

PLANNING
STATEMENT

Site Address:

Willow Farm

Fenn Lanes

Fenny Drayton CV13 6BJ

Prepared for: Chris Hunt

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Introduction

EASTING: 436689

NORTHING: 297706

CURRENT USE: Sui generis (agricultural)

AUTHORITY: Hinckley and Bosworth

This statement supports a full planning application for the demolition of an agricultural building and erection of one dwelling and the change of use of an agricultural building to ancillary residential use.



DESCRIPTION OF SITE

The site is located north of Fenn Lanes approximately 1.5km east of Fenny Drayton and comprises an area of agricultural land on which several agricultural buildings are situated. The buildings serve the smallholding operation at Willow Farm. The site is set back from the public highway and would be accessed from an extant and partially implemented planning permission for a new access onto Fenn Lanes. This was approved in July 2022 under the reference 21/00586/FUL. The only pre-commencement condition (Condition 7) was partially discharged in June 2023 (23/00468/DISCON).

RELEVANT PLANNING HISTORY

The site benefits from an extant prior approval for the ***“change of use of agricultural building to a single dwelling”*** under 23/00637/P3CQ. The application is extant until 21st August 2026.

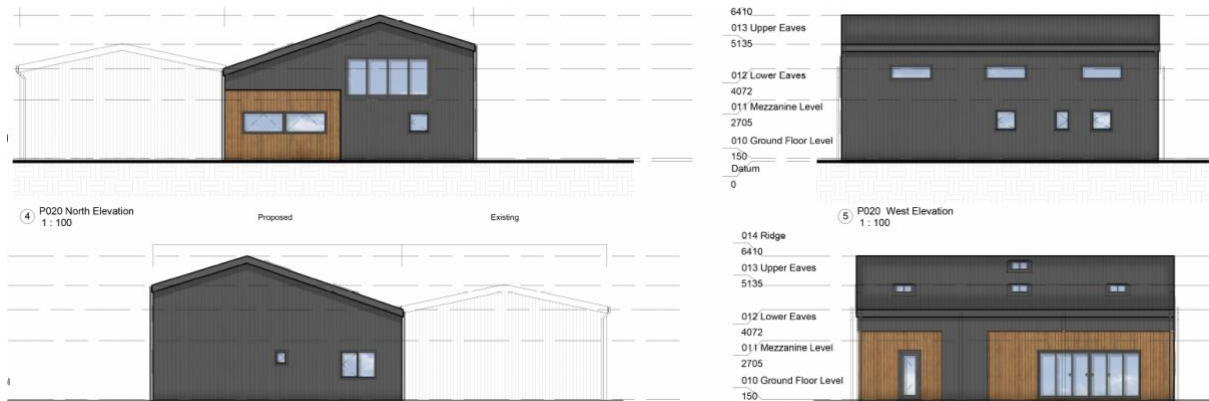


Proposal

This section provides a brief description of the proposal and should be read in conjunction with the supporting plans.

The buildings on the site comprise a central agricultural building adjoined by two further structures, one to its east and one to its west. The central agricultural building and the western structure will be demolished with the new dwelling erected on the footprint of the central agricultural building.

The supporting drawings show a two-storey rectangular dwelling with a pitched roof.



The dwelling is proposed to have walls predominantly finished with vertical dark grey metal cladding, with sections of timber cladding as shown. It will have a dark grey metal clad roof and a limited number of openings consisting of windows, skylights and doors.

The dwelling would be served by a modest residential curtilage.

Access to the site would be via the existing access off Fenn Lanes.



Policy

Section 70(2) of The Town and Country Planning Act 1990 requires that, in dealing with an application for planning permission, ***“the authority shall have regard to the provisions of the development plan, so far as material to the application...and, any other material considerations.”*** Section 38(6) of The Planning and Compulsory Purchase Act 2004 states ***“if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.”***

DEVELOPMENT PLAN

The development plan comprises:

- Core Strategy December 2009 (CS)
- Site Allocations and Development Management Policies DPD July 2016 (SAP)

Site Allocations and Development Management Policies DPD

DM1 Presumption in Favour of Sustainable Development

Planning applications that accord with the policies in the Local Plan (and, where relevant, with policies in neighbourhood plans) will be approved without delay, unless material considerations indicate otherwise.

Where there are no policies relevant to the application or relevant policies are out of date at the time of making the decision then the Borough Council will grant permission unless material considerations indicate otherwise, taking into account whether:

- a) Any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; or
- b) Specific policies in that Framework indicate that development should be restricted.

DM2 Delivering Renewable Energy and Low Carbon Development

The Borough Council is committed to reducing its environmental impact through carbon reduction measures and through the support of appropriately designed and sited renewable energy and low carbon developments.

Planning applications for the development of renewable energy and low carbon development installations at the domestic, community and commercial scales will be supported where:

- a) All reasonable steps have been taken to avoid or mitigate any adverse impacts including, but not limited to, landscape, noise, visual and cumulative impacts; and,
- b) The proposed development accords with other policies of this plan, with specific regard to DM11 and DM12.

