

INTRODUCTION

This Supplementary Statement is submitted with the application (“the S73 Application”) made to Hinckley and Bosworth Borough Council (“the Council”) under section 73 of the Town and Country Planning Act 1990 (as amended) (“the Act”) to vary conditions 2 (Approved Plans) and 3 (Landscaping) attached to planning permission reference 23/00377/FUL (“the Existing Permission”) which permitted the demolition of existing dwelling and erection of replacement dwelling with associated landscaping and access.

It should be read in conjunction with the following plans:

Approved

- Site Plan (ref. 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 prepared by DSA
- Drainage Strategy, prepared by Encon

Proposed

- Site Plan (ref. DSA-20128-PP-03-F)
- Proposed Ground Floor Plan (ref. DSA-20128-GF-01-L)
- Proposed First Floor Plan (ref. DSA-20128-FF-02-L)
- Proposed Elevations (ref. DSA-20128-ELE-03-K)
- Proposed Landscaping & Tree Protection Plan (ref. A440901F)
- Planning Design and Access Statement, prepared by DSA
- Drainage Strategy, prepared by Encon.

This Supplementary Statement, along with the Design and Access Statement and plans, sets out the proposed amendments together with the reasons behind those changes. It undertakes an assessment of those amendments, having regard to the relevant planning policy context and material considerations. It concludes that the amendments proposed by the S73 Application are acceptable in planning terms and so the S73 Application should be approved without delay. It also details the brief, albeit pertinent pre-application advice that was provided by Officers at HBBC to ensure the amendments are acceptable.

BACKGROUND

The Existing Permission was issued on 6 July 2023 (ref. 23/00377/FUL). The only pre-commencement condition (condition 3) related to landscaping and was discharged (ref. 23/00890/DISCON), and the Development has been lawfully implemented through building operations.

The Applicant is committed to delivering the most optimum design and bringing forward a very positive and attractive new family home without delay. As is commonplace with the delivery of developments, during the process following the grant of the Existing Permission, discharge of relevant conditions and preparing for the construction of the Development, it has become clear that amendments are required to the Development to ensure the optimum design is delivered the first time around. Amendments to the Existing Permission is sought on this basis.

THE AMENDMENTS

Details and assessment of the proposed amendments are provided below in BLUE. Further detail is also contained within the DAS and reflected on the updated plans and drawings:

- Building location shift towards western boundary

The existing garage and car port structure is situated less than 1m from the common boundary on the western side. The approved building location of the family home under the Existing Permission is between 3.5m-6.5m from the common boundary. Importantly the Officer noted:

“single storey elements of the dwelling would remain 2m or more from the shared boundary...which accords with the Good Design Guide.”

The proposed amendments now seek for the building line to be located 2m at its closest point from the common boundary and 4.5m at its furthest. The structure of the building would remain as a single storey element, either with a flat roof or a low angled pitch roof, the former being less invasive than the latter, which is already approved. Boundary treatments would remain in place and as approved, with additional landscaping (as per the landscaping plan) being provided to ensure the property is properly landscaped.

For the avoidance of doubt, this proposed building location is still sited at least 2m from the shared boundary at its closest point, 1.1m further away from the common boundary than the neighbouring property at 11 Station Road, which as of completion of their extension, is located 950mm from the common boundary at 2 storeys in height (plus a pitched roof) equating to c. 9m height.

It is for this reason that the proposed amendments with respect to the building location at a lower height is acceptable in planning terms and within the parameters set by precedent of 11 Station Road 2 storey plus pitched roof being c.1m from the common boundary.

- Extension of car garage to provide 1no. additional parking space

This amendment is sought to cater for a multi-generational family living in the property and the additional protected, internal and secure car park space is required to meet the needs of the family whilst ensuring maximum security of their property, and the wellbeing of the Applicant and their family. Ensuring that elder generations who travel in vehicles has the appropriate space to enter and exit a vehicle is paramount and the provision of a disabled car space is required on this basis. It is also important to ensure that where possible, access to that vehicle can be made internally.

As a result of this addition, the garage building line would extend further southwards by c.2m but importantly would be consistent, and in line with the neighbouring building line at 11 Station Road. In fact, when a line is drawn on an aerial plan of properties along Station Road, it is clear the proposed building line will be consistent with multiple properties and therefore wholly consistent in this regard.

With respect to perceived noise impacts of an additional car parking space, the Applicant has an intention to drive electric / sustainable / alternative fuel vehicles and/or newer model petrol engines where the noise generated from slow moving vehicles travelling from their driveway inside their garage is minimal to none. This conclusion was also drawn by the HBBC planning officer when assessing the Existing Permission.

- Extension of hydro-pool area to provide 1no. resident only swimming pool

This change is sought to provide a family use swimming pool area for a multi-generational family. The approved hydro-pool area would not meet the needs of a family who are active gym-goers, swimmers and health conscious. The Applicant has therefore sought to provide an indoor swimming pool to accommodate this need. The applicant is happy for Condition 6 from the Existing Permission to be appropriately amended to ensure the use of the pool is not used for commercial purposes.

- Removal of pitch roof for swimming pool area and replacing with a flat roof design thereby reducing overall height of building to 3.4m from 5.6m along western boundary.

The Applicant is aware the extension of the swimming pool increases the overall footprint of the building (despite the building to land ratio still being wholly proportionate to neighbouring properties and comparable to a previous consent for multiple dwellings (ref. 15/00472/FUL).

