

Delegated Report

Planning Ref: 24/01087/CONDIT
Applicant: Ms Reena Karavadra
Ward: Markfield, Stanton & Fieldhead



Hinckley & Bosworth
Borough Council

Site: 71 Chitterman Way, Markfield, Leicestershire

Proposal: Application to vary Condition 2 (Approved Plans) of Planning Permission 23/00731/FUL. Amendments to include an additional storey and rear dormer.

1. Recommendations

1.1. Refuse planning permission for the variation of 23/00731/FUL subject to:

- Planning reasons 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 23/00731/FUL granted full planning permission for the provision of a dwellinghouse with associated amenity space and parking at 71 Chitterman Way, Markfield. The development was located to the side of, and to the south of, 71 Chitterman Way, and vehicular parking for the scheme was accessed via Linford Crescent. As part of this development, the existing garage was to be demolished.
- 2.3. The approved two-storey, semi-detached, two-bedroom dwelling externally measured 5.1m in width by 8.1m in depth, with a total footprint of 39.2sqm. The scheme was constructed in brick and concrete roof tiles to match the host dwelling.
- 2.4. The property featured a gable-ended pitched roof that had a ridge height of 7.9m and an eaves height of 4.8m. The scheme also incorporated a second gable-ended pitched roof for 1.1m of the property that had a ridge height of 7.3m, and an eaves height to match the main roof. A further small gable-fronted pitched roof featured on the centre of the principal elevation, which had a ridge height of 5.8m, alongside a mono-pitch porch roof that had a maximum height of 3.1m and an eaves height of 2.4m.
- 2.5. This Section 73 Application seeks planning permission for the variation of Condition 2 (Approved Plans) of that planning permission to enable the development to amend the roof design and internal layout of the property to create a second floor of accommodation via the provision a dormer on the rear elevation of the scheme.

- 2.6. To facilitate this, the second gable-ended pitched roof is removed from the scheme, and the main roof is extended across the entire property. The rear dormer is 3.4m in width and is set down from the ridge of the property by 0.5m.

3. Description of the Site and the Surrounding Area

- 3.1. The 223sqm application site is located in the centre of Markfield, which is classified as a Key Rural Centre relating to Leicester. The application site is also within the identified boundaries of Charnwood Forest and the National Forest. Chitterman Way is an adopted, but unclassified public highway that is subject to a 30mph speed limit.
- 3.2. The surrounding area is wholly residential in character and residential properties surround the site. However, there is an area of open green space to the western front elevation of the site, and Markfield Medical Centre is visible to the south of the site.
- 3.3. 71 Chitterman Way is a two-storey property at the end of a terrace of houses. The property is constructed with a brick finish and utilises a dual pitched roof that has a small gable in the centre of the roof, and a mono-pitch canopy porch on the front elevation. The two attached adjacent properties are very similar in character, but the wider street scene consists of a variety of sizes, scales, design, styles, and layouts.

4. Relevant Planning History

4.1 23/00731/FUL

- Proposed dwellinghouse with associated amenity space and parking
- Approved
- 11.12.2023

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, no public consultation has taken place.

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, no consultation has taken place.

7. Policy

7.1 Core Strategy (2009):

- Policy 7: Key Rural Centres
- Policy 8: Key Rural Centres Relating to Leicester
- Policy 21: National Forest
- Policy 22: Charnwood Forest

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 Markfield Neighbourhood Plan 2020 – 2039 (MNP) (2021):

- Policy M8: Electric Vehicle Charging Points
- Policy M10: Design
- Policy M15: Housing Provision
- Policy M17: Infill Housing Development

7.4 National Planning Policies and Guidance:

- National Planning Policy Framework (NPPF) (2024)
- Planning Practice Guidance (PPG)
- National Design Guide (2019)

7.5 Other Relevant Guidance:

- Good Design Guide (2020)
- Leicestershire Highway Design Guide (2024)
- 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 the dwelling 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:

8.3 Chapter 12 of the NPPF confirms that good design is a key aspect of sustainable development, and the creation of high quality, beautiful, and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 135 of the NPPF details the six national policy requirements of development to ensure the creation of well-designed and beautiful places.

8.4 Paragraph 139 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 (as contained in the National Design Guide and National Model Design Code), taking into account any local design guidance and supplementary planning documents such as design guides and codes.

8.5 Paragraph 140 of the NPPF confirms that local planning authorities should seek to ensure that the quality of approved development is not materially diminished between permission and completion as a result of changes being made to the permitted scheme; for example, through changes to approved details such as the materials used.

8.6 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.

8.7 Policy C1 of the National Design Guide advises that well-designed new development responds positively to the features of the site itself and the surrounding context beyond the site boundary. Some features are physical including the layout, form, scale, appearance, details, and materials of existing built development.

8.8 The Good Design Guide confirms that dormer windows, which allow for additional headroom within roof spaces can be appropriate in certain situations, however these will be considered in the context of impact upon the character of the building and on neighbour's amenity and should reflect the window pattern of the dwelling.

8.9 The proposal adjoins three terraced dwellings (65, 69, and 71 Chitterman Way) that are very similar in size, scale, design, style, and layout. The design of the approved development retains the key features of these properties.

