

Delegated Report

Planning Ref: 24/00685/CONDIT
Applicant: Ms D And F Sherwin
Ward: Cadeby Carlton M Bosworth & Shackerstone



Hinckley & Bosworth
Borough Council

Site: The Coach House Rectory Lane Market Bosworth

Proposal: Variation of Condition 02 (Approved Plans) of planning application 22/01133/FUL. Amendments to accommodate a new floor level for the extension

1. Recommendations:

1.1. Grant planning permission for the variation of 22/01133/FUL subject to:

- Planning conditions detailed at the end of this report.

2. Planning Application Description:

- 2.1. Section 73 of the Town and Country Planning Act 1990 allows applications for planning permission to be sought for the development of land without complying with conditions that were imposed on a previous planning permission.
- 2.2. In this case, planning permission for application 22/01133/FUL granted full planning permission for the conversion of an existing outbuilding into a new three-bedroom dwelling with an extension on the north-eastern corner of the building at The Coach House, Rectory Lane, Market Bosworth.
- 2.3. This Section 73 Application seeks planning permission for the variation of Condition 2 of that planning permission to provide a new, higher, floor level for the approved extension to a level that matches the ground floor level of the existing building. To facilitate this development, the extension increases in height from by 0.4m, which is higher than The Coach House, whereas before they were the same height.
- 2.4. Minor internal alterations are proposed to the layout of the development, but no amendments are proposed to the size, scale, or footprint of the proposal, nor the location of the proposed fenestration. The roof lights on the elevation are also revised to 550mm by 980mm in comparison to the approved 650mm x 800mm roof lights.
- 2.5. This application is submitted in tandem with application 24/00686/CONDIT.
- 2.6. Following concerns raised by the Case Officer, the proposed three bedrooms on the first floor have been reverted back to two bedrooms given the small size of the originally proposed rooms.

3. Description of the Site and the Surrounding Area:

- 3.1. The 0.4ha application site is located on the southern side of Rectory Lane, within the identified settlement boundary of the Key Rural Centre, Market Bosworth. The site is located within the historic core of the Market Bosworth Conservation Area and The Coach House is associated with The Old Rectory, which is a Grade II Listed Building. The Old Rectory has recently received planning permission for its conversion into a Specialist Educational Needs (SEN) Facility (Use Class F1) via applications 23/00667/FUL and 23/00668/LBC.
- 3.2. Market Bosworth Conservation Area Appraisal (MBCAA) identifies The Old Rectory and The Coach House as being, "*Separated by some distance,*" and unusual within the character of the street scene because they have slate roofs.
- 3.3. The Coach House has a separate access drive from the Listed Building, which runs north-south in the western section of The Old Rectory Grounds and is flanked by mature trees up to the turn into the yard area. A pair of ornate iron gates attached to brick piers are situated at the drive entrance on Rectory Lane, which match the style and form of the main gates to The Old Rectory, which are situated slightly further to the east. The gates to the driveway are an important historic feature located within the curtilage of The Old Rectory.
- 3.4. The Coach House has a clear physical relationship with The Old Rectory, and historically, and at present, it has a functional use ancillary to it. The outbuilding appears contemporary in age to the Listed Building, and this is evident on the first edition Ordnance Survey map of 1885. There was also an attached perpendicular range to the outbuilding, which had been demolished by the mid-20th century. The Coach House is not mentioned with The Old Rectory's Historic England Listing Entry 1361308. However, The Coach House is identified within the MBCAA's map as an Important Local Building.
- 3.5. The wider The Old Rectory site, including The Coach House, benefits from a Tree Preservation Order, 83/00005/TPORD. The group of trees identified as, "*G1,*" run adjacent to eastern boundary of the entrance into The Coach House application site and the group of trees identified as, "*G2,*" are located to the south of The Coach House. Only one individually specified tree, T3, is within the proximity of, and to the east of, the development. All the mature and well-established trees around the site contribute positively to the character and appearance of the Market Bosworth Conservation Area.
- 3.6. The Coach House is 12.5m west of The Old Rectory and 38.9m south of the Important Local Building, Southlands. Beyond the Old Rectory to the east are residential dwellings and to the north of Southlands is Rectory Lane Car Park and the centre of Market Bosworth. To the west of the application site are further residential dwellings that front Sutton Lane, including the Grade II Listed Building, 9 Sutton Lane, which is 38.2m northeast of the Coach House. To the south of the site is open countryside. The outbuilding itself is 60.7m south of the access onto Rectory Lane.

