

Delegated Report

Planning Ref: 23/00377/FUL

Applicant: C/O Keshiv Design Studio Architects

Ward: Newbold Verdon with Desford and Peckleton

Site: Manor Lodge, 13 Station Road, Desford

Proposal: Demolition of existing dwelling and erection of replacement dwelling with associated landscaping and access



Hinckley & Bosworth
Borough Council

1. Recommendations

1.1. Grant planning permission subject to:

- Planning conditions outlined at the end of this report

2. Planning application description

- 2.1. This application proposes the demolition of the existing dwelling and detached garage on site and the erection of a replacement dwelling and attached single storey garage, with associated landscaping and access.

3. Description of the site and surrounding area

- 3.1. The application site consists of a two storey dwelling, a single storey detached garage, a single storey detached car port and a single storey garage/shed structure. The property is set back from the highway of Station Road, and is well screened from public view by existing and well established trees and hedgerow. Station Road consists of large detached dwellings, set back from the highway and are individual in design.

4. Relevant planning history

23/10016/PREHMO

Demolition of existing dwelling and erection of replacement dwelling with garage, vehicle access and associated landscape

Advice given

15/00472/FUL

Demolition of existing dwelling and erection of 3 dwellings with a detached garage and associated access

22.12.2016

5. Publicity

- 5.1. The application has been publicised by posting a site notice within the vicinity of the site and letters sent out to neighbours.
- 5.2. 6 letters of support have been received.
- 5.3. 2 letters of objection has been received raising concerns of loss of privacy/overlooking, impact upon protected trees, dangerous access to the highway including construction traffic, concerns of future business use, loss of an existing property and too big.

6. Consultation

- 6.1. LCC Highways: Standing advice.
- 6.2. Desford Parish Council: No comments received.
- 6.3. HBBC Waste Management: No objections.
- 6.4. HBBC Drainage: Notes to applicant, no objections.

- 6.5. HBBC Pollution: No objections.
- 6.6. HBBC Tree Officer: Tree Survey, Arboricultural Implications Assessment and Tree Protection Plan requested via condition.

7. Policy

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

- Policy DM1: Presumption in Favour of Sustainable DevelopmentPolicy DM10: Development and Design
- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.2. Core Strategy (2009)

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester

7.3. Desford Neighbourhood Plan (2021)

- Policy H1: Settlement boundary
- Policy H6: Windfall Site Development
- Policy H7: Housing Design
- Policy T1: Traffic Management

7.4. National Planning Policies and Guidance

- National Planning Policy Framework (NPPF) (2019)
- Planning Practice Guidance (PPG)

7.5. Other relevant guidance

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

8. Appraisal

8.1. Key Issues

- Assessment against strategic planning policies
- Design and impact upon the character of the area
- Impact upon neighbouring residential amenity
- Impact upon highway safety
- Impact on protected trees

Assessment against strategic planning policies and principle of development

- 8.2. Section 38(6) of the Planning and Compulsory Purchase Act 2004, S70(2) of the Town and Country Planning Act 1990 and paragraph 2 of the National Planning Policy Framework (NPPF) 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, 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 Desford Neighbourhood Plan (2021).
- 8.4. 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.
- 8.5. Desford is identified as a Key Rural Centre where in accordance with Policy 7 and 8 of the Core Strategy, housing development within the settlement boundary is acceptable in principle. Policy H1 of the Desford Neighbourhood Plan also identifies that developments within the Settlement Boundary will be supported where they respect the character of Desford. Policy H6 relates specifically to windfall site development, small redevelopment sites are supported in principle where such development comprises a restricted gap in the continuity of existing buildings or where the site is closely surrounded by existing buildings and is within the Settlement Boundary. In this case the site complies with this criteria, other matters such as design and neighbouring impact are considered later in the report.
- 8.6. As a replacement dwelling the proposal would have a neutral impact on housing supply, but accords with aforementioned policies of the Development Plan. Subject to all other material planning matters being assessed, the sustainable principle of development is judged to be acceptable.

Design and impact upon the character of the area

- 8.7. Policy DM10 of the SADMP seeks to ensure that new development should complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features. The adopted Good Design Guide provides guidance on design matters.
- 8.8. Policy H6 of the Desford Neighbourhood Plan requires windfall development to respect the character of the settlement, retain and enhance natural boundaries and features where possible and not reduce garden space to an extent where it adversely impacts on the character of the area.
- 8.9. Policy H7 of the Desford Neighbourhood Plan states that new development should enhance and reinforce the local distinctiveness and character of the area in which it is situated. Care should be taken to ensure that the development does not disrupt

the visual amenities of the street scene and impact negatively on any significant wider landscape views.