To ensure sensitive and well thought out design, the designers has proposed the removal of approved pitch roof and replaced it with a flat roof with decorative parapet. This will ensure the building height will be significantly reduced by 35% along the western boundary rear garden and ensure neighbouring properties are not negatively impacted upon.

As a result of this amendment whilst the building line would increase to the rear garden, the FFL height (3.4m) would be lower (2.3m) than the approved pitch roof design (5.6m). The flat roof design would be installed with an architectural featured parapet (500mm) to provide safe access when maintenance is required.

The height difference between the approved pitch to flat roof design is 5.7m to 3.3m, equating to c2.5m in height along the western boundary. The height of the shared boundary hedgerow fence, plus the naturally downward sloping topography would mean the height of the swimming pool area would be fully masked by the natural boundary treatment as it stands and natural lay of the land. The designs have therefore been carefully considered to ensure the home delivers on the needs set out, whilst appreciating the importance of neighbouring amenity and ensuring the scheme is not overbearing.

- Additional double bedroom located on the First Floor

This is sought on the first floor. This would result in additional first floor double bedroom with en-suite to meet the needs of a growing multi-generational family. The bedroom would provide an outlook to the rear garden and sits between two approved bedrooms and therefore is non-contentious in this regard as it would not be seen by any neighbouring properties.

- Internal reconfiguration of GF rooms

As technical design developed it was clear that certain non-habitable rooms did not function correctly. Therefore, subtle internal changes to GF and FF rooms are sought to ensure the rooms provide enough useable space for fixed and moveable furniture. These changes extend to areas such as reconfiguring the access and circulation areas, increasing pantry size and cloakroom and increasing any spaces to ensure standard furniture can fit within it.

- Additional elevational detail provided to windows by creating arched features in place of standard “square” or “rectangle” windows on front, side and rear elevation. Replacement of small bathroom / toilet windows on the GF and FF to ensure that all rooms are properly lit for habitable use.

This amendment is sought to provide more architectural detailing and a more visually pleasing development taking inspiration from the existing arched features within the home and looking to carry forward those designs where possible.

RELEVANT LAW AND POLICY

On an application made under Section 73 of the Act, the local planning authority is required to only consider the questions of the conditions subject to which planning permission should be granted (S73(2)). An application under Section 73 must be determined in accordance with the development plan unless material considerations indicate otherwise.

There has been much recent consideration of the scope of the use of Section 73 applications with the most recent authority being *R (Fiske) v Test Valley Borough Council* [2023] EWHC 221 (admin). This concluded that it is lawful for an application made under s73 to propose amendments that are consistent with the operative part of the original planning permission and which would not result in a scheme that was fundamentally different to that originally approved. Aside from the enlargement of an approved swimming pool, creation of an additional car parking space and creation of an additional bedroom, the scheme remains fundamentally the same; it being a proposal for a 1-2 storey single family dwelling home.

As the amendments do not alter the number or type of home, it is considered that the only policies relevant to the S73 Application are those policies relating to design and residential amenity.

The National Planning Policy Framework (“the NPPF”) similarly seek to ensure that new development is of high quality (Section 12) which this proposal ensures it is.

ASSESSMENT OF THE S73 APPLICATION

It is necessary to undertake this assessment regarding the amendments as a whole; is the Development as proposed to be amended still acceptable in planning terms?

The extent of the amendments is such that they are not considered to undermine or reduce the quality of the design of the Development nor lead to any impacts on residential amenity. This can be readily appreciated from the detailed information contained within the application.

It is considered that the S73 Application would be entirely acceptable in design and residential amenity terms and accord with the relevant policies of the development plan in this regard. There are no other material considerations that would indicate the S73 Application should not be approved.

The amendments sought are borne solely from a requirement to ensure the optimum design is created for this single-family home. The design changes are wholly acceptable when assessed against national and local planning policy requirements as discussed below. They are also acceptable physical context of the site, noting the ratio of proposed footprint to land area as being below or on par with all neighbouring properties on Station Road. The proposed size of the amendments would result in an increase in the floorspace. However, this habitable floorspace would still be comparable to the approved consent for 3no. separate detached homes at the site (ref. 15/00472/FUL). The location and orientation of the proposed amendments is less invasive and less impactful than the approved 3no. home

consent. This is especially due to the fact the proposed amendments seek to reduce the overall height of parts of the building closest to the boundary, be located in a proximity that is further from the common boundary than the neighbouring property at 11 Station Road, and utilise natural landscaping to create a sense of privacy and security so that the property is well hidden and masked in areas where there may be perceived impacts on neighbours. This is unlike the neighbouring property such as 11 Station Road which has recently completed a 9m tall extension which sits 950mm from the common boundary.

The proposals sought here would remain no less than 2m from the common boundary at a height no higher than 3-5m from the common boundary. The development is therefore wholly proportionate and in fact less invasive than neighbouring properties in the immediate vicinity. If approved, the consent would result in an extremely high-quality, well-designed family home in Desford for this multi-generational family to reside in.

CONCLUSIONS

The proposed amendments in the S73 Application are minor amendments to address issues that have arisen since the grant of the Existing Permission. The impacts arising from the amendments result in an improved design without impacting on neighbouring and/or residential amenity.

Accordingly, the S73 Application accords with the relevant policies of the development plan and there are no material considerations that indicate permission should be granted. The Council is respectfully invited to approve this Application so that a high-quality, single-family dwelling can be delivered in the area.