4. Relevant Planning History:**4.1 24/00686/CONDIT**

- Variation of Condition 2 (Approved Plans) of planning application 22/01152/LBC. Amendments to accommodate a new floor level for the extension.
- Awaiting Decision.
- TBD.

4.2 24/00283/DISCON

- Application to discharge Conditions 3 (Materials), 4 (Hard and Soft Landscaping), 5 (Tree Protection), 6 (Arboricultural Site Monitoring), and 7 (Construction Method statement – No Dig) from planning application 22/01133/FUL
- Discharged
- 18.06.2024

4.3 22/01152/LBC

- Proposed conversion of existing outbuilding and new extension to form new dwelling and associated works
- Listed Building Consent
- 23.02.2023

4.4 22/01133/FUL

- Proposed conversion of existing outbuilding and new extension to form new dwelling and associated works
- Permitted
- 22.02.2023

5. Publicity:

- 5.1. In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 5.2. In this instance, the application has been publicised by sending out letters to local residents, a site notice was posted within the vicinity of the site, and a notice was displayed in the local press.
- 5.3. No responses have been received.

6. Consultation:

- 6.1 In accordance with Planning Practice Guidance (PPG), provisions relating to statutory consultation and publicity do not apply. However, local planning authorities have discretion to consider the scale or nature of the change warrants consultation. Therefore, the Local Planning Authority can choose how to inform interest parties.
- 6.2 In this instance, there have been no objections from the following consultants:
- Hinckley & Bosworth Borough Council (HBBC)'s Conservation Officer
 - HBBC's Drainage Officer
 - HBBC's Pollution Officer
 - Leicestershire County Council (LCC)'s Ecology Department
 - Leicestershire Highway Authority (LHA)
 - Market Bosworth Parish Council
- 6.3 The County Council's Ecology Department requested a copy of the site registration for the bat licence and the details of the three bat tubes that should have been installed within the building as per Condition 09 of 22/01133/FUL. These details were submitted on 03 October 2024.
- 6.4 On 20 October 2024, the Ecology Department confirmed that the Updated Emergence and Activity Surveys and Bat Mitigation Strategy alongside the photos of the bat boxes and bat tubes were acceptable. Therefore, the Ecology Department did not have any objections to the development but highlighted that it is a legal obligation to comply with bat mitigation and the contents of the submitted ecology documents.
- 6.5 Historic England did not comment on the application. Market Bosworth Society did not respond to the planning application. No further responses have been received.

7. Policy:

- 7.1 Core Strategy (2009):
- Policy 7: Key Rural Centres
 - Policy 11: Key Rural Centres Stand Alone
- 7.2 Site Allocations and Development Management Policies Development Plan Document (SADMP) (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 DM11: Protecting and Enhancing the Historic Environment
 - Policy DM12: Heritage Assets

- Policy DM17: Highways and Transportation
- Policy DM18: Vehicle Parking Standards

7.3 Market Bosworth Neighbourhood Plan 2014 – 2016 (2015) (MBNP):

- Policy CE1: Character and Environment
- Policy CE4: Trees
- Policy CE5: Landscape of the Wider Parish

7.4 Market Bosworth Conservation Area Appraisal (MBCAA) (2014).

7.5 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (December 2023)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.6 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (2022)
- Technical Housing Standards – Nationally Described Space Standards (2015)

8. Appraisal:

8.1. In accordance with Planning Practice Guidance (NPPG), there is no statutory limit on the degree of change permissible to conditions under Section 73 applications, but the change must only relate to conditions and not to the operative part of the permission. The operative part of the planning permission being the description of the development.

