Arboricultural Impact Assessment, reference 210210 1121 AIA V1 dated 22nd February 2021; Ecology Impact Statement, reference C2506-1 dated 30th September 2020.

Reason: To ensure a satisfactory appearance and impact of the development to accord with Policies DM1, DM10, DM17 and DM18 of the Site Allocations and Development Management Policies Development Plan Document.

3. No development shall commence on the site until a construction traffic management plan for construction vehicle parking and the unloading / storage of materials with a timetable for their provision, has been submitted to and

approved in writing by the Local Planning Authority. The construction of the development shall thereafter be carried out in accordance with the approved details and timetable.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016) & in the interests of highway safety

4. Development shall not begin until surface water drainage details and calculations, incorporating sustainable drainage principles (SuDS) have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in accordance with the approved details prior to the completion of development and shall be retained thereafter.

Reason: To reduce the possibility of surface water from the site being deposited in the highway causing dangers to road users in accordance with Policy DM17 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 110 of the NPPF (2021).

5. Before any development commences on the site, including site works of any description, a final Tree Protection Plan, Exclusion Zone and detailed method statement shall be prepared by a suitably qualified arboriculturist shall be submitted to and approved in writing by the local planning authority. The plan shall include protective barriers to form a secure construction exclusion zone and root protection area in accordance with British Standard 5837:2012 Trees in relation to design, any trenches for services are required within the fenced-off areas, they shall be excavated and back-filled by hand and any tree roots or clumps of roots encountered with a diameter of 25cm or more shall be left un-severed. The development shall be implemented in accordance with the approved Tree Protection Plan.

Reason: To ensure that the remaining trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 174 of the NPPF (2021).

6. No development shall take place until the ProtectaWeb System as identified in Appendix 4 of the Arboricultural Impact Assessment by Wharton dated 22nd February 2021 is installed in accordance with the approved details and shall be maintained as such so long as the development remains.

Reason: To ensure that the remaining trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies DPD (2016) and Paragraph 174 of the NPPF (2021).

7. Demolition or construction works shall take place only between 07:30 and 18:00 on weekdays and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

Reason: To minimise disruption to the neighbouring residents in accordance with Policy DM7 and DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

8. No development shall take place above slab level until details of the new tree planting including an implementation scheme, has been submitted in writing to and approved in writing by the local planning authority. The scheme shall be carried out in full accordance with the approved landscaping scheme prior to occupation of the new dwellings. The soft landscaping scheme, including the retained trees as identified on the approved plans 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.

Reason: In the interests of visual amenity and to enhance the appearance of the development in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

9. Prior to any construction above slab level, details of electric vehicle charging points for each new dwelling shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details prior to the occupation of any new dwelling.

Reason: To maximise opportunities for sustainable energy and transport in accordance with Policy DM10 of the Site Allocations and Development Management Policies DPD (2016) and Paragraph 155 of the NPPF (2021).

10. No part of the development hereby permitted shall be occupied until the access arrangements and visibility splays shown on drawing no. 1822-SP-007C have been implemented in full and shall be permanently retained thereafter, with nothing within those splays higher than 0.6 metres above the level of the adjacent footway/verge/highway.

Reason: To ensure that vehicles entering and leaving the site may pass each other clear of the highway, in a slow and controlled manner, in the interests of general highway safety and in accordance with the NPPF (2021).

11. The development hereby permitted shall not be occupied until the parking and turning facilities have been implemented in accordance with drawing no. 1822-SP-004A. Thereafter the onsite parking provision shall be so maintained permanently 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 the NPPF (2021).

12. The development hereby permitted shall not be occupied until the access drive (and any turning space) has been surfaced with tarmacadam, or similar hard bound material (not loose aggregate) for a distance of at least 5 metres

behind the highway boundary and, once provided, shall be so maintained permanently in perpetuity.

Reason: To reduce the possibility of deleterious material being deposited in the highway (loose stones etc.) in the interests of highway safety and in accordance with the NPPF (2021).

13. The new dwellings shall not be occupied until the waste storage and collection facilities have been provided in accordance with drawing no. 1882-SP-002D and these facilities shall be retained permanently thereafter.

Reason: To ensure the bin storage on site is not detrimental to the street scene and overall design of the scheme in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies DPD (2016).

14. Notwithstanding the provisions of Article 3, Schedule 2, Part 1 Classes A and E 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 dwellings shall be carried out or outbuildings erected in the curtilage of either new dwelling.

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).

15. 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 vehicular access gates, barriers, bollards, chains or other such obstructions shall be erected within a distance of 5 metres of the highway boundary, unless hung to open away from the highway.

Reason: in the interests of highway safety and in accordance with the NPPF (2021).

10.3 Notes to applicant

1. Bats, nesting birds, great crested newts and certain other species are protected by law. If any such species are discovered before or during the works the works must be suspended and the local office of Natural England contacted for advice.
2. This permission does not grant approval under the Building Act 1984 and the Building Regulations 2000 (as amended) for which a separate application may be required. You are advised to contact the Building Control Section.
3. This Authority charges for the discharge of conditions. Application forms to discharge conditions and further information can be found on the planning portal web site www.planningportal.gov.uk.
4. Rainwater from the detached garage roof should be positively drained into a Suitable water butt, soakaway or domestic drainage system, and not be permitted to discharge directly onto the surface of the application site and neighbouring properties.