- 8.10. The proposal seeks to demolish the existing dwelling and detached garage and replace with a large two storey dwelling and attached single storey garage. Concerns have been raised by objectors regarding the loss of the existing house. Whilst it has some architectural merit the site is not within a Conservation Area and is not listed or locally listed. The principle of the demolition has been previously granted and accepted by HBBC in application reference 15/00472/FUL.
- 8.11. The proposed dwelling is large and presents a significant increase in the scale of the dwelling compared to the existing dwelling. The applicant's agent justifies this by outlining that the proposed floorspace is less than the approved development under 15/00472/FUL. The approved development is a material consideration in the assessment of this application, the proposal did allow for much higher density development than the current position as such the principle of a larger development on the site has been established. Although it must be noted that the scale of the approved dwellings was smaller than is currently proposed and arguably therefore more in keeping with the scale of development in the surrounding area.
- 8.12. Notwithstanding this, the street is characterised by large detached dwellings set back from the highway of differing designs. The existing dwelling itself is a large detached dwelling set within a large plot and the proposal would still allow for a spacious garden size in keeping with the existing situation. The scale of the building is broken up through the differing roof heights, gables and significant amount of single storey elements. Objections refer to a differing building line, yet the existing dwelling was well set back from the neighbours to the west and much of the built form remains so. The proposed siting is similar to the existing dwelling with the exception of the front protruding garage but this is mitigated in part by its single storey height.
- 8.13. The proposed design of the replacement dwelling and attached garage is considered to have similar design features of the existing dwelling with similar materials proposed. The dwelling is located away from the highway and is well screened on Station Road by established trees and hedgerow (which is to be retained), reducing any visual impacts from the street scene or public vantage points. Further landscaping is proposed in the form of additional native hedge planting and some limited trees planting to the boundaries.
- 8.14. On balance, considering the previously approved development, use of varying building heights (including the significant amount of single storey elements) and retained planting the scale of the house, whilst significant, is on balance acceptable. The proposal is considered to be in keeping with the character of the area and is therefore in accordance with Policy DM10 of the SADMP and policies H6 and H7 of the Desford Neighbourhood Plan.
- 8.15. Notwithstanding this, it is judged necessary to remove permitted development rights relation to further extensions, additions and alterations to the dwelling as well as for outbuildings and boundary treatments. This is to preserve the remaining openness of the site, retained trees and vegetation and to ensure the dwelling does not by virtue of permitted development alterations harm the character of the area.

Impact upon protected trees

- 8.16. There are a number of protected trees located within the development site. Comments received by Julian Simpson, HBBC Tree Officer, and objections received by two neighbouring residents gave regard to the alleged breach of planning control at the property for the felling of protected trees.

- 8.17. HBBC Planning Enforcement team investigated the alleged breach and the case was closed due to no breach being found.
- 8.18. As part of the application submission, a landscaping plan has been submitted, however, this lacks detail in terms of how the trees and hedgerow will be protected during construction. To ensure that the protected trees are safeguarded a condition will be included at the end of this report requesting an Tree Survey, Arboricultural Implications Assessment and Tree Protection Plan.
- 8.19. **Impact upon neighbouring residential amenity**
- 8.20. Policy DM10 of the adopted SADMP requires that development would not have a significant adverse effect on the privacy and amenity of nearby residents and occupiers of adjacent buildings. Policy H6 of the Desford Neighbourhood Plan requires that development does not result in an unacceptable loss of amenity for neighbouring occupiers by reason of loss of privacy, daylight, visual intrusion or noise. The Good Design Guidance contains specific guidance on residential amenity matters including separation distances and space standards.
- 8.21. Two objections were raised relating to the impact on neighbouring residential amenity. Concerns were raised with regards to the windows and rooflights overlooking No.9 Station Road. No 9 Station Road does not directly adjoin the site and the separation distances and boundary treatments would mitigate adverse loss of privacy from the development.
- 8.22. No.19 to the east has no side elevation windows and is separated by an existing boundary consists of existing mature hedgerow, trees and planting, varying in height above 2m. The existing property has a similar side elevation to the proposal and as such, it is considered that the impact to residential amenity in terms of overlooking and loss of privacy impacts are not exacerbated by this proposal. Whilst the separation distance is reduced it is still over 13.5m from the side elevation to the shared boundary which is acceptable.
- 8.23. The neighbouring property at No. 11 Station Road also raised objections, in relation to the proximity of the dwelling to the boundary, breaching of the 45⁰ guideline and loss of privacy from the side elevation and the roof lights serving the single storey element of the proposed dwelling. At ground floor of the east side elevation two windows are proposed which would serve WCs, in addition four rooflights are proposed to serve the garage as none of these windows serve habitable rooms they will not cause an adverse loss of privacy to No.11 Station Road. In addition to the garage and WC windows four other rooflights along the eastern side elevation, these would serve the home gym and Jacuzzi/hydropool room. Given the nature of the uses proposed for these rooms and the close proximity to the shared boundary and orientation with the approved extension (in respect of the gym windows) a condition is recommended requiring these rooflights to be obscure glazed. Similarly a condition is also recommended ensuring that the proposed garage windows are obscure glazed to safeguard against potential future change to habitable accommodation, a change of use to habitable accommodation may impact on the privacy for both No.11 Station Road but particularly for future occupiers of the proposed dwelling.
- 8.24. With respect to the proximity of the dwelling to the shared boundary, the closest elements of the dwelling to the boundary which are single storey are proposed to be sited over 2m from the shared boundary which complies with the Good Design Guide. The objection refers to the 45⁰ guideline, this is strictly applied for planning