- 8.10 The footprint of the development is unchanged via this Section 73 application. As this is a new dwelling, the amendments to the roof design on the principal elevation are not considered to result in any significant harm to the character of the area in comparison to the approved scheme.
- 8.11 However, none of the adjoining dwellings feature dormer windows. Dormer windows are not a typical characteristic of properties within this part of Markfield and there are no examples of dormer windows within the street scene of Chitterman Way or the Linford Crescent estate in the immediate vicinity of the site.
- 8.12 As a result, the provision of a dormer in this location represents the introduction of a new incongruous architectural feature into the street scene, which is considered to detract from its character and result in significant harm to the character of the area. In addition, the introduction of a dormer window in this development is considered to represent an inharmonious feature that is likely to unbalance the row of terraced housing that the proposal is attached to, which all are very similar in size, scale, design, style, and layout.
- 8.13 Given the location of the development at the end of a row of terraced housing, the harm of the introduction of a dormer on this property is exacerbated by its visual prominence from views along Chitterman Way, which is one of the key routes through Markfield, and Linford Crescent via the existing access to the off-street parking arrangements.
- 8.14 Whilst it is acknowledged that the adjacent dwellings could create a rear dormer window under Permitted Development Rights, Condition 03 of planning permission 23/00731/FUL removed Permitted Development Rights from this application site. Furthermore, prior approval must be sought from the Local Planning Authority for any enlargement of a dwellinghouse by construction of an additional storey. Notwithstanding this, the potential for another dwelling to propose a dormer window in the immediate vicinity of the site does not constitute more than a theoretical position, which is not considered to justify the approval of this current application, which, if granted, would introduce an incongruous feature that has been identified to result in harm to the character of the area. Therefore, this material consideration carries little weight in the planning balance.
- 8.15 In summary, the provision of a rear dormer on this property represents an incongruous feature to the character of the surrounding area that unbalances the character of the existing terraced dwellings that the proposal adjoins. This is considered to result in significant harm to the character of the area, which is exacerbated by the visual prominence of the dormer from Chitterman Way and Linford Crescent. Therefore, the proposal is considered to materially diminish the quality of the development between permission and completion. By virtue of these factors, the proposal is contrary to, and in conflict with, Policy M10 of the MNP, Policy DM10 of the SADMP, the Good Design Guide, C1 of the National Design Guide, and Paragraphs 135 and 140 of the NPPF.

Other Issues:

- 8.16 The provision of a second floor of accommodation via the provision of a rear dormer does not increase the capacity of the dwelling, make any impact on the access arrangements to the site, nor does it result in any loss of privacy, loss of light, nor any overbearing or overlooking impacts to neighbouring residents. Therefore, these amendments are not considered to result in any adverse impacts on neighbouring residential amenity, highway safety or off-street vehicle parking provision within the site. As a result, the development remains compliant with Policy M10 of the MNP, and Policies DM10, DM17 and DM18 of the SADMP.

Conditions:

- 8.17 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. A new permission sits alongside the original permission, which remains intact and unamended. It is open to the Applicant to decide whether to implement a new permission or the one originally granted.
- 8.18 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.
- 8.19 Planning permission 23/00731/FUL was subject to six conditions.
- 8.20 Time cannot be extended or altered for Section 73 applications and, as such, Condition 1 (Time) needs to refer to the original 3-year time scale for implementation of the development.
- 8.21 Condition 2 (Approved Plans) needs amending to refer to the revised plans.
- 8.22 Condition 3 (Removal of PD Rights) and Condition 4 (Matching Materials) remain reasonable and necessary to protect the character of the surrounding area by ensuring that the development has a satisfactory external appearance.
- 8.23 Condition 5 (Waste and Recycling) remains reasonable and necessary to ensure that there is adequate provision for waste and recycle storage for the future occupants of the dwelling.
- 8.24 Condition 6 (Opaque Glazing) remains reasonable and necessary to safeguard the privacy and amenity of neighbouring dwellings.
- 8.25 All the conditions remain reasonable and necessary to ensure satisfactory development of the site, had the recommendation been for approval. 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 refused.

11. Recommendation

11.1 **Refuse planning permission for the variation of 23/00731/FUL** subject to:

- Planning reasons detailed at the end of this report.

11.2 Reasons(s)

1. The proposal's provision of a rear dormer on this property represents an incongruous feature to the character of the surrounding area that unbalances the character of the existing terraced dwellings that the proposal adjoins. This results in significant harm to the character of the area, which is exacerbated

by the visual prominence of the dormer from Chitterman Way and Linford Crescent. Therefore, the proposal materially diminishes the quality of the development between permission and completion. By virtue of these factors, the proposal is contrary to, and in conflict with, Policy M10 of the adopted Markfield Neighbourhood Plan (2021), Policy DM10 of the adopted Site Allocations and Development Management Policies Development Plan Document (2016), the Good Design Guide (2020), C1 of the National Design Guide (2021), and Paragraphs 135 and 140 of the National Planning Policy Framework (2024).

a. **Notes to Applicant**

1. The application has been determined in accordance with the following submitted details:
 - Proposed Elevation, Floor Plans, Drg No. 71CW-A5 (submitted: 28.11.2024)