The impact of ancillary structures included as part of the proposed scheme will also be assessed.

Community-led renewable energy schemes for low carbon developments which can demonstrate direct community benefit will be encouraged.

DM 4 Safeguarding the Countryside and Settlement Separation

To protect its intrinsic value, beauty, open character and landscape character, the countryside will first and foremost be safeguarded from unsustainable development. Development in the countryside will be considered sustainable where:

- a) It is for outdoor sport or recreation purposes (including ancillary buildings) and it can be demonstrated that the proposed scheme cannot be provided within or adjacent to settlement boundaries; or
- b) The proposal involves the change of use, re-use or extension of existing buildings which lead to the enhancement of the immediate setting; or
- c) It significantly contributes to economic growth, job creation and/or diversification of rural businesses; or
- d) It relates to the provision of stand-alone renewable energy developments in line with Policy DM2: Renewable Energy and Low Carbon Development; or
- e) It relates to the provision of accommodation for a rural worker in line with Policy DM5 - Enabling Rural Worker Accommodation.

and:

- i. It does not have a significant adverse effect on the intrinsic value, beauty, open character and landscape character of the countryside; and
- ii. It does not undermine the physical and perceived separation
- iii. and open character between settlements; and
- iv. It does not create or exacerbate ribbon development;
- v. If within a Green Wedge, it protects its role and function in line
- vi. with Core Strategy Policies 6 and 9; and
- vii. If within the National Forest, it contributes to the delivery of the National Forest Strategy in line with Core Strategy Policy

DM 10 Development and Design

Developments will be permitted providing that the following requirements are met:

- a) It would 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;
- b) The amenity of occupiers of the proposed development would not be adversely affected by activities in the vicinity of the site;
- c) It complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials and architectural features;
- d) The use and application of building materials respects the materials of existing, adjoining/neighbouring buildings and the local area generally;
- e) It incorporates a high standard of landscaping where this would add to the quality of the design and siting;
- f) It maximises opportunities for the conservation of energy and resources through design, layout, orientation and construction in line with Core Strategy Policy 24;
- g) Where parking is to be provided charging points for electric or low emission vehicles are included where feasible;
- h) An appropriate Sustainable Drainage Scheme is submitted to and approved by the relevant Authority. Schemes should incorporate wildlife areas, ponds, swales and permeable paving where appropriate;
- i) It maximises natural surveillance and incorporates the principles of Secured by Design and has considered the incorporation of fire safety measures.

In exceptional circumstances where outstanding, innovative design is demonstrated (particularly where high levels of sustainability are an integral feature, applications will be considered favourably, even where this may result in some limited conflict with the above criteria.

NATIONAL PLANNING POLICY FRAMEWORK

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

38. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

111. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.



Evaluation

PRINCIPLE OF DEVELOPMENT

Location

The CS sets out a broad settlement hierarchy, with the majority of new housing development to be accommodated in and around the Hinckley sub-regional centre where there is a concentration of services, where accessibility can be maximised and modal choice is available, plus two Sustainable Urban Extensions (SUEs).

The site is not allocated for development in the DPD and for planning policy purposes, lies in the open countryside. Policy DM4 of the SAP seeks to protect the intrinsic value, beauty, open character, and landscape character of the countryside, by safeguarding it from unsustainable development. The proposal does not meet any of the types of development considered to be sustainable by Policy DM4.

As such, the proposal would conflict with Policy DM4 of the SAP.

Impact on the Character of the Area

Policy DM10 of the SAP, amongst other things requires that a development complements or enhances the character of the surrounding area with regard to scale, layout, density, mass, design, materials.

The proposal would involve the demolition of the existing agricultural buildings and the erection of a new dwelling which reflects the appearance of the existing building.

The proposed dwelling would not significantly alter the scale, bulk, or orientation of the building when compared with the existing development. The openings have been designed to relate well to the form and design of the building.

The curtilage of the proposed dwelling would comprise the driveway from the access to the site, parking and an area of garden. The proposed curtilage is small, and the extent of domestic paraphernalia would therefore be limited. Moreover, the existing vehicle access track to the front of the buildings and existing use already has associated vehicle movements and parking and the proposed conversion would not likely result in a significant increase in the number of vehicles present on site. Due to the screening of the site and the limited size of the curtilage the visual impact of the creation of the residential curtilage would be limited.

The use of the eastern structure would be changed to provide covered parking and a covered outdoor amenity space. This issue fell to be considered within the course of the prior approval application and was considered to be satisfactory. The wording for condition 6 was as follows:

“The development hereby permitted shall not be occupied until such time as the existing adjoining structure to the east of the building, situated next to the Kitchen/Living/Dining Room and Boot Room, has been removed from agricultural use. This structure will then be restricted to the ancillary residential use of the Applicant.”