applications for new extensions to existing properties in accordance with the Good Design Guide. The development would result in more built form along the shared boundary, however, at the closest point the dwelling is single storey and over 6m from the shared boundary with a pitched roof sloping away from the boundary. This alongside the presence of the boundary treatment mitigates adverse overdominance to no.11 Station Road.

- 8.25. Concerns have been raised by No.11 regarding noise from cars and the impact of car exhausts. The development is unlikely to give rise to adverse levels additional noise or impacts from car exhausts than the existing road or dwelling.
- 8.26. Concerns have been raised about the potential for the commercial use of the property. The layout of the proposed dwelling would enable the jacuzzi/hydropool room and gym room to be accessed separately from the 'main dwelling'. Whilst the current owners have stated they have no intention to use the site commercially the layout, which includes a significant floorspace for the jacuzzi/hydropool and gym, and two separate changing rooms could enable commercial use in the future. Given the proximity to neighbours commercial use, such as for a home business (which may ordinarily not require a separate planning application) could lead to additional noise and disturbance. It is therefore recommended that a condition is imposed ensuring these facilities are not used for commercial purposes.
- 8.27. Subject to the aforementioned conditions, it is considered that the proposal would be in accordance with Policy DM10 of the adopted SADMP, Policy H6 of the Desford Neighbourhood Plan and the Good Design Guide

Impact upon highway safety

- 8.28. Policies DM17 and DM18 of the adopted SADMP supports development that would not have any significant adverse impacts on highway safety and requires new development to provide an appropriate/justified level of parking provision. Policy H7 of the Desford Neighbourhood Plan requires new development to have a minimum of three spaces for dwellings of four bedrooms or more. Policy T1 of the Neighbourhood Plan requires housing development to be designed to minimise additional traffic generation and movement through the villages, incorporate sufficient parking and provide any necessary improvements.
- 8.29. Objections were raised which relate an intensified use of the access and the danger to highway users and pedestrians relating to highway traffic. It is considered that the addition of one bedroom is not expected to cause a significant intensification of the access from the occupiers and future occupiers of the property.
- 8.30. No new access is proposed under this application. County Highways were consulted as part of this application and responded referring to standing advice. The proposal is for a 6 bedroom dwelling, and as such 3 off-street car parking spaces are required. The proposed floor plans indicated three off-street car parking spaces and it is acknowledged that additional spaces are available to the sites frontage which cater for the development.
- 8.31. Concerns have been raised about potential construction traffic, HGVs and highway issues. Whilst the proposal will generate additional traffic during construction, the scale of development is not judged to be so significant as for the vehicle movements to cause significant harm. An informative note is recommended outlining that the applicants should ensure construction workers are considerate to

the surroundings and park on site where possible.

- 8.32. Concerns have also been raised about the potential commercial use of the dwelling. As outlined above, the layout, which includes a significant floorspace for the jacuzzi/hydropool and gym, and two separate changing rooms could enable commercial use of the site which could lead to an intensification of the use of the access. Given the constrained nature of the access and limited visibility this could lead to highway safety issues which have not been considered as part of this application. Providing additional reasoning for a condition restricting the use of the home gym and jacuzzi/hydropool rooms to non-commercial use.
- 8.33. Subject to this, it is considered that the proposal is in accordance with Policies DM17 and DM18 of the adopted SADMP and policy H7 of the Desford Neighbourhood Plan .

