

Delegated Report

Planning Ref: 23/00730/CONDIT
Applicant: Mr Jeffrey Hawksworth
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: 11 Main Street Carlton Nuneaton

Proposal: Removal of Condition 05 of planning permission 94/00128/COU (The dwelling shall not be occupied other by persons associated with the occupation of the existing dwelling, Mill Convert View, 11 Main Street)

1. Recommendations

- 1.1. **Refuse planning permission** subject to:
- Planning reasons outlined at the end of this report.

2. Planning Application Description

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications to be made for permission to develop without complying with a condition previously imposed on a planning permission.
- 2.2. In this case, planning permission for application 94/00128/COU granted full planning permission for the change of use of a property to a dwelling at 11 Main Street, Carlton. Condition 05 of this planning permission restricts the occupation of the property to persons associated with the existing dwelling, Mill Covert View, 11 Main Street, Carlton. This condition was attached to the planning permission because the use of the site as a separate independent dwelling, *"Would be detrimental to the amenities of the occupiers of both the dwellings by reason of overlooking, loss of privacy, and disturbance from vehicle movements."*
- 2.3. This application seeks planning permission for the removal of Condition 05 of that planning permission to enable the development to change the use of the property as a one-bedroom cottage with two parking spaces that is independent from 11 Main Street, Carlton.

3. Description of the Site and the Surrounding Area

- 3.1. The property is a one-bedroom, single storey, brick-built cottage, which is located to the south of the principal elevation of 11 Main Street, Carlton. The application site is located within the identified settlement boundary of Carlton, which is classified as a rural hamlet within the adopted Core Strategy.
- 3.2. The cottage features several gable-fronted pitched roofs that increase in height towards 11 Main Street Carlton. The property is surrounded by a 1.8m high brick wall and features a gated access onto 11 Main Street's existing driveway, which leads on to Main Street. Main Street is an adopted and classified 'C' road that is subject to a 30mph speed limit. The character of the surrounding area is wholly residential and Main Street is largely characterised by ribbon and back land residential development. Beyond the residential properties on Main Street is open agricultural fields,

4. Relevant Planning History

- 4.1 **94/00128/COU**
- Change of use to dwelling
 - Permitted

- 08.06.1994

5. Publicity

- 5.1. The application has been publicised by sending out letters to local residents.
- 5.2. No responses have been received.

6. Consultation

- 6.1. Carlton Parish Council have objected to the application because they believe the reasons for imposing Condition 05 remain valid. The Parish Council is also concerned that the creation of a separate freehold dwelling is likely to make it difficult to resist proposals for the redevelopment of the annexe, which would likely have adverse impacts on neighbouring properties and the street scene.
- 6.2. There have been no objections from the following consultants:
 - Leicestershire Highway Authority (LHA)
- 6.3. No further responses have been received.

7. Policy

- 7.1 Core Strategy (2009):
 - Policy 13: Rural Hamlets
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (2016):
 - Policy DM1: Presumption in Favour of Sustainable Development
 - 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) (2023)
 - Planning Practice Guidance (PPG)
 - National Design Guide (2019)
- 7.4 Other Relevant Guidance:
 - Good Design Guide (2020)
 - Leicestershire Highway Design Guide (2022)

8. Appraisal

- 8.1. The principle of development, siting and design of the proposed extensions and alterations have already been established through the earlier grant of the extant planning permission on the site. As this application only involves the alteration of the development's materials, the key issues in respect of this application are therefore:
 - Impact upon Residential Amenity
 - Other Issues

Impact upon Residential Amenity

- 8.2 Paragraph 134 of the NPPF states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes.

- 8.3 Paragraph 130(f) of the NPPF states planning decisions should ensure that developments 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.
- 8.4 Paragraph 14.2 of the SADMP states that new development should be located and designed in such a way that the amenity of both existing residents and occupiers are fully considered when assessing planning applications.
- 8.5 Policy DM10(a) of the SADMP states that developments will be permitted where it does 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.
- 8.6 The Good Design Guide SPD outlines that development will need to demonstrate that it will not result in loss of amenity to neighbouring properties by way of overlooking, overshadowing or noise.
- 8.7 To comply with the Good Design Guide, residential dwellings should also provide private outdoor amenity space with a minimum length of 7m and an area of 60sq.m.
- 8.8 The private outdoor amenity area of the property only has a depth of 5.5m and an area considerably less than 60sq.m, which falls significantly below the requirements of the Good Design Guide. Furthermore, this private outdoor amenity area is only 8.4m from the front elevation, and the principal habitable windows of 11 Main Street. Consequently, the only garden area for the proposed independent dwelling would be significantly overlooked resulting in a significantly poor level of amenity for future occupiers. Whilst this is acceptable for a property that is associated as an annex of the main dwelling, this is not considered to be appropriate for a residential use that is distinct from the host dwelling.
- 8.9 In addition, all the principal habitable windows for the property within the application site face out onto the private outdoor amenity area, and therefore these windows are only 5.5m from the application site's 1.8m high brick wall site boundary treatment. The outlook of the windows for the Lounge are further reduced by the provision of off-street parking directly in front of them. This is not considered to provide sufficient visual amenity for the future occupiers of the property as an independent dwelling.
- 8.10 By virtue of these factors, the removal of Condition 05 of planning permission 94/00128A/COU is likely to result in significant loss of privacy and overlooking impacts from 11 Main Street, Carlton. In addition, the development does not provide appropriate private outdoor amenity space, nor visual amenity from any principal habitable window within the development for an independent residential use that is distinct from the host dwelling. Given the above, the proposal is considered to be contrary to, and in conflict with, Policy DM10 of the SADMP, Paragraph 130 of the NPPF, and the Good Design Guide.

Other Issues

- 8.11 The amendment to the occupation restriction of the property is not considered to result in any adverse impacts to the character of the area, highway safety or off-street vehicle provision. Therefore, the application and the development remain compliant with Policies DM10(c) and (d), DM17 and DM18 of the SADMP.

9. Equality Implications

9.1 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.

9.2 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.

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. Conclusion

10.1 The proposed development is not considered to be compliant with the relevant national and local policy as it:

- Has a significant adverse impact upon residential amenity.

10.2 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is refused.

11. Recommendation

11.1 **Refuse planning permission** subject to:

- Planning reasons outlined at the end of this report.

11.2 Reasons

1. As stated within the reasoning of the original planning condition, the removal of Condition 05 of planning permission 94/00128A/COU would result in significant loss of privacy and overlooking impacts from 11 Main Street, Carlton. In addition, the development does not provide appropriate private outdoor amenity space, nor visual amenity from any principal habitable window within the development for an independent residential use that is distinct from the host dwelling. Given the above, the proposal is considered to be significantly detrimental to any future occupiers of the building as a separate unit of accommodation contrary to, and in conflict with, Policy DM10 of the SADMP, Paragraph 130 of the NPPF, and the Council's Good Design Guide.

a. Notes to Applicant:

1. This application was assessed by the plans submitted by the Applicant that were received by the Local Planning Authority, as follows:

- Block Plan (submitted: 25.07.2023)
- Floor Plan (submitted: 25.07.2023)
- Site Location Plan (submitted: 25.07.2023)