8.2. The principle of development of the development has already been established through the earlier grant of the extant planning permission on the site. Therefore, the key issues in respect of this application are:

- Design and impact upon the character of the area
- Other Issues
- Conditions

Design and Impact upon the Character of the Area:

8.5 Policy DM10(c) of the SADMP states that developments will be permitted where they complement or enhance the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features.

8.6 The increased scale and height of the extension are considered to be very limited and continue to ensure that the proposed extension does not have an overbearing effect upon The Coach House.

- 8.7 For the reasons above, it is therefore considered that the extension to the Curtilage Listed Outbuilding to The Old Rectory is compatible with its significance and its setting, and the development has an appropriate scale, which ensures that it remains of a satisfactory character and appearance that preserves the significance of the Market Bosworth Conservation Area. Therefore, the proposal is considered to comply with Policies DM10, DM11, and DM12 of the SADMP.

Other Issues:

- 8.8 Following amendments to the scheme as requested by the Planning Officer, the development is not considered to result in any adverse impacts to the residential amenity of neighbours or future occupiers in comparison to the extant permission.
- 8.9 The Local Highway Authority (LHA) have confirmed that the highways related matters such as the number of off-street parking spaces remains the same, and therefore the LHA consider the scheme to be in accordance with the Leicestershire Highway Design Guide (LHGD) and does not result in any highway safety concerns.
- 8.10 Therefore, the application and the development remain compliant with Policies DM10, DM17 and DM18 of the SADMP.

Conditions:

- 8.11 Permission granted under Section 73 takes effect as a new independent permission to carry out the same development as previously permitted, subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the Applicant to decide whether to implement the new permission or the one originally granted.
- 8.12 Therefore, in accordance with PPG, a Section 73 decision notice should set out all the conditions imposed on the new permission, and, for the purpose of clarity, restate the conditions imposed on earlier permissions that continue to have effect.
- 8.13 Planning permission 22/01133/FUL was subject to 11 conditions.
- 8.14 Time cannot be extended or altered for Section 73 applications and, as such, Condition 01 (Time) needs to refer to the original 3-year time scale for implementation of the development.
- 8.15 Condition 02 (Approved Plans) needs amending to refer to the new revised plans.
- 8.16 Conditions 03 (Material Samples), 04 (Landscaping), 05 (Tree Protection Plan), 06 (Arboricultural Site Monitoring), and 07 (No-Dig Access Drive) were discharged via 24/00283/DISCON. Therefore, these conditions need revising to ensure compliance with the approved plans.

- 8.17 Condition 08 (Retention of Trees and Hedges) remains reasonable and necessary to safeguard the protected trees within the site in accordance with Policy DM6 of the SADMP.
- 8.18 Condition 09 (Bat Strategy Mitigation) needs to be revised to reflect the latest submitted plans.
- 8.19 Conditions 10 (Access Arrangements) and 11 (Parking and Turning Facilities) need to be revised to refer to the new submitted Proposed Site Plan in the interests of highway safety in accordance with the NPPF.
- 8.20 All the conditions remain reasonable and necessary to ensure satisfactory development of the site. No additional conditions are considered to be necessary.

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 Taking national and local planning policies into account, and regarding all relevant material considerations, it is recommended that planning permission is granted, subject to amended conditions. No additional conditions are considered necessary.

11. Recommendation:

- 11.1 **Grant planning permission for the variation of 22/01133/FUL**, subject to:

- Planning conditions detailed at the end of this report.

11.2 Conditions and Reasons:

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the submitted application details, received by the Local Planning Authority as follows:

- Existing Elevations 21_4102_03 A (submitted: 30.11.2022)
- Existing Floor Plans and Sections 21_4102_02 (submitted: 30.11.2022)
- Proposed Elevations and Site Plan 22_4102_21 A. (submitted: 15.07.2024)
- Proposed First Floor Plan and Sections (22 4102 19 B) (submitted: 03.10.2024)
- Proposed Ground Floor Plan 22_4102_18 A (submitted: 15.07.2024)
- Proposed Sections 22_4102_20 A (submitted: 15.07.2024)
- Topographical Survey 21_4102_01 (submitted: 30.11.2022)

Reason: To ensure a satisfactory form of development in accordance with Policies DM1, DM10, DM11, and DM12 of the Site Allocations and Development Management Policies Development Plan Document (2016).