The general pattern of development in the surrounding area is defined by mainly open countryside, with scattered detached dwellings with spacious plots. There is no predominant building line among properties, which reflects the dispersed, intermittent, and historic pattern outside settlement boundaries. The new dwelling would fit within this dispersed character, and with no proposed increase in footprint, the scale of the dwelling is commensurate with the scale of nearby properties. Overall, the proposal would not have a harmful impact on the character of the area and there would be no conflict with Policy DM10 of the SAP.

Fallback Position

It is established in case law that a fallback position is a material consideration when considering alternative proposals for development of the same site. For a fallback position to be a relevant consideration, the basic principle is that it must be a real prospect. It does not have to be probable or likely, as a possibility would suffice (*Mansell vs Tonbridge and Malling Borough Council [2017]*). For the prospect to be real, there must be a greater than theoretical possibility that the development might take place.

The site benefits from an extant permission for the erection of one dwelling under 23/00637/P3CQ. The application was for prior approval and is extant until 21st August 2026. There is a real prospect the implementation of 23/00637/P3CQ. This fallback position would result in a similar dwelling in the same location and attracts significant weight in favour of the proposal.

Policy DM2 of the SAP outlines the Council’s commitment to reducing its environmental impact through carbon reduction measures and through the support of appropriately designed and sited renewable energy and low carbon developments. New builds are much more energy efficient than older properties. This is primarily because there are limitations on the improvements that can be achieved in the energy performance of refurbished buildings, and they cannot match those achieved by well-designed new builds with good thermal properties. Consequently, lifetime emissions of CO₂ in new build development are often substantially lower than they would be for a conversion. In addition, building new dwellings enables the design to meet the needs of modern living in a way that a conversion project is much less able to do – consequently the provision of good daylighting, thermal comfort and living space lends itself to better health and wellbeing for occupants. The proposal is more aligned with Policy DM2 of the SAP in terms of achieving sustainable development.

Tilted Balance

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Hinckley and Bosworth Borough Council is unable to demonstrate a five-year supply of deliverable housing sites. In accordance with the Framework, the policies which are most important for determining the application are therefore out of date. Consequently, paragraph 11(d) of the NPPF is engaged, meaning that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or any adverse impacts of doing so would **significantly and demonstrably** outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Planning Balance

There are no policies in the Framework that protect areas or assets of particular importance that would provide a clear reason for refusing the development.

The identified policy conflicts are central to the consideration of whether the proposals would conflict with the development plan as a whole. Other than failing to secure a deliverable housing land supply, the relevant policies of the development plan are generally consistent with the Framework.

Whilst there is a conflict with the locational policies of the development plan, an extant permission exists for the erection of one dwelling. There is no substantive reason to doubt that the extant scheme would be fully implemented. As such, the extant permission represents a realistic fallback position.

Implementation of the above-mentioned scheme would result in a dwelling in the same location as that proposed. The harms resulting from the implementation of the extant permission, particularly relating to sustainability of location, would therefore be of a similar level to that of the application scheme. Significant weight must be attributed to the fallback position.

Turning to the benefits, the decision maker is required to consider whether the development proposed would amount to sustainable development as set out in paragraph 7 of the Framework, with particular reference to its economic, social and environmental credentials.

With respect to the economic benefits of the development proposed, there would be benefits during the construction phase and the additional spending by the future occupiers in the local services and facilities.

Paragraph 69 of the NPPF acknowledges that smaller sites can play an important role in contributing to housing provision due to the small-scale nature of the development proposed. As the Council currently cannot demonstrate a five-year housing land supply, the addition of the proposed dwelling would make a contribution, albeit modest, to the shortfall and boost the overall provision. This economic and social benefit carries weight in favour of the proposal.

It is widely accepted that new builds are typically more energy-efficient than conversions, as they can incorporate the latest green building technologies and materials from the outset, resulting in lower energy consumption and reduced environmental impact. This environmental benefit weighs in favour of the proposal.

Turning to part (i) of paragraph 11(d) of the NPPF, there are no areas or assets of particular importance that provide a clear reason for refusing the development. In respect of part (ii) of paragraph 11(d) when the above considerations are taken together, and weighed in the balance, the impacts would not **significantly** and demonstrably outweigh the benefits. The development would be in an otherwise suitable location to boost housing supply in Hinckley and Bosworth. Therefore, the presumption in favour of the development applies in relation to the circumstances of this case.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case, although there is some conflict with the development plan, the presumption in favour of the development constitutes a material consideration of significant weight that justifies a determination other than in accordance with the development plan.



Conclusion

Paragraph 38 of the NPPF states:

38. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

This statement presents a compelling case for the granting of planning permission. It would deliver clear benefits which are not significantly outweighed by harm arising out of any conflict with the development plan.

In line with paragraph 38, it is necessary for the decision maker to view the application which represents sustainable development from a positive starting point and seek to approve it, thus delivering identified social, economic and environmental benefits for the area.

Planning law dictates that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Given the council's land supply position, the identified benefits, and the lack of any significant and demonstrable harm, planning permission should be granted.