Equality implications

- 8.1 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.
- 8.2 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.
- 8.3 There are no known equality implications arising directly from this development.
- 8.4 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).

9. Conclusion

- 10.1. The proposal seeks to demolish the existing dwelling and replace with a two storey dwelling, with a single storey extension including a garage. Whilst large in scale, on balance, the proposal is considered to have limited impacts upon the character of the area and to have limited impacts upon neighbouring residential amenity and highway safety.

10. **It is considered that the proposed development would be in accordance with Policies 7 and 8 of the Core Strategy, Policies DM10, DM17 and DM18 of the adopted SADMP and policies H1, H6, H7 and T1 of the Desford NPRecommendation**

11.1 **Grant planning permission** subject to:

- Planning conditions outlined at the end of this report

11.2 **Conditions and Reasons**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990, as amended by the Planning and Compulsory Purchase Act 2004.

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

Site Plan Drg No. DSA-20128-SP-04- B
Proposed First Floor Plan Drg No. DSA-20128-FF-02-C
Proposed Ground Floor Plan Drg No. DSA-20128-GF-01-C
Proposed Elevations Drg No. DSA-20128-ELE-03-C
Proposed Landscaping a Tree Protection Plan Drg No. 01 Rev C
Planning Design and Access Statement
Drainage Strategy

Reason: To ensure a satisfactory form of development in accordance with Policies DM1 and DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. Notwithstanding the approved landscaping plan, no development shall commence until a detailed scheme of landscaping and measures for the protection of trees to be retained during the course of development has been submitted to and approved in writing by the Local Planning Authority. This shall include the following items;

- i) A site specific tree protection plan;
- iii) A tree survey of the existing protected trees;
- iv) An arboricultural implications assessment

Reason: To ensure that adequate measures are taken to preserve trees and hedges and their root systems whilst construction work is progressing on site in accordance with Policy DM6 of the Site Allocations and Development Management Policies Development Plan Document and Policy H6 and Policy H7 of the Desford Neighbourhood Plan.

4. No development above foundation level shall commence on site until representative samples of the types and colours of materials to be used on the external elevations of the dwelling hereby permitted have been deposited with and approved in writing by the local planning authority, and the scheme shall be implemented in accordance with those approved materials.

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy H6 and Policy H7 of the Desford Neighbourhood Plan.

5. The rooflights in the ground floor of the west elevation serving the jacuzzi/hydropool room, gym and garage shall be fitted with obscure glazing to a minimum of level 3 of the Pilkington scale and shall be non-openable unless required under Approved Document B (Fire in Residential Buildings) of the Building Regulations 2010 (as amended). Once so provided the rooflights shall be permanently maintained as such at all times thereafter.

Reason: To safeguard the privacy and amenity of neighbouring dwellings from potential overlooking in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy H6 of the Desford Neighbourhood Plan.

6. The jacuzzi/hydropool room and gym room hereby permitted should be used as ancillary accommodation to the dwelling known as Manor Lodge, 13 Station Road Desford, Leicester, LE9 9FN and shall not be used for commercial purposes.

Reason: To ensure the rooms are not used for commercial purposes which may have additional neighbouring amenity and highway impacts in accordance with Policies DM10, DM17 and DM18 of the adopted Site Allocations and Development Management Policies Development Plan Document.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any orders revoking and re-enacting this Order), no development under Schedule 2, Part 1, Classes A, B, C, D, E, F and Schedule 2, Part 2, Class A shall be undertaken within the curtilage of the dwelling unless planning permission has first been granted by the Local Planning Authority.

Reason: To safeguard the amenities of neighbouring properties and the character and appearance of the area in accordance with Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Policy H6 and Policy H7 of the Desford Neighbourhood Plan.

11.3 Notes to applicant

1. The approved development may require Building Regulations Approval, for further information please contact the Building Control team via e-mail at buildingcontrol@hinckley-bosworth.gov.uk or call 01455 238141.
2. Construction workers should be considerate of the surrounding residential properties and highway network during construction and where possible all parking should take place within the site boundary.

3. Surface water should be managed by sustainable methods, preferably those which disperse runoff by infiltration into the ground strata: i.e. soakaways, pervious paving, filter drains, swales, etc. and the minimisation of paved area, subject to satisfactory porosity test results and the site being free from a contaminated ground legacy. If the ground strata are insufficiently permeable to avoid discharging some surface water off-site, flow attenuation methods should be employed, either alone or in combination with infiltration systems and/or rainwater harvesting systems.
4. 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).