2. The materials to be used on the external elevations of the dwelling and garages hereby permitted shall be in accordance with the approved materials as follows:

- Horizontal laid natural timber cladding
- Aluminium sliding door RAL 1013
- WM Anthra Dark Grey Zinc Roof
- Composite Windows and Doors 1013 (concealed vents)

Reason: To ensure that the development has a satisfactory appearance in the interests of visual amenity as per the approved details within the Discharge of Conditions application 24/00238/DISCON and in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

3. The development hereby permitted shall be implemented in accordance with the hard and soft landscaping details within C4 Proposed Elevations, Site and Roof Plan 22_4102_21 (submitted: 25.03.2023).

Reason: To ensure that the development has a satisfactory appearance and in the interests of visual amenity as per the approved details within the Discharge of Conditions application 24/00238/DISCON, and in accordance with Policies DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

4. The development hereby permitted shall be implemented in accordance with the tree/hedgerow protection and mitigation measures contained within:
- Sections 03 (Arboricultural Observation and Work Phases), 04 (Pre-Construction Phase), 05 (Construction Phase), and 06 (Post-Construction Phase) within the Arboricultural Method Statement V1 (submitted: 09.04.2024)
 - Tree Constraints Plan 220527 22031 TCP V1 (submitted: 24.03.2024)
 - Tree Protection Plan (OE-003) within Appendix 2 (Plans) of the Arboricultural Method Statement Assessment (submitted: 09.04.2024).

Reason: To ensure the important existing trees and hedgerows to be retained are adequately protected during construction in the interests of the visual amenities of the area as per the approved details within the Discharge of Conditions application 24/00238/DISCON and to accord with Policies DM6, DM10, DM11, and DM12 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

5. During the construction period, none of the trees or hedges indicated to be retained shall be cut down, uprooted, or destroyed, nor shall be topped or lopped other than in accordance with the approved plans, without the written approval of the Local Planning Authority. If any of the trees or hedges to be retained are removed, uprooted, or destroyed or dies, a replacement shall be planted at the same place and that tree or hedge shall be of such size and species, and shall be planted at such time, as maybe specified in writing by the Local Planning Authority.

Reason: To ensure that the existing trees on the site are retained and protected in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016) and Paragraphs 136 and 180 of the National Planning Policy Framework (December 2023).

6. The development hereby permitted shall be implemented in strict accordance with the measures stated in the Section 2 (Bat Mitigation Strategy) of the Bat Mitigation Strategy (August '24) (submitted: 03.10.2024). Should the building

works be delayed for more than 1 year, the Bat Mitigation Strategy should be updated to reflect any changes in bat usage within the building.

Reason: In order to protect the protected wildlife species and their habitats that are known to exist on site in accordance with Policy DM6 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016).

7. No part of the development hereby permitted shall be occupied until such time as the access arrangements shown on the Proposed Elevations and Site Plan 22_4102_21 A. (submitted: 15.07.2024) have been implemented in full.

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 National Planning Policy Framework (December 2023).

8. The development hereby permitted shall not be occupied until such time as the parking and turning facilities have been implemented in accordance with the Proposed Elevations and Site Plan 22_4102_21 A. (submitted: 15.07.2024). Thereafter, the onsite parking and turning provision shall be kept available for such use 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 National Planning Policy Framework (December 2023).

a. **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 building.control@blaby.gov.uk or call 0116 272 7533.
2. Please refer to the latest comments of Leicestershire County Council's Ecology Department from 20 October 2024. Notwithstanding this planning permission, it is a legal obligation to comply with bat mitigation and to follow the contents of the submitted bat mitigation strategy.